PARLIAMENTARY OMBUDSMAN OF FINLAND

SUMMARY OF THE ANNUAL REPORT 2016

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To the reader

The Constitution (Section 109.2) requires the Parliamentary Ombudsman to submit an annual report to the Eduskunta, the parliament of Finland. This must include observations on the state of the administration of justice and any shortcomings in legislation. Under the Parliamentary Ombudsman Act (Section 12.1), the annual report must include also a review of the situation regarding the performance of public administration and the discharge of public tasks as well as especially of implementation of fundamental and human rights.

The undersigned *Petri Jääskeläinen,* Doctor of Laws and LL.M. with Court Training, served as Parliamentary Ombudsman throughout the year under review 2016. My term of office is from 1.1.2014 to 31.12.2017. Those who have served as Deputy-Ombudsmen are Doctor of Laws *Jussi Pajuoja* (from 1.10.2013 to 30.9.2017) and Licentiate in Laws *Maija Sakslin* (from 1.4.2014 to 31.3.2018).

Doctor of Laws, Principal Legal Adviser *Pasi Pölönen* was selected to serve as the Substitute for a Deputy-Ombudsman for the period 15.12.2015–14.12.2019. He performed the tasks of a Deputy-Ombudsman for a total of 52 work days during the year under review.

The annual report consists of general comments by the office-holders, a review of activities and a section devoted to the implementation of fundamental and human rights. It additionally contains statistical data and an outline of the main relevant provisions of the Constitution and the Parliamentary Ombudsman Act. The annual report is published in both of Finland's official languages, Finnish and Swedish.

The original annual report is about 370 pages long. This brief summary in English has been prepared for the benefit of foreign readers. The longest section of the original report, a review of oversight of legality and decisions by the Ombudsman by sector of administration, has been omitted from it. However, the chapter dealing with the oversight of covert intelligence gathering as well as the chapter of European Union law issues are included in this summary.

I hope the summary will provide the reader with an overview of the Parliamentary Ombudsman's work in 2016.

Helsinki 31.3.2017

Petri Jääskeläinen
Parliamentary Ombudsman of Finland

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Photos

The pictures in the page spreads feature items from Aimo Katajamäki's sculptures series Wood People (2006), which is in the entrance foyer of the Little Parliament annex building.
Photos Anssi Kähärä / Werklig Oy

Tomas Whitehouse p. 12, 21
STT-Lehtikuva / Jarno Mela p. 25
Photo archive of the Parliament of Finland p. 45
Photo archive of the Parliamentary Ombudsman of Finland p. 68, 81, 90–92, 99, 107–112

1 General comments

Parliamentary Ombudsman
Mr Petri Jääskeläinen

The division of responsibilities between the Ombudsman and the Chancellor of Justice should be developed

Finland has two supreme overseers of legality: the Parliamentary Ombudsman and the Chancellor of Justice, both of whom have equal powers under the Constitution. In my general comment in the Ombudsman's annual report for 2014, I discussed the development and present state of the then 95-year-old ombudsman institution. As a future development need, I mentioned the need to enhance the way in which the work of the Ombudsman and the Chancellor of Justice is divided so that there would be as little overlap as possible.

In their committee report (PeVM 7/2015 vp) issued on the basis of the Ombudsman´s annual report, the Constitutional Law Committee made reference to the earlier committee statement (PeVL 52/2014 vp) it had issued on the Government of Finland Human Rights Report. In that statement, the Committee considered it important that cooperation and the division of labour between the actors participating in the supervision and promotion of fundamental and human rights need to be improved and overlap in the activities be minimised so that their expertise in different sectors can be exploited in the most appropriate way possible. In its report, the Committee repeated the views it had expressed in the above-mentioned statement and considered it important that the possibilities to develop the division of work and opportunities for cooperation between the Ombudsman and the Chancellor of Justice be examined. In the committee report (PeVM 2/2016 vp) issued on the basis of the Ombudsman's report for 2015, the Committee again emphatically repeated its views.

As the examination work has not yet begun, I will discuss in more detail in this comment the reasons why the division of labour needs to be developed.

About the division of responsibilities and the current state

Under section 110(2) of the Constitution, "provisions on the division of responsibilities between the Chancellor of Justice and the Ombudsman may be laid down by an Act, without, however, restricting the competence of either of them in the supervision of legality". Thus, the competence of the overseers of legality cannot be narrowed by an ordinary act, but the division of responsibilities between them can be laid down by an act.

Provisions on the division of responsibilities between the Chancellor of Justice and the Ombudsman were originally laid down in an act passed as early as in 1933. The central content of this act was the same as the content of the current act. As regards the different stages of enacting the act, it can be noted that the division of responsibilities had already been discussed since the 1920s when the institution of the Ombudsman was established. The reason for this was especially that the Ombudsman was handling very few matters, while the work load of the Chancellor of Justice was heavy. In 1931, the Chancellor of Justice proposed that provisions be laid down on the division of labour regarding the complaints made by prisoners, but the Ombudsman was opposed to this and said that he did not consider "appropriate a proposal suggesting that the responsibilities of the Parliamentary Ombudsman should be developed so that his principal responsibility would be taking care of resolving complaints made by persons held in prisons, which were often of a fairly secondary nature". As a result, the Chancellor of Justice proposed that the institution of the Ombudsman be terminated. A government proposal followed, which was, however, rejected by Parliament. Only after this was the time ripe for the enactment of the 1933 Act on the division of responsibilities.

The Constitutional Law Committee has twice before, in 1985 and 1987, paid attention to the division of responsibilities between the Ombudsman and the Chancellor of Justice and required that the overlap of their responsibilities be thoroughly investigated and the necessary legislative measures be taken to clarify the situation and, at the same time, to improve the position of the Ombudsman as an institution guaranteeing the legal protection of citizens (PeVM 1/1985 vp and 6/1987 vp). The new Act on the division of responsibilities passed in 1990 gave the Ombudsman and the Chancellor of Justice the right to transfer certain cases from one to another, but the actual division of responsibilities was not developed at that time.

Under the current Act (1224/1990), the Chancellor of Justice is exempted from overseeing compliance with the law in matters falling within the remit of the Ombudsman that concern:

1) the Ministry of Defence (excluding oversight of the legality of the official duties of the Government and its members), the Finnish Defence Forces, the Border Guard, military crisis management personnel, the National Defence Training Association of Finland and military court proceedings;
2) apprehension, arrest, remand and travel ban, and taking into custody or other deprivation of a person's liberty meant in the Act on Coercive Measures;
3) prisons and other institutions where the person has been confined against his or her will.

Under the Act, the Chancellor of Justice is also exempt from handling a case filed by a person whose liberty has been restricted by imprisonment, arrest or other means. Based on this provision, a complaint made by a person who has lost his or her liberty falls within the division of labour regardless of what the complaint is about.

In all of the above-mentioned cases falling within the division of responsibilities, the Chancellor of Justice *must* under the Act *transfer* the case to the Ombudsman, "unless the Chancellor of Justice for special reasons deems it appropriate to resolve the matter himself or herself."

Under the Act on the division of responsibilities, the Chancellor of Justice and the Ombudsman can also transfer from one to the other matters falling within the competence of both when it is considered that the transfer will speed up the

handling of the matter or when it can be justified for some other special reason. In these situations, transferral is discretionary.

In practice, a common reason for transferral is a situation in which the same case has been filed with both the Ombudsman and the Chancellor of Justice. No provisions are laid down for this situation in the Act on the division of responsibilities and the complaint is usually transferred to the overseer of legality with whom the case has been filed first, unless there are special reasons that would favour an investigation by one of them. Such a reason could be, for example, that the case is linked to another case or a more extensive entity that is handled or has been handled by the other overseer or in which the other overseer has already expressed an opinion.

In the 2010s, the Ombudsman and the Chancellor of Justice have transferred a total of less than 100 cases annually, of which the majority is cases transferred to the Ombudsman by the Chancellor of Justice. The number of transferred cases is small because, for example, prisoners, whose complaints form the only large category in the current Act on the division of responsibilities, usually know that their complaints are handled by the Ombudsman.

Loss of time in administration

When the Ombudsman or the Chancellor of Justice receives a new complaint, they first have to begin to examine whether the same matter is pending or may already have been resolved at the office of the other overseer of legality. This examination is normally carried out by the registry staff, but sometimes referendaries have to examine and compare the complaints pending or resolved in the other office to find out whether the matters concerned are the same. The simplest situation is one in which the same complainant has sent the same complaint letter to both the Ombudsman and the Chancellor or Justice, but sometimes the content of the letters sent by the same complainant is different. Occasionally, on the other hand, different persons have complained about the same matter.

If the complaints concern the same matter, it must then be agreed which overseer of legality will investigate the matter. Unless there is a specific reason favouring an investigation by one overseer of legality, the handler is normally decided on the basis of the so-called time priority, which means that the complaint is investigated by the overseer that received the complaint first. If the complaints have arrived on the same day, their times of arrival will be compared.

If the transfer is not entirely straightforward, referendaries discuss the matter in their offices with the Ombudsman and the Chancellor of Justice or in some cases the Ombudsman and the Chancellor of Justice negotiate with each other in person.

Once an agreement on which overseer of legality will handle the case has been reached, the referendary draws up a letter to transfer the complaint to the other overseer of legality and another letter to notify the complainant of the transfer. Although the number of transferred cases is not large, all related work performed in the transferring office – registration of the matter, familiarisation with its details, agreeing the transfer, the transfer, sending a notification of the transfer – and the time needed to do it is wasted.

The biggest loss of time and effort is, however, caused by the fact that almost all new complaints require an examination on whether the same matter may be pending or if a decision has already been given on the same matter in the other office to avoid a situation in which both the Ombudsman and the Chancellor or Justice investigate the same matter. Only if the matter concerned falls under the Act on the division of responsibilities (for example, a complaint made by a prisoner) or is a new complaint on the same matter by the same complainant, or if it is otherwise obvious that the matter is not pending or that a decision has not already been made in the office of the other overseer of legality, can the examination be skipped. When the Ombudsman

receives about 5,000 complaints annually and the Chancellor of Justice a little under 2,000 complaints, my estimation is that such examinations are carried out on a total of perhaps 5,000 matters every year. In its simplest form, the examination is routine-like and fast, but occasionally laborious and time-consuming.

Despite all the efforts to prevent it, the same matter is occasionally investigated by both offices. This sometimes emerges when the authority that is subject to the complaint informs the Ombudsman that it has already submitted a report on the same matter to the other overseer of legality. If no report has been requested from the subject of the complaint, it is possible that both overseers handle and make a decision on the same matter. In addition to the loss of time, there is also a risk that different decisions will be made.

Uncertainty among complainants and the general public

The system of two overseers of legality has sometimes been justified with the value provided by the fact that the complainant can choose the overseer of legality with which to file the complaint. I do not see any added value in this, I find that it is more likely to cause uncertainty. I believe that the choice made by the complainant is rarely in some way rational, but more likely a random choice, and the complainant can never even be sure that the overseer he or she has chosen is ultimately the one that will investigate the matter. In addition, it is possible that the complainant makes a wrong choice by filing the complaint with the overseer of legality that has less expertise in the matter referred to in the complaint.

The complainants are not usually aware of the relationship of powers between the overseers of legality. It is therefore common that a complainant who is not satisfied with the decision made by one overseer of legality files a new complaint on the same matter with the other overseer. This results in unfounded expectations among complainants and unnecessary work for the overseers of legality. The overseers of legality cannot begin to re-investigate a matter in which the other one has already made a decision, but they still have to familiarise themselves with its details and respond to the complaint.

If suspicion on reprehensible conduct by an exerciser of public power arises in public, both overseers of legality typically receive complaints regarding the matter. This also make it to the news, and during the first couple of days, guesses are made in public about which overseer will begin to investigate the matter. The picture emerging of supreme oversight of legality is not quite rational in such situations, especially as the responsibility for handling the case is usually decided on the grounds that one overseer of legality has possibly received the complaint a few minutes before the other one.

Problems regarding the uniformity of the decision-making practice

As the Ombudsman and the Chancellor of Justice handle the same sort of matters with equal competence, their outcome and the measures associated with them should be similar, regardless of which institution has dealt with the case. However, this is not always what happens. There are various reasons for this.

The tasks of the Ombudsman and the Chancellor of Justice have undergone some differentiation and specialisation. The task of the Chancellor of Justice focuses especially on overseeing the work of the Government, which in practice requires the entire work input of the Chancellor of Justice. The work of the Deputy Chancellor of Justice is closer to the activities of the Ombudsman in terms of its content, but as far as I have understood, the emphasis in the oversight of legality performed by both the Chancellor of Justice and the Deputy Chancellor of Justice is different from that of the Ombudsman.

Based on my understanding and observations, there is more emphasis especially on the fundamental and human rights perspective in the work

of the Ombudsman, although under the Constitution, monitoring the implementation of fundamental and human rights as such are the responsibility of both the Ombudsman and the Chancellor of Justice. The *promotion* of fundamental and human rights is also clearly more visible in the activities of the Ombudsman. This is apparent also in the Parliamentary Ombudsman Act, under which the Ombudsman may draw the attention of the subject of oversight to considerations of promoting fundamental and human rights. The Chancellor of Justice Act does not have a similar provision.

The establishment of the Human Rights Centre and its Human Rights Delegation in connection with the Office of the Parliamentary Ombudsman has contributed to the fundamental and human rights perspective and the related expertise of the Ombudsman. The Ombudsman, the Human Rights Centre and the Human Rights Delegation together form the Human Rights Institution in accordance with the UN's so-called Paris Principles. The different emphasis on fundamental and human rights is clearly visible in the annual reports of the Ombudsman and the Chancellor of Justice.

Because of the current Act on the division of responsibilities, the task of the Ombudsman focuses on overseeing the rights of persons who have been deprived of their liberty, but it also focuses on the realisation of the rights of other groups of people in a vulnerable position. This specialisation has been increased by the Ombudsman's new special tasks that are based on international conventions. These include the task of the National Preventive Mechanism in accordance with the UN's Optional Protocol to the Convention against Torture (OPCAT) and the task of the national mechanism in accordance with the Convention on the Rights of Persons with Disabilities (CRPD).

Compared with the Chancellor of Justice, the Parliamentary Ombudsman is engaged in significantly more international cooperation, not only through the above-mentioned conventions, but also in other contexts between the ombudsmen and National Human Rights Institutions in different countries.

I could provide even more examples. However, what is essential in this context is that the more differentiation and specialisation the tasks of the Ombudsman and the Chancellor of Justice undergo, the bigger is the risk that the outcomes and measures related to the cases are not the same depending on who has dealt with the case. There is no great risk of different decisions in the traditional oversight of legality. But there might well be differences in measures aimed at promoting the rights of the individual, providing an authority in a given area of administration with guidance, or the development of legal status.

Already in 1990, when the current Act on the division of responsibilities was enacted, references were made to areas that had developed in the activities of both the Chancellor of Justice and the Ombudsman and in which one had better practical expertise than the other. "For the legal protection of both the complainant and the subject of oversight, it is important to base oversight on the best possible expertise. Appropriate division of responsibilities between the supreme overseers of legality also plays an important role in achieving this target. In addition to addressing individual shortcomings and flaws, an important objective in the supreme oversight of legality is to influence the development of the activities of the subject of oversight. Centralising certain categories of matters and legal protection issues more clearly to one overseer of legality would provide a better foundation for making the necessary proposals. The activities of the overseer of legality could then be better implemented so that, on a more general level than individual cases, public administration would be directed to take the rights of citizens into consideration in all its activities." (Government bill 72/1990)

The volume of the Ombudsman's activities is considerably larger than that of the Chancellor of Justice in most administrative branches. For example, the Ombudsman receives about five

times as many complaints falling within the administrative branch of health care and social welfare than the Chancellor of Justice. Correspondingly, the Ombudsman has more referendaries specialising in these matters, more inspections are carried out in the authorities and offices in this administrative branch, and in general, the Ombudsman carries out more monitoring and cooperation and participates in training events more. As a result, the Office of the Parliamentary Ombudsman has more expertise and knowledge in matters such as different operating models and best practices. It is therefore obvious that in complaints in this administrative branch, the Ombudsman is in a better position to issue comments and recommendations that guide the activities, even if there were no differences in the decisions made by the Ombudsman and the Chancellor of Justice merely from the point of view of oversight of legality.

The measures and the sanction practices of the Ombudsman and the Chancellor of Justice have also undergone certain differentiation. For example, proposals for redress are common in the decision-making practice of the Ombudsman, but very rare in the practice of the Chancellor of Justice. This is likely to be connected to the stronger fundamental and human rights perspective of the Ombudsman. Further more, my observation is that the sanction practices of the Chancellor of Justice (or the Deputy Chancellor of Justice) in issuing reprimands is somewhat different from that of the Ombudsman (or the Deputy-Ombudsmen).

It is always possible to reach different outcomes in legal decision-making even for justified reasons. However, if the expertise and experience of the decision-makers focus on different areas, the possibility of different decisions is bigger.

Problems regarding the consistency of the decision-making practice

The practices followed in the oversight of legality should be consistent, which means that the interpretation of the law should lead to similar outcomes when similar legal questions are dealt with separately and at different times. Therefore, if an opinion on a legal interpretation has already been expressed in an earlier decision by an overseer of legality, the opinion expressed on the interpretation in a later decision should be similar unless new, previously overlooked legal grounds to support a different interpretation have emerged.

Therefore, whenever a need for legal interpretation emerges in a matter, an attempt will be made to find out whether an opinion on the same matter has been expressed previously by an overseer of legality. In the case of a recent opinion on an interpretation or an opinion that has frequently been expressed, ensuring that a consistent decision-making practice is followed is usually not a problem. However, the time span in oversight of legality may sometimes be very long. Even in such cases, previous decisions made by the Ombudsman or the Chancellor of Justice themselves can usually be found in the electronic archives of decisions or archives of printed material of their own offices, or by discussing the matter with colleagues.

Finding out whether there are previous opinions expressed by the other overseer of legality in the other office, on the other hand, either is impossible in practice or at least cannot be done as easily, fast and reliably. It involves a loss of time and there is the danger that different opinions will be issued by the overseers of legality.

Issues of competence are one example of matters in which it would be necessary for both overseers of legality to make decisions along the same lines. In practice, this is a question of whether the private entity that is the subject of a complaint is considered to be performing a public task referred to in the Constitution. Because the competence of both overseers of legality is the same, different

interpretations would be unacceptable. However, when there has been no knowledge of a decision made by the other overseer of legality, different outcomes in decisions have sometimes emerged afterwards.

Ensuring consistency in the decision-making practice also results in a situation in which the other overseer of legality is in practice bound by the opinion already expressed on a legal question by the other one because institutions with the same competence should not make different decisions. If the other overseer of legality would be in favour of a different interpretation, the resulting situations may sometimes be slightly awkward. In some cases, the matter has for this reason been transferred to the other overseer of legality.

How could problems be avoided?

Work is constantly done to avoid problems and risks resulting from the overlap of responsibilities, for example, by examining matters pending at the office of the other overseer of legality and by following the decision-making practice of the other overseer. It would be possible to further develop cooperation and its forms. The closer the contact and cooperation, the better it would be possible to ensure the uniformity and consistency of matters such as decision-making and sanction practices. In certain cases, close contact would also be required at the different stages of the handling process, before matters are resolved.

Unfortunately, all time used for keeping in contact would reduce the time available for performing the actual responsibilities. Therefore, contact is in practice limited to examining whether the same matter is pending or whether the other overseer of legality has already made a decision in the matter and agreeing about possible transfers, as well as following the decisions made by the other overseer of legality in public registers of decisions.

In my opinion, it would be clearly more appropriate to deal with the cause of the problems, the overlap of the responsibilities, instead of using an increasing amount of time to avoid problems resulting from it. If the competence of neither overseer of legality were restricted, the normal legislative procedure would allow this by developing the current Act on the division on responsibilities.

How should the division of responsibilities be developed?

In the hopefully initiated legislative project, the definition of appropriate division of responsibilities will require closer examination and a decision by Parliament. I would like to make just a few points here.

In the most limited form, the reform of the division of responsibilities would mean that only matters related to the rights of persons with disabilities would be added to the Act on the division of responsibilities. There are not likely to be any valid reasons against implementing this reform.

The role of the National Preventive Mechanism given to the Ombudsman under OPCAT did not cause any need to change the division of labour between the Ombudsman and the Chancellor of Justice because matters concerning people who have been deprived of their liberty were already the responsibility of the Ombudsman under the Act referred to. However, the special task connected with the rights of persons with disabilities has created an obvious need to improve the way in which the responsibilities of the Ombudsman and the Chancellor of Justice are divided.

Since the promotion and supervision of the rights of people with disabilities are the special function of the Ombudsman based on the international convention, it would be highly inappropriate if the Chancellor of Justice were to deal with matters that fell within that responsibility and possibly make policy outlines related to them. The issue also concerns the fact that the task will mean that the Office of the Ombudsman will accrue the sort of special expertise in the area of the

rights of persons with disabilities that the Office of the Chancellor of Justice can in practice not possess to an equal extent.

In the most extensive form, the reform of the division of responsibilities could mean that all complaints would be directed to one overseer of legality. In my understanding, it should be the Ombudsman, who already handles the majority of all complaints. If general oversight of legality were to be performed mainly by only one overseer, it should in my view be an organ of Parliament, the highest institution of state with legislative powers. For example, those of the UN's human rights conventions that require establishment of national mechanism to safeguard the rights guaranteed in the conventions consider it essential that this mechanism be independent of governmental power. An overseer of legality that is an organ of the executive power, such as the Chancellor of Justice, would not fit very well with this requirement.

The fact that the model for oversight of legality that has spread across the world is particularly the model based on the Ombudsman chosen by Parliament also indicates the same philosophy. Almost 100 countries currently have an Ombudsman, although the selection procedure and the powers of the Ombudsman vary between different countries. Internationally, a model of two supreme overseers of legality is a speciality that exists only in Sweden and Finland. Sweden, too, has developed the responsibilities of the Chancellor of Justice and, in practice, Sweden's Chancellor of Justice currently has very few general tasks remaining in the oversight of legality.

In the most extensive model of reforming the division of labour, the Ombudsman would as a rule be responsible for handling all complaints and other general matters within the oversight of legality. Even in this model, the Chancellor of Justice would continue to have the powers of general oversight of legality, so the points that may still be considered to support the existence of two overseers of legality would still be taken into consideration.

Between these extremeties, there are various possibilities to develop the division of labour in an appropriate way. My understanding is that each category of cases should, as a rule, be allocated to one of the overseers of legality in the Act on the division of responsibilities.

Problems result particularly from the fact that two different overseers of legality handle similar matters that fall within the same categories. Such problems do not exist within the Office of the Parliamentary Ombudsman, firstly, because the Ombudsman has decided on a division of responsibilities between the Ombudsman and the two Deputy-Ombudsmen. In this division, each category of matters has principally been allocated to one overseer of legality. Secondly, it is easy to resolve issues related to the uniformity and consistency of the decision-making practice internally.

Conclusion

The overlapping of the responsibilities of the Ombudsman and the Chancellor of Justice causes loss of time in administration and other activities, uncertainty among the complainants and the general public, and problems and risks related to the uniformity and consistency of the decision-making practice. These disadvantages, problems and risks could largely be removed without restricting the powers of either overseer of legality, by developing the current Act on the division of responsibilities in an appropriate way. For example, such problems do in practice not exist in matters concerning prisoners, which fall within the current Act on the division of responsibilities.

The system that features overlap between the two supreme overseers of legality has existed in Finland during the entire existence of the ombudsman institution. The problems described above have partly emerged and partly increased because the tasks of the Ombudsman and the Chancellor of Justice have undergone some differentiation and specialisation.

The long tradition of the system and the point of view brought up by the Chancellor of Justice that general oversight of legality supports the task of the Chancellor of Justice as the overseer of the Government might perhaps act in favour of keeping the current system. However, my view is that these factors are not sufficient reasons to maintain an overlapping system that is otherwise not appropriate.

Removing or at least decreasing the overlap would also provide both overseers of legality an opportunity to further develop their activities in the categories of matters that would be allocated to them. Separating the responsibilities would also provide an opportunity to develop the focus of the work of the Chancellor of Justice towards an independent legal service that would support legislative preparation in the Government.

The system that features overlap between the two supreme overseers of legality causes problems and the current system is not the most efficient and appropriate one from the perspective of citizens and society.

Deputy-Ombudsman
Mr Jussi Pajuoja

Is the Parliamentary Ombudsman a vehicle for recompense?

The parliamentary Constitutional Law Committee welcomes the changing role of the Parliamentary Ombudsman that has been witnessed in recent years. It views the move away from the simple oversight of public authorities to one that also seeks to actively promote people's rights, as a positive development. One aspect of this development is the whole question of recompense. The Committee consider it right and fair to grant recompense in clear-cut cases, in order to fulfil people's rights, and where possible to reach amicable settlements and thus avoid unnecessary litigations (PeVM 2/2016 vp).

Similarly, the parliamentary Administration Committee also takes a positive stance on the issue of recompense. According to the Administration Committee, offering recommendations for recompense is closely linked to the role of the supreme overseers of legality as the protectors of basic and human rights. The Committee found that the Ombudsman's decisions have included many recommendations for recompense, and in many cases this has led to monetary compensation. This is based on the practice of the European Court of Human Rights, and follows its lines by recommending recompense for non-material damages to ensure proper legal protection (HaVM 6/2014 vp).

Considering that this praise has come from two respected parliamentary committees, who also consider that the new task of the Ombudsman is being discharged most effectively, I think it is only good manners to say thank you. But, we still need to ask the inevitable follow-up question: how in actual fact do we expect the Ombudsman to act?

Compensation for damages is not part of the Ombudsman's remit

Traditionally, the Ombudsman's decision-making jurisdiction has not covered compensation for damages. The standard response to complainants in our decisions makes clear that the tasks of the Ombudsman as an overseer of legality do not include weighing in on claims for damages and the liability for payment based on these claims. Ultimately, claims for damages are handled by a court of law.

However, there is an exception to this rule, too. For decades, the Parliamentary Ombudsman has made proposals on compensating damages in isolated cases. This has been the procedure for example when it has been considered unreasonable to expect a person to seek compensation through the courts in minor cases. In such cases, the Ombudsman has made compensation proposals directly to the authorities. Proposals for compensation for damages may have also been made for reasons related to process risk, *i.e.* when it is not even clear if the official is liable for damages under current legislation.

These compensation proposals are at the Ombudsman's discretion. A proposal can be put forward, but the Ombudsman is in no way directly obliged to do so. On the other hand, the Ombudsman's proposal may be either accepted or declined. If no agreement is reached on damages, the complainant could go to court and make a compensation claim against the authority in question.

Recompense is not specifically regulated

So, it would seem that the Ombudsman is faced with conflicting expectations. Even though the Ombudsman has no actual jurisdiction over claims for damages, monetary compensation proposals are expected in many recompense cases. How can this conflict be explained?

The fundamental problem has been noted for example in a Government Report on Finnish human rights policies. According to the Government Report, the national legal system does not provide effective and comprehensive legal protection for the compensation for fundamental and human rights violations. The shortcoming of the legislation on claims for damages is that it does not include a general obligation on the liability for damages concerning public authorities in cases of fundamental rights violations. The Ombudsman has expressed a corresponding stand on the matter in many decisions. Therefore, the Ombudsman's compensation proposals are a result of mending the gaps in the outdated legislation on claims for damages.

However, some positive legislative development has occurred, too. One example is the Act on Compensation for the Excessive Length of Judicial Proceedings. Following this act, the assessment on the excessive length of the judicial proceedings and the amount of compensation could be aligned with the policy of the European Court of Human Rights. Initially, the compensation concerned only general courts but was then extended to cover the administrative courts. Regarding the Ombudsman's position, this new legislation has made it possible for the Ombudsman to advice complainants to take legal action under the Act on Compensation for the Excessive Length of Judicial Proceedings with cases concerning this matter.

The legislative development has also created a situation where the Ombudsman does not usually handle compensation matters related to house searches. The lawfulness of a house search can be referred to a court of law in the manner laid down in the Coercive Measures Act. Complainants are urged to take the matter to the district court according to the provided guidance. There is an exception with complaints where the 30-day time limit has been exceeded: in these cases, the Ombudsman may assess the complaint in the normal manner.

Even though assessing the requirements and procedure of a home search currently falls under the jurisdiction of the courts, the matter is not clear-cut when it comes to compensation. Difficulties related to compensation are exemplified by a Supreme Court decision whose continued hearing is still ongoing in the Helsinki Court of Appeal (KKO 2016:57). The Supreme Court decision states that compensation for suffering related to house searches is not provided for in legislation, and case law is limited. For example, there is no precise definition as to when a violation is serious enough to exceed the threshold of damages. With the threshold exceeded, it has also been unclear which factors should be taken into account when determining the compensation amounts

and what would be an appropriate amount in the first place. Another matter, which remains unclear, is whether compensation can be handled in the same process with the reasons given as to lawfulness of the house search, or whether it should be handled in a separate civil case.

All in all, the basis for compensation for suffering is even unclear for the courts. The hope is that the upcoming Helsinki Court of Appeal decision will clarify the situation. There are two related Ombudsman's compensation proposals pending, and the State Treasury has requested an extension for the processing to await the Court of Appeal´s home search decision, in order to ensure a consistent policy.

Who can and who should decide on recompense?

So, special statutes and improved case law has been used to fill the gaps in the legislation on claims for damages. From the Ombudsman's perspective, these solutions transfer some matters of recompense to the courts. A persistent problem with matters of recompense is the fact that number of authorities overseen by the Ombudsman is large and their tasks cover a wide area. The Ombudsman's remit includes state officials, municipal authorities and even ecclesiastical officials. Potential situations and cases of recompense cover all public tasks.

Considering the wide range of the Ombudsman's duties and the aspects related to fundamental rights, the report by the Administration Committee discussed earlier is problematic. In the report, the Administration Committee states that the oversight of legality by other bodies than the supreme overseers of legality is mostly about assessing whether official actions have followed the applicable legislation appropriately. A decision issued due to an administrative complaint can give administrative guidance at most. Complaints are processed at all official levels and internally in authorities' different organisational levels. Consequently, the Administration Committee did not find it justified to include provisions on recompense in the Administrative Procedure Act.

Strictly interpreted, the Administration Committee's position would mean that compensation proposals based on complaints can only be made by the Ombudsman and the Chancellor of Justice. This kind of interpretation is challenging for many reasons, the larger number being one. When the granting of basic social assistance was transferred to the Social Insurance Institution of Finland (Kela) in the beginning of 2017, the Ombudsman received hundreds of complaints. The complaints concerned delays that were in violation of the law, legislative interpretation issues and backlogs caused by Kela's systems.

In many cases, the reimbursement paid earlier by Kela on similar grounds based on the Ombudsman's proposals must be taken into account. For example in 2015, Kela granted one complainant EUR 100 as compensation for the nuisance and inconvenience caused by the interruption of pension payments, and another complainant EUR 50 as compensation for delays in processing an application for child benefit. A delay in receiving child maintenance caused by an error that occurred in Kela led to a payment of EUR 150 of compensation for each child.

If this kind of recompense could only be granted by instructions handed down by the supreme overseers of legality, there would be a risk that such recompense claims concerning Kela would have hindered the Ombudsman's function. For practical reasons, the rational procedure is that matters can initially be handled directly based on the decisions of earlier compensation cases regarding Kela. It is still possible to make complaints to the Ombudsman regarding Kela decisions or to bring the matter to a civil action.

The Administration Committee's position is also problematic from the viewpoint of fundamental rights. The premise is that an administrative complaint process can not include recompense matters. On the other hand, an opposite position has been adopted in the guide on the oversight of legality instructions issued by the Ministry of the Interior and ratified in 2016,

which concerns the police among other officials. According to the guide, there may arise situations in connection with matters related to the oversight of legality where it is justified that the overseeing authority assesses if a perceived violation should be compensated monetarily. Paying recompense should be considered independently in situations where an authority has clearly acted against the law and where legal rights protected by fundamental and human rights have been violated. In these cases, the authority will provide the State Treasury with a valid proposal on paying recompense.

In this case, a consistent and equal compensation policy is ensured by the fact that the State Treasury also handles the recompense proposals of the supreme overseers of legality. The legislation was changed at the beginning of 2015, as the act on state indemnity operations entered into force. Under the act, the majority of claims for damages addressed to the State are processed by the State Treasury.

The act is applied to claims for damages regarding cases of error or neglect by a central government authority. A centralised system would eliminate the concerns expressed in the Administration Committee's statement that the recompense proposals related to administrative complaints would lead to inconsistent practices and solutions, for instance.

Recompense as a part of the basic system

According to an often repeated phrase, the supreme overseers of legality act as the overseers of oversight. The internal oversight of the legality of official organisations should primarily concern judicial control and steering. Therefore, it is necessary to handle matters of recompense related to error and neglect.

However, the supreme overseers of legality have been primary operators in recompense cases. When developing the recompense system, this solution would seen understandable, as the system lacks a clear judicial basis. However, the system cannot remain in place as such it now stands.

The current situation is susceptible to randomness. If a complainant chooses an inter-administration complaint route or the Regional State Administrative Agencies, the question of compensation may remain unclear. Compensation should be laid down in legislation in an unambiguous way, especially regarding equal treatment. The task is partly made easier by the fact that there are already some instances of national case law and recompense decisions. This basis should be used for building a watertight, consistent and equal set of regulations on recompense.

Deputy-Ombudsman
Ms Maija Sakslin

About the freedom of expression

Freedom of the press act of 1766

In 2016, Finland and Sweden celebrated *His Majesty's Gracious Ordinance Relating to Freedom of Writing and of the Press*, which had entered into force 250 years ago. The freedom of the press act abolished advance censorship. This enabled societal and political debate, and also criticism of the ruling classes. However, questioning the Constitution remained prohibited. The abolishment of advance censorship meant that full responsibility for the contents of printed publications was transferred to writers and publishers.

In the 18th century, the ideas of the enlightenment were spread through literature, and promoting the freedom of expression and of the press thus was one of its core principles. The freedom of the press act was the world's first freedom of information act, under which all administrative and court documents were public. While the freedom of the press act did not remain in force for long, its principles of freedom of expression and access to information laid the foundation for our democratic and open society of today. The overseers of legality also first came into being in 18th-century Sweden.

Under the Finnish Constitution, the Parliamentary Ombudsman supervises the authorities, public servants, employees of public bodies and others that perform public duties, overseeing the legality of their activities. The Ombudsman has a key role in promoting democracy and rule of law. The Ombudsman's task is to ensure that we can trust those who exercise public power in public administration, in courts and in democratic decision-making bodies. The Ombudsman is an institution that complements the legal protection of both the democracy and individuals. The Ombudsman is elected by the Parliament; this guarantees institutional independence from executive powers and ability to safeguard individuals' rights and promote trust in central government institutions.

In a democratic society, however, the media and the general public must be able to keep watch over the administration's actions and negligences. Rule of law implies that the general public has the right to be informed, in particular of any abuses of public power.

Freedom of expression as a fundamental right

Under section 12 of the Constitution, everyone has the freedom of expression, which entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. The heading of this provision, freedom of expression and right of access to information, stresses the close links between the freedom of expression on one hand and the publicity and openness of the authorities' activities on the other; combined, these elements make it possible to supervise the exercise of public power. According to the preliminary work of the Constitutional reform of the provisions of fundamental rights, section 12 safeguards the freedom of forming opinions, which is the foundation of a democratic society, open public discussion and free development and pluralism of the mass media.

While the freedom of expression is traditionally considered a political right, it covers all forms of creative activity and self-expression. The freedom of speech does not only safeguard the provision of information and expressions that we are happy to receive, or which are neutral or insignificant. It also protects expressions experienced as insulting, upsetting or disturbing. According to the European Court of Human Rights, this principle promotes public debate, which is a precondition for a pluralistic, tolerant and open society.

However, hate speech that incites violence and hatred is excluded from this protection. Hate speech may constitute abuse of rights referred to in Article 17 of the European Convention on Human Rights, and the protection of freedom of expression thus does not extend to it, as the purpose of hate speech is to suppress rights and freedoms protected under the Convention.

The Finnish Parliament's Constitutional Law Committee has also stated that the proliferation of hate speech has significant impacts on restricting the freedom of expression and exercise of democratic rights to act. According to the committee, reducing hate speech would safeguard people's freedom of expression and possibilities for democratic action by dispelling the fear and anxiety caused by hate speech.

Recommendation

In April 2016, the Committee of Ministers of the Council of Europe adopted a recommendation on the protection of journalism and safety of journalists. The recommendation notes that the scale and severity of threats and attacks against journalists and other media actors have damaging effects on the functioning of democratic society. According to the recommendation, in order to create and secure a favourable environment for freedom of expression, action must be taken by the executive, legislative and judicial branches of government at the national, regional and local level. Member States should, in accordance with their constitutional and legislative traditions, ensure independence of the media and safeguard media pluralism, including the independence and sustainability of public-service media. State officials and public figures should not undermine or attack the impartiality, integrity or morale of journalists and other media actors Nor should they in any way attempt to induce journalists and other media actors to derogate from accepted journalistic standards and professional ethics. They should also publicly and unequivocally condemn all instances of threats and violence against journalists and other media actors.

Conclusion

Towards the end of the anniversary year celebrating the freedom of the press act, an intensive debate went on in Finland on the relationship between the press and political decision-makers. In this debate, politicians were accused of interfering with the content produced by the media. On the other hand, the debate concerned the politicians' right to respond to criticism levelled at them and express their own views and values. Other themes

included editorial freedom, self-regulation of the media and the dimensions of an individual journalist's freedom.

The debate also sought to assess the role of free and independent media on one hand, and the institutional and financial autonomy of a publicly funded broadcasting company on the other, as well as the significance of pluralistic and diverse media.

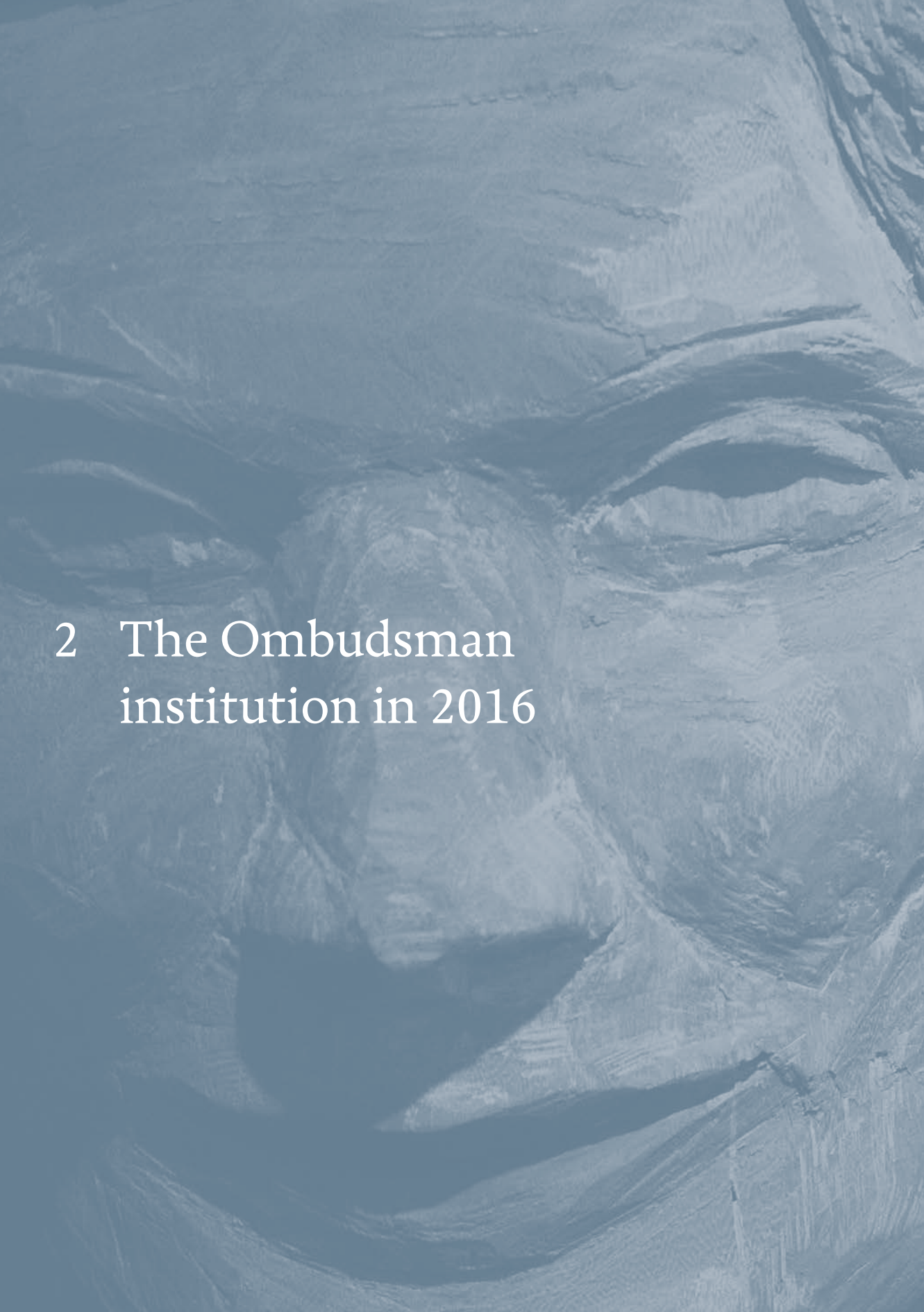
The debate showed that, albeit fragile, the freedom of expression and of the press are strongly protected in Finnish society. The slightest suspicion of an attempt to restrict these freedoms sparks a critical discussion, which plays a key role in guaranteeing that a sufficient selection of free and independent information is available, representing a diverse range of different viewpoints.

Fake media, alternative media and hate media strive to create conflict and confusion in society. Under the journalistic guidelines, it is the duty of each journalist to aim for spreading truthful information. To enable the media and journalists to play their role in democracy and rule of law, they must hold on to their reliability and dignity.

The Parliamentary Ombudsman is not competent to supervise good journalistic practice. On the other hand, the Ombudsman may assess how the Finnish Broadcasting Company has performed its public service obligation laid down in the relevant act.

In particular, the Ombudsman exercises oversight to ensure that the authorities do not restrict the freedom of expression and safeguards the right of the media, and thus the public, to receive as much information as possible without infringing on the fundamental rights of others. Complaints filed with the Ombudsman often concern a public servant's possibility of openly criticising the activities of his or her employer. They may also be about political, artistic or scientific expression or, for example, whether photography or filming is permitted in a given situation. When defending the freedom of expression and information, the Ombudsman also defends the rule of law.

However, our joint ability to sustain media that keeps an eye on national, local and regional issues is crucial in terms of an effective democracy.



2 The Ombudsman institution in 2016

2.1 Review of the institution

The year 2016 was the Finnish Ombudsman institution's 97th year of operation. The Parliamentary Ombudsman began his work in 1920, making Finland the second country in the world to adopt the institution. The Ombudsman institution originated in Sweden, where the office of Parliamentary Ombudsman was established in 1809. After Finland, next country to adopt the institution was Denmark in 1955, followed by Norway in 1962.

The International Ombudsman Institute (IOI) currently has over 170 members. However, some ombudsmen, are regional or local. For example, Germany and Italy are countires that do not have Parliamentary Ombudsman. The post of European Ombudsman was established in 1995.

The Ombudsman is the supreme overseer of legality, elected by the Parliament of Finland (Eduskunta). He/she exercises oversight to ensure that those who perform public tasks comply with the law, fulfil their responsibilities and implement fundamental and human rights in their activities. The scope of the Ombudsman's oversight includes courts, authorities and public servants as well as other persons and bodies that perform public tasks. By contrast, private instances and individuals who are not entrusted with public tasks are not subject to the Ombudsman's oversight of legality. Nor may the Ombudsman investigate Parliament's legislative work, the activities of Members of Parliament or the official duties of the Chancellor of Justice.

The two supreme overseers of legality, the Ombudsman and the Chancellor of Justice, have virtually identical powers. The only exception is the oversight of advocates, which falls exclusively within the scope of the Chancellor of Justice. Only the Ombudsman or the Chancellor of Justice can decide to bring legal proceedings against a judge for unlawful action in an official capacity.

In the division of labour between the Ombudsman and the Chancellor of Justice, however, responsibility for matters concerning prisons and other closed institutions where people are detained without their consent as well as for the deprivation of freedom as regulated by the Coercive Measures Act has been entrusted to the Ombudsman. The Ombudsman is also responsible for monitoring matters concerning with the Defence Forces, the Finnish Border Guard, crisis management personnel, the National Defence Training Association of Finland as well as courts martial.

The Ombudsman is independent and acts outside the traditional tripartite division of the powers of state – legislative, executive, and judicial. He/she has the right to obtain all the information required to oversee legality from the authorities and persons in public office. The objective, among other things, is to ensure that various administrative sectors' own systems of legal remedies and internal oversight mechanisms operate appropriately.

The Ombudsman submits an annual report to the Parliament of Finland in which he evaluates, on the basis of his observations, the state of administration of the law and any shortcomings he has discovered in legislation.

The election, powers and tasks of Ombudsman are regulated by the The Constitution of Finland and the Finnish Parliamentary Ombudsman Act. These provisions are found in Annex 1.

In addition to the Parliamentary Ombudsman, Parliament elects two Deputy-Ombudsmen. All serve for four-year terms. The Ombudsman decides on the division of labour between the three. The Deputy-Ombudsmen decide on the matters they are given responsibility for independently and with the same powers as the Ombudsman.

Parliamentary Ombudsman Jääskeläinen made decisions on cases involving questions of principle, the Government and other of the highest organs of state. In addition, his oversight included matters relating to courts and administration of justice, health care, persons with disabilities, foreigners, linguistic issues and covert intelligence gathering as well as the coordination of the tasks of the National Preventive Mechanism against Torture and reports relating to its work. Deputy-Ombudsman Jussi Pajuoja assumed responsibility for matters relating to the police, the prosecution service, education, science and culture as well as labour affairs and unemployment security. He also made decisions concerning criminal sanctions, *i.e.* matters relating to the treatment of prisoners, the execution of punishment and the correctional service. Deputy-Ombudsman Maija Sakslin dealt with such matters as social welfare, children's rights, regional and local government and distraint. She was also responsible for military affairs, defence, the Border Guard, the Church as well as transport and communications. A detailed division of labour is shown in Annex 2.

If a Deputy-Ombudsman is prevented from performing his or her task, the Ombudsman can invite the Substitute for a Deputy-Ombudsman to stand in. In 2016, Principal Legal Adviser Pasi Pölönen substituted for the Deputy Ombudsman on a total of 52 work days.

2.2 The values and objectives of the Office of the Parliamentary Ombudsman

Oversight of legality has changed in many ways in Finland over time. The Ombudsman's role as a prosecutor has receded into the background, and the role of developing official activities has been accentuated. The Ombudsman sets demands for administrative procedure and guides the authorities towards good administration.

Today, the Ombudsman's tasks also include overseeing and actively promoting the implementation of fundamental and human rights. This has altered the perspective on the authorities' obligations related to implementing people's rights. Fundamental and human rights are prominent in virtually all the cases referred to the Ombudsman. Evaluation of implementation of fundamental rights means weighing against each other principles that tend in different directions and paying attention to aspects that promote the implementation of fundamental rights. In his evaluations, the Ombudsman stresses the importance of a legal interpretation that is amenable to fundamental rights.

The establishment of the Finnish National Human Rights Institution supports and highlights the aims of the Ombudsman in the oversight and promotion of fundamental and human rights. This report contains a separate section 3 on fundamental and human rights.

The tasks statutorily assigned to the Ombudsman provide a foundation for determining what kinds of values and objectives can be set for both oversight of legality and the work of the Office in other respects as well. The key values of the Office of the Parliamentary Ombudsman were created from the perspectives of clients, authorities, Parliament, the personnel and management.

The following is a summary of the values and objectives of the Ombudsman's Office.

The values and objectives of the Office of the Parliamentary Ombudsman

Values

The key objectives are fairness, responsibility and closeness to people. They mean that fairness is promoted boldly and independently. Activities must in all respects be responsible, effective and of a high quality. The way in which the Office works is people-oriented and open.

Objectives

The objective with the Ombudsman's activities is to perform all of the tasks assigned to him or her in legislation to the highest possible quality standard. This requires activities to be effective, expertise in relation to fundamental and human rights, timeliness, care and a client-oriented approach as well as constant development based on critical assessment of our own activities and external changes.

Tasks

The Ombudsman's core task is to oversee and promote legality and implementation of fundamental and human rights. This is done on the basis of investigations arising from complaints or activities that are conducted on the Ombudsman's own initiative. Monitoring the conditions and treatment of persons in closed institutions and conscripts, inspections of official agencies and institutions, oversight of measures affecting telecommunications and other covert intelligence-gathering operations as well as matters of the responsibility borne by members of the Government and judges are special tasks.

Emphases

The weight accorded to different tasks is determined a priori on the basis of the numbers of cases on hand at any given time and their nature. How activities are focused on oversight of fundamental and human rights on our own initiative and the emphases in these activities as well as the main areas of concentration in special tasks and international cooperation are decided on the basis of the views of the Ombudsman and Deputy-Ombudsmen. The factors given special consideration in the allocation of resources are effectiveness, protection under the law and good administration as well as vulnerable groups of people.

Operating principles

The aim in all activities is to ensure high quality, impartiality, openness, flexibility, expeditiousness and good services for clients.

Operating principles in especially complaint cases

Among the things that quality means in complaint cases is that the time devoted to investigating an individual case is adjusted to management of the totality of oversight of legality and that the measures taken have an impact. In complaint cases, hearing the views of the interested parties, the correctness of the information and legal norms applied, ensuring that decisions are written in clear and concise language as well as presenting convincing reasons for decisions are important requirements. All complaint cases are dealt with within the maximum target period of one year, but in such a way that complaints which have been deemed to lend themselves to expeditious handling are dealt with within a separate shorter deadline set for them.

The importance of achieving objectives

The foundation on which trust in the Ombudsman's work is built is the degree of success in achieving these objectives and what image our activities convey. Trust is a precondition for the Institution's existence and the impact it has.

2.3 Modes of activity and areas of emphasis

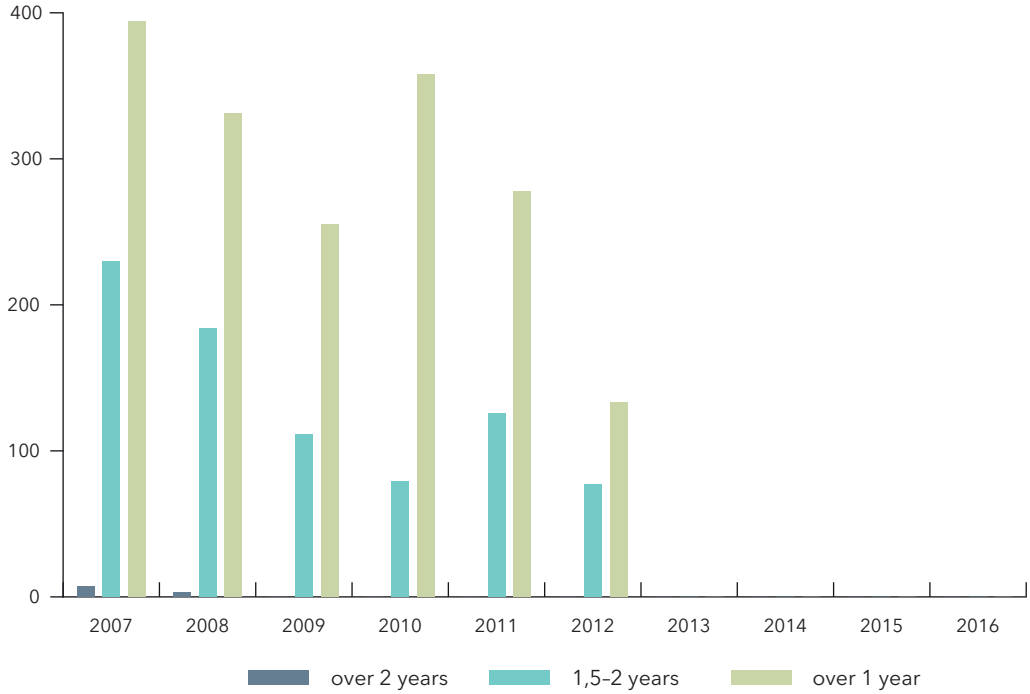
Investigating complaints is the Ombudsman's central task and activity. He investigates complaints that fall within the realm of the oversight of legality, and with respect to which there is reason to suspect unlawful conduct or a neglect of duty, or if the Ombudsman otherwise deems it necessary. Arising from a complaint made to him, the Ombudsman takes the measures that he deems warranted from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. In addition to matters specified in complaints, the Ombudsman can also choose on his or her own initiative to investigate shortcomings that manifest themselves.

The Ombudsman is required by law to conduct inspections of official agencies and institutions. He or she has a special duty to oversee the treatment of inmates in prisons or other closed institutions as well as the treatment of conscripts in garrisons. Inspections are also conducted in other institutions, especially those in the social welfare and health care sector. One priority area for the Ombudsman is the oversight of implementation of children's rights.

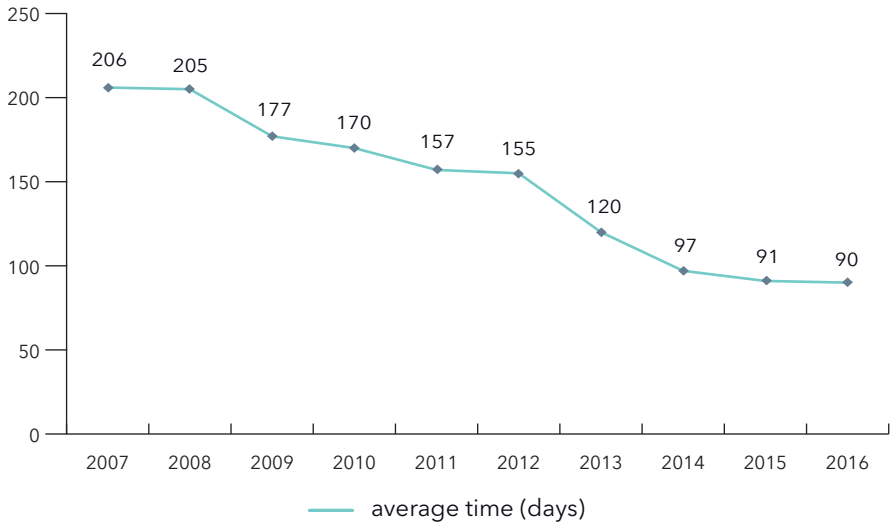
By virtue of a legislative amendment that entered into force in the beginning of 2014, the Ombudsman's remit concerning the special monitoring of covert intelligence gathering was extended to cover all means of covert intelligence. Previously, the Ombudsman's special monitoring task only applied to some of the covert intelligence gathering resources used by authorities, on which the authorities had to report back to the Ombudsman. The increase in the means used will also extend the scope of supervision. Covert intelligence gathering is used by the police, Customs, the Border Guard and the Defence Forces.

Covert intelligence gathering involves interfening in several constitutionally guaranteed fundamental rights, such as privacy, confidentiality of communications and protection of domestic peace. Often the use of covert intelligence gathering requires the permission of a court of law, which in turn assures that it will be used lawfully. However, the Ombudsman also plays an important role in ensuring that the investigative means used, and which are kept secret from the subject of investigation at the time, are overseen properly. Oversight of covert intelligence gathering is discussed in Chapter 4.

Fundamental and human rights come up in the oversight of legality not only when individual cases are being investigated, but also in conjunction with, *e. g.*, inspections and deciding the thrust of own-initiative investigations. Emphasising and promoting fundamental rights is also reflected otherwise in determining the thrust of the Ombudsman's activities. In connection with this, the Ombudsman has discussions with various bodies that include the main NGOs. On inspections and when investigating matters on his or her own initiative, the Ombudsman takes up questions that are sensitive from the perspective of fundamental rights and have a broader significance than individual cases. In 2015, the special theme in oversight of fundamental and human rights was the rights of persons with disabilities. The content of this theme is discussed in section 3.7 on fundamental and human rights.



Complaints that had been pending over a year in 2007–2016



Average time taken to deal with complaints in 2007–2016

2.3.1 ACHIEVING THE TARGET PERIOD OF ONE YEAR

A reform of the Parliamentary Ombudsman Act, which entered into force in 2011, made the oversight of legality more effective by giving the Ombudsman greater discretionary powers and a wider range of operational alternatives as well as stressing the citizens' perspective. The period within which complaints can be made was reduced from five to two years. The Parliamentary Ombudsman was granted the opportunity to refer a complaint to another competent authority. The Act was also amended to allow the Ombudsman to call on the person substituting for the Deputy Ombudsman to discharge the latter party's duties as and when required.

The legislative reform enabled a more appropriate targeting of resources to issues where the Parliamentary Ombudsman could help a complainant or take other measures. The aim is to help the complainant, if possible, by recommending that an error that has been made be rectified, or that compensation be paid for a violation of the complainant's rights.

Bringing the maximum processing time of complaints down to one year has been a long-term target of the Parliamentary Ombudsman. As the activities aiming to resolve complaints were made more effective, this target was achieved for the first time in 2013. It has also been reached every year since then. At the turn of the year, no pending complaints dated back to more than a year.

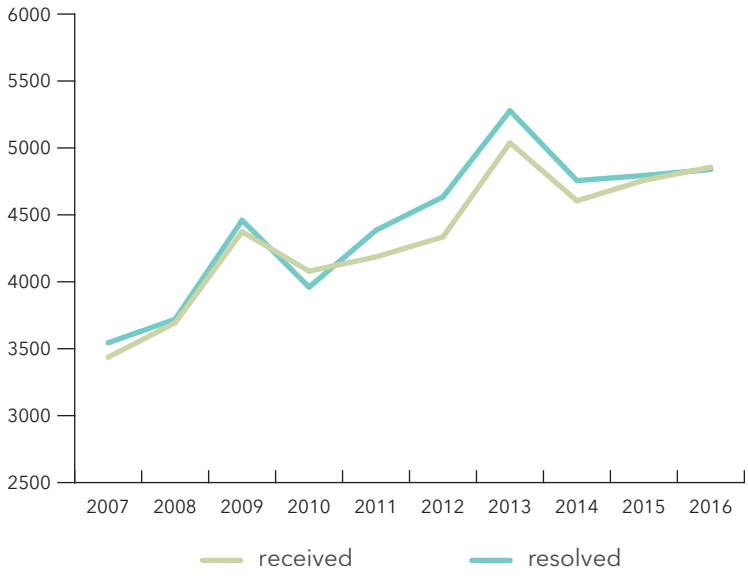
The average time taken tohandle complaints was 90 days at the end of the year, whereas at the end of 2015 it had been 91 days.

2.3.2 COMPLAINTS AND OTHER OVERSIGHT OF LEGALITY MATTERS

In 2016, the number of complaints received was 4,922. This is around 160 (3%) more than in 2015 (4,759). In the year under review,4,839 complaints were resolved, approximately equalling the number of complaints received. The figure for 2016 also includes matters that in previous years fell in the category "Other communications".

In recent years, the number of complaints that have been sent by letter or fax and delivered in person has fallen, while the number received by e-mail has increased continuously. In 2016, the vast majority (69%) arrived electronically.

Until the end of March 2016, complaints received by the Ombudsman were recorded in their own subject category (category 4) in the register of the Office of the Parliamentary Ombudsman. So called other communi-



Complaints received and resolved in 2007–2016

cations were recorded in category 6; these are letters from citizens containing enquiries, manifestly unfounded communications, matters that are not within the Ombudsman's remit, and letters with unclear contents or ones sent anonymously. These communications were not handled as complaints. The communications in this group nevertheless counted as matters connected with the oversight of legality and were forwarded from the Registry Office to the Substitute for the Deputy-Ombudsman or the Secretary General, who distributes them to the notaries and investigatin officers to be prepared. Anyone sending a letter received a reply. All replies were checked by the Substitute for the Deputy Ombudsman or the Secretary General.

In the year under review, the Office of the Parliamentary Ombudsman introduced an electronic case management system: from 1 January, all administrative matters dealt with by the Office were recorded in it. Newly initiated oversight of legality matters were recorded in the system from 1 April. As the electronic case management system was introduced, matters that were previously recorded in category 6, other communications, were recorded as complaints from 1 April. The way in which these matters are processed did not change, however; they are handed to the Substitute for the Deputy Ombudsman or the Secretary General, who distributes them to those who prepare the draft replies. The replies are checked by the Deputy Ombudsman's Substitute or the Secretary General.

Once a complaint has been filed with the Office, a notification of its reception is sent to the complainant within approximately one week. A notification that a complaint has arrived by e-mail is sent immediately.

Some complaints are dealt with using a so-called accelerated procedure. In 2016, 1,704 (35%) of all complaints were dealt in this way. The purpose of the accelerated procedure is to separate the complaints that do not need further investigation the moment they come in. The accelerated procedure is suitable especially in cases where there is manifestly no ground to suspect an error, the time limit has been exceeded, the matter is not with the Ombudsman's remit, the complaint is non-specific, the matter is pending elsewhere or what is involved is a repeat complaint in which no ground for a re-appraisal of the decision in the earlier complaint is evident. A notification letter about complaints that are being dealt with through the accelerated procedure is not sent to the complainant. If it emerges that a complaint is unsuitable for the accelerated procedure, it is returned to the ordinary complaints category, and the complainant is sent a notification letter from the Registry Office. In matters that are being dealt with through the accelerated procedure, a draft response is given within one week to the party deciding on the case. The complainant is sent a reply signed by the legal adviser taking care of the matter.

Anonymous messages are not treated as complaints, but the need to investigate them on an own initiative basis is assessed.

Letters received for information only are recorded but not replied to. However, they are investigated by the Substitute for the Deputy-Om-

■ received ■ resolved	2015	2016
Complaints	4,727 4,794	4,856 4,839
Transferred from the Chancellor of Justice	32	66
Taken up on own initiative	89 73	60 71
Requests for submissions and attendances at hearing	74 75	80 82
Other written communications *Included in complaints in 2016*	318 313	
Total	5,240 5,255	5,062 4,992

Oversight-of-legality matters received and resolved in 2015–2016

budsman or the Secretary General. Communications sent using the feedback form on the Office website are dealt with in accordance with these principles. In 2016, almost 3,160 written communications that were sent for information were received.

In addition, the oversight of legality extends to opinions and consultations on various parliamentary committees, for example.

In 2016, 72% of all the complaints that arrived related to the ten largest categories. Appendix 3 gives the relevant numerical data for the 10 largest categories.

In 2016, a total of 71 matters that the Ombudsman had investigated on his own initiative were resolved. Of these, 42 (59%) led to action on the part of the Ombudsman.

2.3.3 MEASURES

The most relevant decisions in the Ombudsman's work are those that lead to him taking measures. The measures are a prosecution for breach of official duty, a reprimand, the expression of an opinion and a recommendation. A matter can also lead to some other measure on the part of the Ombudsman, such as ordering a pre-trial investigation or bringing an earlier expression of opinion by the Ombudsman to the attention of an authority. In addition, a matter may be rectified while it is under investigation.

A prosecution for breach of official duty is he most severe sanction at the Ombudsman's disposal. However, if the Ombudsman takes the view that a reprimand will suffice, he may choose not to bring a prosecution even though the subject of oversight has acted unlawfully or neglected to fulfil his or her duty. He may also express an opinion as to what would have been a lawful procedure or draw the attention of the oversight subject to the principles of good administrative practice or to aspects that are conducive to the implementation of fundamental and human rights. An opinion expressed may be a rebuke in character or intended for guidance.

In addition, the Ombudsman may recommend rectification of an error that has occurred or draw the attention of the Government or other body responsible for legislative drafting to shortcomings that he has observed in legal provisions or regulations. Sometimes an authority may on its own initiative rectify an error it has made already at the stage when the Ombudsman has intervened with a request for a report.

Decisions on complaints and own-initiative investigations that led to measures totalled 629 in 2016, which represented nearly 13% of all decisions. Approximately one out of four complaints and own-initiative cases were subjected to a so-called full investigation; in other words, at least one report and/or statement was obtained. About one half of these led to a measure.

In about 46% of cases (2,225 in all), there was either no grounds to suspect erroneous or unlawful behaviour or there was no reason for the Ombudsman to take action. No erroneous action was found in 302 cases (approximately 6%). No investigation was conducted in 36% of cases (1,724).

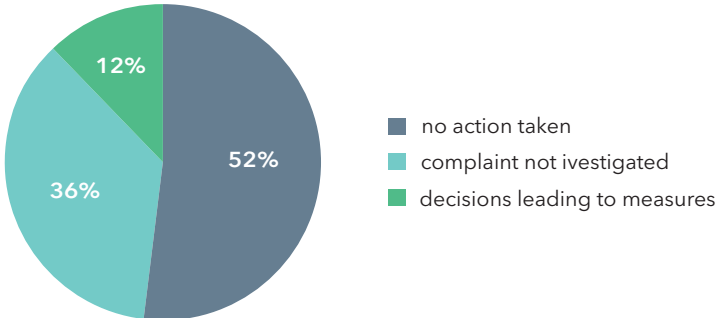
A complaint was not investigated in most cases because the matter was already pending with a competent authority. An overseer of legality does not usually intervene in a case that is being dealt with in an appeal instance or other authority. Matters pending with other authorities that were not investigated represented nearly 12% (574) of all complaints in which decisions were issued. Other matters not investigated include those that do not fall within the Ombudsman's competence and, in general, cases that are more than two years old.

If complaints that were not investigated are excluded from the examination, the share of all investigated complaints which led to measures was 19%.

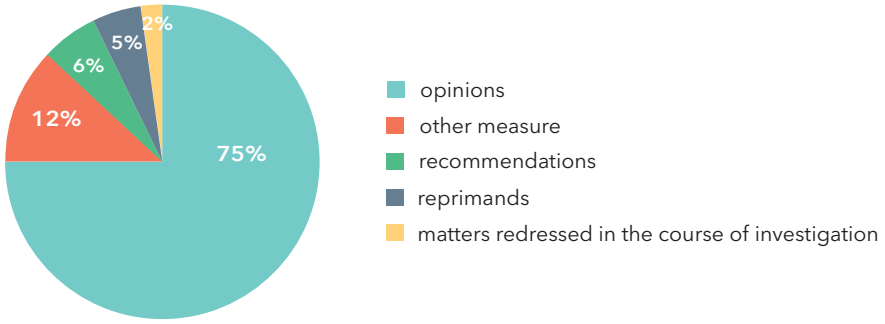
In the year under scrutiny, the Ombudsman ordered four persons to be prosecuted for breach of official duty in one matter. 32 reprimands were issued and 462 opinions expressed. Rectifications were made in 12 cases in the course of their inves-

MEASURES TAKEN BY PUBLIC AUTHORITIES		Measure							Total number of decisions	Percentages*
		Prosecution	Reprimand	Opinion	Recommen-dation	Rectification	Other measure	Total		
Public authority	Social welfare		9	100	2	1	23	135	757	17,8
	Criminal sanctions field		10	75	4	2	4	95	297	32,0
	Police		1	81	1		7	90	670	13,4
	Health		5	49	19	1	15	89	541	16,5
	Social insurance			27	2	4	6	39	319	12,2
	Administrative branch of the Ministry of Economic Affairs and Employment			34	1		3	38	189	20,1
	Enforcement (distraint)		1	18	4	2	3	28	143	19,6
	Customs			12			2	14	70	20,0
	Administrative branch of the Ministry of the Environment		1	11				12	133	9,0
	Administration of law	1		5	3		3	12	321	3,7
	Local government			10		1		11	168	6,5
	Administrative branch of the Ministry of Education and Culture			8				8	187	4,3
	Administrative branch of the Ministry of Transport and Communications			2	2		4	8	143	5,6
	Highest organs of government		2	2	1		3	8	123	6,5
	Administrative branch of the Ministry of Defence			6			1	7	41	17,1
	Administrative branch of the Ministry of Justice		1	4	2			7	63	11,1
	Aliens affairs and citizenship		1	5				6	99	6,1
	Taxation			3			3	6	87	6,9
	Guardianship		1	2			1	4	62	6,5
	Administrative branch of the Ministry of Agriculture and Forestry			2	1	1		4	81	4,9
	Administrative branch of the Ministry of Finance			3				3	29	10,3
	Prosecutors			1	1		1	3	68	4,4
	Administrative branch of the Ministry of the Interior			1				1	19	5,3
	Administrative branch of the Ministry for Foreign Affairs			1				1	5	20,0
	Subjects of oversight in the private sector								23	-
	Other administrative branches								272	-
	Total	1	32	462	43	12	79	629	4 910	12,8

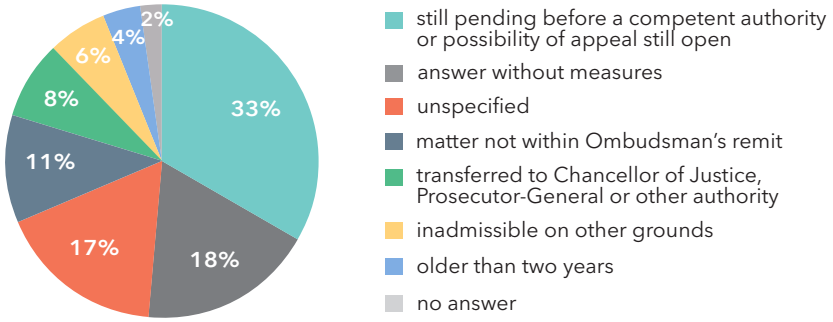
* Percentage share of measures in decisions on complaints and own initiatives in a category of cases



All cases resolved in 2016



Decisions involving measures in 2016



Complaints not investigated in 2016

tigation. Decisions classed as recommendations numbered 43, although stances on development of administration that in their nature constituted a recommendation were included in also other decisions. Other measures were recorded in 79 cases. In actual fact, the number of other measures is greater than the figure shown above, because only one measure is recorded in each case, even though several measures may have been taken.

Annex 3 gives the statistics on the Ombudsman's activities.

2.3.4 INSPECTIONS

115 inspection visits were conducted in 2016. Appendix 4 gives a list of all inspections and visits carried out. The inspections are described in more detail in connection with the various classifications.

Around two thirds of the inspections and visits were conducted under the leadership of the Ombudsman or Deputy-Ombudsmen, while around one third were conducted by Principal Legal Advisers. Of the inspections at closed institutions, 32 were unannounced or so-called surprise inspections.

Persons confined in closed institutions and conscripts are given the opportunity for a confidential conversation with the Ombudsman or his representative during an inspection visit. Other places where inspection visits take place include reform schools, institutions for the mentally handicapped as well as a social welfare and health care institutions.

Shortcomings are often observed in the course of inspections that are subsequently investigated on the Ombudsman's own initiative. Inspection visits also fulfil a preventive function.

2.4
The National Human Rights Institution of Finland

The Finnish National Human Rights Institution consists of the Ombudsman and the Human Rights Centre and its Delegation.

2.4.1
THE HUMAN RIGHTS INSTITUTION AWARDED A STATUS

The Human Rights Institution and its Delegation were established in connection with the Ombudsman's Office with the aim of creating structure which, together with the Ombudsman, would meet, as satisfactorily as possible, the requirements of the Paris Principles, adopted by the UN in 1993. This process, which started in the early 2000s, achieved its objective when the Finnish Human Rights Institution was awarded an A status.

National human rights institutions must apply to the UN International Coordinating Committee of National Human Rights Institutions (ICC; today the Global Alliance of National Human Rights Institutions or GANHRI), for accreditation. The accreditation status shows how well the institution in question meets the requirements under the Paris Principles. The highest rating, A status, indicates that the institution fully meets the requirements; a B status indicates some shortcomings; and a C status suggests the sort of defects that cannot allow the institution to be regarded as meeting requirements in any way. The accreditation status is reassessed every five years.

The Finnish National Human Rights Institution submitted its application for accreditation to the International Coordinating Committee in June 2014. In December 2014, Finland was granted A status for 2014–2019.

The granting of an A status may be accompanied by recommendations on how to improve the institution. The recommendations given to Finland stressed, among other things, the need to safeguard the resources necessary to ensure that the tasks of the Finnish National Human Rights Institution are effectively discharged. The full text of the recommendations is provided in Annex 5 to the summary of the Ombudsman's annual report for 2014.

The A status not only has intrinsic and symbolic value but it also has legal relevance: a national institution with A status has, for example, the right to take the floor in the sessions of the UN Human Rights Council and to vote at GANHRI meetings. A status is considered highly significant in the UN and, in more general terms, in international cooperation. The Finnish Human Rights Institution has also joined the European Network of National Human Rights Institutions (ENNHRI). Finland's National Human Rights Institution is a member of the ENNHRI and GANHRI Bureaus.

2.4.2
THE HUMAN RIGHTS INSTITUTION'S OPERATIVE STRATEGY

The different sections of the Finnish National Human Rights Institution have their own functions and ways of working. The Institution's first joint long-term operative strategy was drawn up in 2014. It defined common objectives and specified the means by which the Ombudsman and the Human Rights Centre would individually endeavour to accomplish them. The strategy successfully depicts how the various tasks of the functionally independent yet inter-related sections of the Institution are mutually supportive with the aim of achieving common objectives.

The strategy outlined the following main objectives for the Institution:

1 General awareness, understanding and knowledge of fundamental and human rights is increased, and respect for these rights is strengthened.
2. Shortcomings in the implementation of fundamental and human rights are recognised and addressed.
3. The implementation of fundamental and human rights is effectively guaranteed through national legislation and other norms as well as through their application in practice.
4. International human rights conventions and instruments should be ratified or adopted promptly and implemented effectively.
5. Rule of law is implemented.

2.5
New oversight duties

Oversight of the UN Convention against Torture

The Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and acts bringing into force its provisions pertaining to legislation were adopted in the spring of 2013. As a result, under an amendment to the Parliamentary Ombudsman Act, the Parliamentary Ombudsman was named National Preventive Mechanism (NPM) under the Convention (new Chapter 1(a), sections 11(a) – (h)). The amendment to the Act took effect on 7 November 2014 (Government Decree 848/2014). The NPM's tasks are described in section 3.4 of this report.

UN Convention on the Rights of Persons with Disabilities

On 3 March 2015, Parliament adopted an amendment to the Parliamentary Ombudsman Act, whereby the tasks under Article 33(2) of the Convention on the Rights of Persons with Disabilities of December 2006 would fall legally within the competence of the Ombudsman and the Human Rights Centre and its Delegation. The structure, which has to be independent, has as its task the promotion, protection and monitoring of the Convention's implementation. Amendments to the Parliamentary Ombudsman Act entered into force by virtue of a government decree on 10 June 2016. For further information on the activities of the Ombudsman and the NPM, see section 3.3 of this report.

2.6
Cooperation in Finland and internationally

2.6.1
EVENTS IN FINLAND

The Parliamentary Ombudsman's annual report 2015 was submitted to Speaker of the Parliament Maria Lohela on 3 June 2016. The Ombudsman attended a preliminary debate and a parliamentary debate on the report in plenary sessions of the Parliament on 8 June 2016 and on 15 February 2017.

Several Finnish authorities and other guests visited the Ombudsman's office, and topical issues and the work of the Ombudsman were discussed with them. During the year, the Ombudsman, Deputy-Ombudsmen and members of the Office paid visits to familiarise themselves with the activities of other authorities, gave presentations and participated in hearings, consultations and other events.

Parliamentary Ombudsman Mr Petri Jääskeläinen, Deputy-Ombudsman Ms Maija Sakslin and Substitute for a Deputy-Ombudsman Mr Pasi Pölönen handed the Ombudsman's annual report for 2015 to Ms Maria Lohela, Speaker of the Parliament, on 3 June 2016.

On 7 June, the Office was visited by a foreign delegation of experts in futures research hosted by the Parliament's Committee for the Future. Introduction to the Parliamentary Ombudsman institution was part of the delegation's programme. In addition to Deputy-Ombudsman Sakslin, the Office was represented by Senior Legal Adviser Kristian Holman and Human Rights Centre expert Kristiina Kouros.

Post-graduate students and teachers from the Police University College visited the Office on 1 September. They were received by Principal Legal Adviser Juha Haapamäki.

Lawyers from the City of Vantaa visited the Office on 16 September to discuss indoor air problems in the City's schools. This meeting was attended by Deputy-Ombudsman Pajuoja and several public servants from the Office.

The Office received a visit from the family law unit of the City of Oulu on 7 October. The visit was hosted by Principal Legal Advisor Tapio Räty and several other public servants from the Office.

Lawyers specialising in children's rights visited Deputy-Ombudsman Sakslin on 13 October. Officials from the Office also attended the meeting.

Parliamentary Ombudsman Jääskeläinen gave a presentation on the Ombudsman's work as part of the Parliament's journalist programme on 12 October. On 18 February, Parliamentary Ombudsman Jääskeläinen presented the Institute for the Languages of

Finland's award for promoting plain language in the House of Municipalities at the Day of Democracy event.

Deputy-Ombudsman Sakslin gave a talk in a lecture series on "Fundamental rights" organised by the Human Rights Centre at Hotel Presidentti. She visited the National Defence Command on 16 September to talk about the work carried out by the Office of the Parliamentary Ombudsman. She also gave a talk at a seminar titled "Keys to equality" held in Rovaniemi on 30 September. This seminar was organised by AVI Lapland together with the Sára project of the University of Lapland, the Faculty of Law, the Sámi Parliament and the Mii association. The topic of the seminar was early childhood education and care provided in Sámi.

2.6.2 INTERNATIONAL COOPERATION

In recent years, the Office of the Parliamentary Ombudsman has engaged in an increasing number of international activities. During the year, the Office received a number of visitors and delegations from other countries who came to familiarise themselves with the Ombudsman's activities. Some of these were working visits, during which the visitors were given a practically oriented introduction to the work and procedures of the Office as well as the administration, and they met employees working at the Office. One of the reasons for which the Finnish Parliamentary Ombudsman institution and its activities attract international interest is that the Finnish institution is the second oldest of its kind in the world.

Since August 2015, Parliamentary Ombudsman Petri Jääskeläinen and Principal Legal Adviser, Substitute for Deputy-Ombudsman Pasi Pölönen participated in a project concerning technical assistance that the Government of Cyprus had requested from the European Commission. The aim was to conduct a functional review. This review was part of a comprehensive evaluation and reform programme concerning the public administration in Cyprus, which the Government of Cyprus had agreed to undertake as part of its collaboration with the European Commission, the European Central Bank and the International Monetary Fund. The tasks included evaluating the independence, organisation and workflows of the Cypriot Ombudsman, the efficiency and effectiveness of the activities, and possible resource and development needs. The final report containing a proposal for an action plan was presented to the Government of Cyprus in April 2016.

Other Finnish participants in the project included Eija-Leena Linkola, who has a background in working at the Ministry for Foreign Affairs, and Development Manager Marika Tammeaid from the State Treasury. The team conducted a scoping visit to the Cypriot Ombudsman's office on 14–18 December 2015. An interim report submitted to the European Commission was prepared on this visit. The second visit, which took place on 1–5 February 2016, included a detailed perusal of the Ombudsman's activities.

The final report containing a proposal for an action plan was presented at the Office of the Cypriot Ombudsman on 20 April 2016. The official final report was submitted to the Government of Cyprus on 6 May 2016. The review team made 53 recommendations for developing the legislation on the Ombudsman and the organisation, working methods and strategic planning of the office. The project's final and interim reports (EOAK/654/2016) were prepared in English.

International visitors

On 4–5 October, the Finnish Parliamentary Ombudsman organised a Baltic-Nordic seminar, which discussed topical issues for the participating countries' ombudsman institutions as well as certain topics common to all countries, including the preventive task under the UN Convention Against Torture. The meeting was held at the auditorium of the Annex to the Parliament, Pikkuparlamentti.

Below is a list of the individuals and delegations that visited the Office in the year under review.

- 18 May Representatives of the Congress of Local and Regional Authorities in Europe
- 27 May A delegation of public administration students from Lintz University, Austria
- 29 August Public servants from the criminal sanctions sector in China; they also visited Suomenlinna prison together with officials from the Office of the Parliamentary Ombudsman
- 29 August Delegation from the Taiwanese Parliament
- 3 September Ombudsman Mihail Cotorobai and Ian Feldman, President of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality, Moldova
- 21 September Swedish Committee on the Constitution
- 13 October Judges and prosecutors from the European Judicial Training Network (EJNT)
- 29 November Minister of Justice Chande from Mozambique with his delegation
- 1 December Estonian Chancellor of Justice
- 16 December Romanian Ambassador, H.E. Mr. Razvan Rotundu and Mădălina Morariu (Second Secretary)

Events abroad

The Parliamentary Ombudsman is a member of the European Network of Ombudsmen, the members of which exchange information on EU legislation and good practices at seminars and other gatherings as well as through a regular newsletter, an electronic discussion forum and daily electronic news services. Seminars intended for ombudsmen are organised every other year by the European Ombudsman together with a national or regional colleague. The liaison persons, who serve as the network's nodal points on the national level, meet in Strasbourg every other year.

Senior Legal Adviser Jari Pirjola has been Finland's representative on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) since December 2011. The representative is elected for a four-year term. This is Pirjola's second term in the Committee. On 8 July 2015, the Committee of Ministers of the European Council re-elected him for an additional term of four years.

Public servants from the Office attended a number of seminars and conferences abroad:

- 27 January ENNHRI (European Network of National Human Rights Institutions) - meeting of members; Economic and Social Rights, Strasbourg / Deputy-Ombudsman Sakslin
- 28 January Meeting of the Council of Europe-FRA-ENNHRI-EQUINET; Designing effective tools for the promotion and protection of social and economic rights / Deputy-Ombudsman Sakslin
- 8 February ENNHRI Legal Working Group, Vienna/ Principal Legal Adviser Riitta Länsisyrjä and Associate Expert Hanna Rönty
- 9 February FRA (European Union Agency for Fundamental Rights) and ENNHRI workshop on national implementation of the EU Charter of Fundamental Rights, Vienna / Principal Legal Adviser Riitta Länsisyrjä and Associate Expert Hanna Rönty
- 26–27 April IOI (International Ombudsman Institution) international seminar / Human rights challenges now: the Ombudsman facing threats, Barcelona / Ombudsman Jääskeläinen
- 28–29 April Kongress neue Verwaltung, Bonn / Principal Legal Adviser Jorma Kuopus
- 25–27 May Human Rights - A 21st Century Approach to the work of Ombudsmen conference, Belfast / Senior Legal Adviser Håkan Stoor
- 2 June Presentation of Finland' National Human Rights Institution, Raoul Wallenberg Institute, Lund / Director Sirpa Rautio and Principal Legal Adviser Riitta Länsisyrjä
- 12–14 June European Network of Ombudsmen Seminar, Brussels / Ombudsman Jääskeläinen and Principal Legal Adviser Riitta Länsisyrjä

- 24–26 August 2016 Meeting of Nordic Parliamentary Ombudsmen, Bornholm / Ombudsman Jääskeläinen, Deputy-Ombudsman Pajuoja, Deputy-Ombudsman Sakslin, Secretary General Päivi Romanov and Senior Legal Adviser Håkan Stoor
- 2–5 October International Conference of Ombuds Institutions For the Armed Forces, Amsterdam / Deputy-Ombudsman Sakslin and Senior Legal Adviser Kristian Holman
- 12–14 October Seminar on offences dealt with as police matters, Stockholm / Principal Legal Adviser Mikko Eteläpää and Principal Legal Adviser Juha Haapamäki
- 27-28 October ENNHRI General Assembly, Zagreb / Director Sirpa Rautio and Principal Legal Adviser Riitta Länsisyrjä
- 8–9 November Meeting between CAT (Committee Against Torture) and the Finnish National Human Rights Institution and NPM (Parliamentary Ombudsman), Geneva / Ombudsman Jääskeläinen, Senior Legal Adviser Iisa Suhonen and expert Kristiina Kouros
- 24 November Renewal of the Nordic Convention on Social Assistance and Social Services / Nordic Council of Ministers, Copenhagen / Senior Legal Adviser Håkan Stoor
- 6–7 December FRA "Workshop on the setting up and implementing of Frontex individual complaints", Brussels / Deputy-Ombudsman Sakslin
- 14–15 December Freedom of expression seminar, Strasbourg / Deputy-Ombudsman Sakslin

Section 3.4 on the NPM contains details on the events that either the Ombudsmen or public servants from the Office have attended.

2.6.3 OMBUDSMAN SCULPTURE

In 2009, the Ombudsman commissioned a work from sculptor Hannu Sirén to celebrate the 90th anniversary of the establishment of the Parliamentary Ombudsman institution. It is a serially produced piece used like a medal.

The Parliamentary Ombudsman may award the sculpture to a Finnish or a foreign person, authority or an organisation for commendable work that promotes the rule of law and the implementation of fundamental and human rights.

Ombudsman Jääskeläinen awarded and presented the Ombudsman sculpture to Professor of Criminal Law, Professor Emeritus Raimo Lahti on 16 January 2016 as Lahti turned 70. Lahti has served as a professor of criminal law and in numerous expert and elected official positions for over 40 years. In his speech at the presentation ceremony, Ombudsman Jääskeläinen noted that Lahti had distinguished himself through his activity and opinions by upholding the inviolable nature of human rights, individual freedoms and rights as well as legality and justice, especially in the fields of criminal and medical law. Jääskeläinen said that Lahti's activities had been appreciated and recognised not only nationally but also internationally.

2.7 Service functions

2.7.1 CUSTOMER SERVICE

We have tried to make it as easy as possible to turn to the Ombudsman. Information on the Ombudsman's tasks and instruction on how to make a complaint can be found on the website of the Office and in a leaflet entitled 'Can the Ombudsman help?'. A complaint can be sent by post, email or fax or by completing the online form. The Office provides clients with services by phone, on its own premises and by email.

Two on-duty lawyers at the Office are tasked with advising clients on how to make a complaint. The lawyers previously had daily call times during which they provided advice over telephone and received customers who came to the Office in person. By decision of the Ombudsman, the Office's customer service practices were changed in early 2016. The lawyers' daily on-call hours were dropped permanently. This decision was preceded by a six-month trial period, during which provision of advisory services to customers without set hours was tested. After the reform, the Legal Advisers of the Office have also provided advice in matters that concern their field of activity. The Office was contacted over telephone by more than 1,060 customers asking for advice, whereas the number of personal visits was some 30.

The Office's Registry receives and logs the complaints that come in and answers relevant enquiries and requests for documentation. Over the course of the year, the Registry Office received around 3,000 calls. There were over 70 visits from clients, and 566 requests for documents/information. The management secretaries received some 1,000 calls, and the Legal Advisers received less than 900 calls in total. The archives of the Office mainly provide services to researchers. In total, the Office received some 6,000 calls from customers. Slightly more than 100 customers in total visited the Office.

2.7.2 COMMUNICATIONS

In 2016, the Office issued 22 press releases outlining decisions made by the Ombudsman and a brief of so-called network tip on three decisions. The Office publishes information on the Ombudsman's decisions if they are of particular legal or general interest. The press releases are given in Finnish and Swedish, and they are also posted in English online.

The Office commissioned an analysis of its media visibility, which showed that the Ombudsman had been visible in the online media in 2016 in the context of 1,884 news items and articles.

A total of 160 anonymous decisions were posted online. The internet features decisions and solutions that are of legal or general interest.

The Ombudsman's website is in English at www.ombudsman.fi/english, in Finnish at www.oikeusasiamies.fi and in Swedish at www.ombudsman.fi. At the Office, information is provided by the Registry, the referendaries (legal advisers) and an information officer.

2.7.3 OFFICE AND ITS PERSONNEL

The Parliamentary Ombudsman's office, headed by the Ombudsman, is there to do the preparatory work on cases to be decided by the Ombudsman and to assist him in his other duties as well as to perform tasks that are the responsibility of the Human Rights Centre. The Office is located in the Parliament Annex at Arkadiankatu 3.

The Office has four sections and the Ombudsman and Deputy-Ombudsmen each head their own section. The administrative section, which is headed by the Secretary General, is responsible for general administration. The Human Rights Centre at the Ombudsman's Office is headed by the Director of the Human Rights Centre.

At the end of 2016, the regular staff totalled 60. The Human Rights Centre's budget for 2016 contained appropriations for establishing one expert post for discharging the Human Rights Centre's duties. This post was established by decision of the Ombudsman on 17 March 2016.

At the end of 2016, five posts were vacant in the Office. In addition to the Parliamentary Ombudsman and the Deputy-Ombudsmen, the Office has a secretary general, 10 principal legal advisers, 7 senior legal advisers (of which titles one was replaced by the title of a principal legal adviser on 1 October 2016), 12 legal advisers (until 30 November 2016, on which date the Ombudsman made a decision to harmonise the titles so that the titles of all legal advisers with a permanent employment relationship were replaced by the title of a senior legal adviser) and 2 lawyers, as well as a director and 3 experts at the Human Rights Centre.

The Office also had an information officer, 2 investigating officers, 4 notaries, an administrative secretary, a filing clerk, an assistant filing clerk, 3 departmental secretaries and 7 office secretaries. In addition, a total of 4 other persons worked in the Office and 5 in the Human Rights Centre for all or part of the year on fixed-term appointments. A list of the personnel is shown in Annex 5.

Under the Rules of Procedure, the Office had a Management Team that included the Ombudsman, the Deputy-Ombudsmen, the Secretary General, the Director of the Human Rights Centre and three staff representatives. The meetings of the Management Team discussed matters relating to personnel policy and the development of the Office. The Management Team met 10 times. A cooperation meeting for the entire staff of the Office was held twice in 2016.

The Office had permanent working groups in the areas of education, well-being at work, and equitable treatment and equality. The Office also has a team for evaluating how demanding tasks are, as required under the collective agreement for parliamentary officials. Temporary groups included working groups and steering committees set up to deal with case management and online service innovation projects.

The electronic case and records management programme, which was initiated in 2013, was completed during the year under review. All administrative matters have been processed using this system since 1 January, and all oversight of legality matters since 1 April. The case and document management solution to support the Ombudsman's oversight of legality and other tasks as well as other administrative duties of the Office that the project aimed for was implemented, and excepting oversight of legality matters that were initiated before 1 April, the Office introduced electronic processing and, consequently, an electronic working environment for all administrative matters.

2.7.4 OFFICE FINANCES

To finance the activities of the Office, it is given a budget appropriation each year. Rents, security services and a part of the costs of information management are paid by Parliament, and these expenditure items are therefore not included in the Ombudsman's annual budget.

The Office was given an appropriation of EUR 5,924,000 for 2016. Of this, a total of EUR 5,282,100 was used, which was some EUR 641,900 less than the estimated amount. The main reason for the underuse of the estimated appropriation was savings in the payroll costs, as there were vacant posts in the Office for some months during the year. A part of the savings was generated because the costs of the case and records management programme were lower than expected.

The Human Rights Centre drew up its own action and financial plan and its own draft budget.

3 Fundamental and human rights

3.1 The Ombudsman's fundamental and human rights mandate

The term "fundamental rights" refers to all of the rights that are guaranteed in the Constitution of Finland and all bodies that exercise public power are obliged to respect. The rights safeguarded by the European Union Charter of Fundamental Rights are binding on the Union and its Member States and their authorities when they are acting within the area of application of the Union's founding treaties. "Human rights", in turn, means the kind of rights of a fundamental character that belong to all people and are safeguarded by international conventions that are binding on Finland under international law and have been transposed into domestic legislation. In Finland, national fundamental rights, European Union fundamental rights and international human rights complement each other to form a system of legal protection.

The Ombudsman in Finland has an exceptionally strong mandate in relation to fundamental and human rights. Section 109 of the Constitution requires the Ombudsman to exercise oversight to "ensure that courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights."

For example, this is provided for in the provision on the investigation of a complaint in the Parliamentary Ombudsman Act. Under Section 3 of the act, arising from a complaint made to him or her, the Ombudsman shall take the measures that he or she deems necessary from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. Similarly, section 10 of the Parliamentary Ombudsman Act states that the Ombudsman can, among other things, draw the attention of a subject of oversight to the requirements of good administration or to considerations of implementation of fundamental and human rights.

For a more extensive discussion of the Ombudsman's duty to promote the implementation of fundamental and human rights, see Parliamentary Ombudsman Jääskeläinen's article on this subject in the Annual Report for 2012 (pp. 12–17).

Oversight of compliance with the Charter of Fundamental Rights is the responsibility of the Ombudsman when an authority, official or other party performing a public task is applying Union law.

Both the Constitution and the Parliamentary Ombudsman Act state that the Ombudsman must give the Eduskunta an annual report on his activities as well as on the state of exercise of law, public administration and the performance of public tasks, in addition to which he must mention any flaws or shortcomings he has observed in legislation. In this context, special attention is drawn to implementation of fundamental and human rights.

In conjunction with a revision of the fundamental rights provisions in the Constitution, the Eduskunta's Constitutional Law Committee considered it to be in accordance with the spirit of the reform that a separate chapter dealing with implementation of fundamental and human rights and the Ombudsman's observations relating to them be included in the annual report. Annual reports have included a chapter of this kind since the revised fundamental rights provisions entered into force in 1995.

The fundamental and human rights section of the report has gradually grown longer and longer, which is a good illustration of the way the emphasis in the Ombudman's work has shifted from overseeing the authorities' compliance with their duties and obligations towards promoting people's rights. In 1995 the Ombudsman had issued only a few decisions in which the fundamental and human rights dimension had been specifically deliberated and the fundamental and human rights section of the report was only a few pages long (see the Ombudsman's Annual Report for 1995 pp. 26–34). The section is nowadays the longest of those dealing with various groups of categories in the report, and implementation of fundamental and human rights is deliberated specifically in hundreds of decisions and in principle in every case.

Information concerning various human rights events and ratification of human rights conventions are no longer included in the Ombudsman's annual report, because these matters are dealt with in the Human Rights Centre's own annual report.

3.2 The Human Rights Centre

The Human Rights Centre (HRC) started its operation in 2012. It works autonomously and independently, although administratively it is part of the Office of the Parliamentary Ombudsman. The HRC's duties are laid down in the Parliamentary Ombudsman Act. According to the Act, the HRC has the following tasks:

- to promote information provision, training, education and research on fundamental and human rights as well as cooperation in these issues
- to draft reports on the implementation of fundamental and human rights
- to propose initiatives and give statements for the promotion and implementation of fundamental and human rights
- to participate in European and international cooperation related to the promotion and protection of fundamental and human rights
- to perform other comparable tasks associated with the promotion and implementation of fundamental and human rights.

The HRC does not handle complaints or other individual cases.

Under the UN Convention on the Rights of Persons with Disabilities (CRPD), the HRC also has the statutory special duty to promote, protect and monitor the implementation of the Convention and the rights of persons with disabilities in collaboration with the Human Rights Delegation and the Parliamentary Ombudsman. This is the first joint duty assigned to Finland's national human rights institution (NHRI) as a whole (for more information, see Chapter 3.3).

The Parliamentary Ombudsman appoints the Centre's Director for a four-year term, after having received a statement on the matter from Parliament's Constitutional Law Committee. Parliamentary Ombudsman Petri Jääskeläinen appointed Sirpa Rautio, Master of Laws trained on the bench, for a second term as the Director of the HRC on 21 December 2015. Her new four-year term began on 1 March 2016.

The HRC has a Human Rights Delegation, which functions as a national cooperative body for fundamental and human rights actors, deals with fundamental and human rights matters of a far-reaching significance and principal importance and yearly approves the HRC's plan of action and annual report. The Delegation has 20 to 40 members, who are appointed by the Parliamentary Ombudsman on the basis of applications. The Ombudsman appoints the members for four years at a time after hearing the view of the Director of the HRC, who chairs the Delegation.

3.2.1 OPERATION OF THE HUMAN RIGHTS CENTRE IN 2016

The Human Rights Centre's Plan of Action 2016 established the priorities of the Centre's activities. They included human rights education and training, particularly the production of the HRC's own educational contents, the promotion and monitoring of the rights of persons with disabilities in accordance with the HRC's new special duty, and launching the work of the new Human Rights Delegation. Another objective was to develop the HRC's monitoring activities.

Information activities, publications and events

The Human Rights Centre's website (www.ihmisoikeuskeskus.fi) provides information on the HRC and its Delegation. It also includes topical press releases and news on fundamental and human rights issues, HRC´s publications and statements, educational videos and links to the websites of other human rights actors.

During year 2016, the HRC regularly published domestic and international newsletters. The newsletters are targeted at anyone who is interested in current affairs in the field of fundamental and human rights. They are published in Finnish and in Swedish. Readers can receive the newsletter directly via e-mail by subscribing to it on the HRC´s website. The international newsletter contains news concerning, for example, the UN, the EU, the European Union Agency for Fundamental Rights (FRA) and the Council of Europe, as well as significant rulings of the European Court of Human Rights. Topics covered in the domestic newsletters included Finland's reports to the bodies monitoring human rights treaties, national policy programmes, reports and studies on fundamental and human rights, and important court decisions. Both newsletters were published six times during the year.

The HRC actively uses its Facebook page to provide information on its own activities and other topical matters on fundamental and human rights. To increase its social media visibility and to reach a wider audience, the HRC also set up a Twitter account (@FIN_NHRI) in December 2015. Twitter has mainly been used to provide information about the HRC's own events.

With its publications, the HRC aims to raise awareness of fundamental and human rights and to support the related education and training. The publications are free of charge, and most of them are freely available on the HRC´s website. The publications have been used by the authorities and various organisations and companies in their own activities. A full list of the publications is available in the HRC's Annual Report.

Events are an important way of providing information and training on topical fundamental and human rights themes. In 2016, events were organised in cooperation with the Ministry for Foreign Affairs, the Ministry of Justice, the Non-Discrimination Ombudsman and civil society organisations. The themes of the events included the use of the EU Charter of Fundamental Rights, the rights to political participation of persons with disabilities, and measures to combat hate speech. In total, the events attracted approximately 800 participants. To reach a wider audience, most of the seminars organised during the year were streamed live online. Interpretation in various spoken languages and sign language was also available when necessary.

Education and training

Promoting education and training on fundamental and human rights has been one of the Human Rights Centre's priorities during all of its years of operation. Among other things, the HRC has published the first national baseline study on human rights education and training in Finland.

In 2016, the HRC focused on producing educational contents and material. It created a series of five lectures on fundamental and human rights, covering the following topics: introduction to fundamental and human rights, the UN human rights system, the Council of Europe's human rights system, the fundamental rights dimension of the EU and fundamental rights in the Constitution.

In 2016, the Government adopted the second national action plan on fundamental and human rights. A representative from the HRC participated as an expert in the Government network of contact persons for fundamental and human rights, which prepared the action plan. The representative provided the network with expert support, in particular, regarding the action plan's section on human rights education and training.

In the autumn of 2016, all educational institutions providing basic education in Finland began implementing the new curricula based on the national core curriculum adopted in 2014. In line with the HRC's statements, human rights education plays a more prominent role in the new curricula both in terms of the contents of certain subjects and the environment of operation.

In Finland, numerous organisations are involved in human rights education. Some of their activities concern human rights education, global education as well as democracy education. To clarify these closely related concepts and meet the operators active in the field, the HRC organised in the autumn of 2016 a round table discussion in collaboration with the Ministry of Justice and Kepa, an umbrella organisation in the field of development cooperation.

Among education and training providers, the HRC collaborated in 2016 with the Haaga-Helia university of applied sciences. Haaga-Helia organised its very first training module on human rights education and training for youth workers. Efforts were also made to reach professionals and students in the field of education and training through their professional and student organisations. To give an example, the HRC gave a talk at the Winter Days of the union of Finnish teachers of religious education (SUOL ry).

Towards the end of 2016, the HRC also began preparing for the Educa trade fair organised in late January 2017. The Educa trade fair is the largest event in the education and training sector in Finland, attracting some 15,000 visitors. A separate exhibition booth on human rights education was designed in collaboration with various organisations. The HRC and relevant authorities also organised programme on the event stage.

Research

In 2016, the HRC launched a study on the promotion of research on fundamental and human rights in collaboration with the Northern Institute for Environmental and Minority Law (NIEM) of the University of Lapland Arctic Centre. The project will map the current state of Finnish fundamental and human rights research conducted in different fields and determine future research needs.

Initiatives and statements

In 2016, the Human Rights Centre submitted to various ministries and international bodies several statements, comments and communications on matters within its areas of responsibility. To avoid overlapping work, the HRC takes into account in its statements the Parliamentary Ombudsman's statements to ministries and parliamentary committees. The HRC's statements focused particularly on the rights of vulnerable groups, such as people with disabilities, elderly people and immigrants. Among other topics, statements were issued on the Government Integration Programme, the rights of disabled and elderly people and the reform of the act on legal recognition of the gender of transsexuals. A full list of the statements is available in the HRC's Annual Report.

Cooperation with Finnish and international fundamental and human rights actors

The Human Rights Centre cooperates with authorities, organisations and researchers working with fundamental and human rights matters. The cooperation involves, for instance, meetings, information exchange, advocacy and the organisation of events. Among the authorities, its key collaboration partners include the Government network of contact persons for fundamental

and human rights and the Ministry for Foreign Affairs' network specialising in human rights in foreign policy.

Since February 2014, the HRC has organised joint meetings for the autonomous and independent authorities responsible for monitoring fundamental and human rights. These are the Parliamentary Ombudsman, the Chancellor of Justice of the Government, the Ombudsman for Children, the Ombudsman for Equality, the Data Protection Ombudsman and the Non-Discrimination Ombudsman. In 2016, these actors met twice.

The HRC maintains a dialogue with Parliament through, for example, statements, committee hearings, events, meetings and international visits. The celebration of the UN Human Rights Day has become a traditional event where the HRC also presents its own activities to Parliament and provides information on various topics. In 2016, the theme of the event was human rights education.

In accordance with its statutory tasks, the HRC participates in European and international cooperation on the promotion and protection of fundamental and human rights. Since the beginning of its operation, the HRC has participated in the networks of national human rights institutions (NHRIs). From 1 March 2016 onwards, it has been a member of the European Coordinating Committee (ECC) of the European Network of National Human Rights Institutions (ENNHRI) and a member of the Bureau of the Global Alliance of National Human Rights Institutions (GANHRI). Its term lasts for three years.

ENNHRI in particular has considerably expanded its activities over the past few years. ENNHRI supports the establishment, development and accreditation of NHRIs and tries to impact human rights policy and the implementation of human rights in Europe. The HRC has been actively involved in ENNHRI's thematic working groups.

The HRC continued its close cooperation with the European Union Agency for Fundamental Rights (FRA). The Director of the HRC has been Finland's independent representative in the FRA Management Board since 2015. During the year, the HRC provided information about the FRA's publications, and in October 2016 the two also organised a joint event at the Finnish Parliament on the EU Charter of Fundamental Rights and the FRA's annual report.

During the year, the Finnish NHRI, its structure and activities were showcased for example in Sweden, where the establishment of a NHRI is currently under consideration. The HRC shared its experiences at the Swedish Parliament in March and at the Raoul Wallenberg Institute in Lund in June.

Functioning as the national monitoring mechanism for the UN Convention on the Rights of Persons with Disabilities

In the 2016 budget, the Human Rights Centre was allocated one new post: an expert on disability matters. The recruitment process was completed in the summer, and the expert started in October. For more information on the HRC's activities as the national monitoring mechanism, see Chapter 3.3.

Monitoring the implementation of Finland's human rights obligations

The Human Rights Centre monitors the implementation of the recommendations put forward by international monitoring bodies and decisions issued on complaints and communications from individuals and groups. It also gives its opinions on periodic reporting and regularly replies to the questionnaires and queries of UN human rights bodies concerning the human rights situation in Finland.

In 2016, the most important part of the HRC's monitoring duties was its parallel report on Finland's third universal periodic review (UPR), compiling information on the development of

human rights in Finland. The UPR is a mechanism employed by the UN Human Rights Council (UNHRC). In the process, UN Member States report on the human rights situation in their countries and give recommendations to other countries once every four and a half years. The review is based on each country's national report, information provided by the UN human rights mechanisms and reports submitted by the NHRI and civil society organisations. The UNHRC will begin the third cycle of periodic reviews in the spring of 2017, and Finland will be among the first countries to be reviewed.

In its report, the HRC evaluated particularly the implementation of the rights of vulnerable persons and the Government's efforts to take fundamental and human rights into account in its own activities. The HRC considered positive developments to include the ratification of the CRPD, the drafting of the second national action plan on fundamental and human rights and the reform of non-discrimination legislation.

In the report, the HRC also expressed its concerns over amendments to the Aliens Act, which restricted asylum seekers' access to legal aid under the Legal Aid Act and made the requirements for family reunification more stringent. Regarding gender minorities, the HRC noted that current legislation on the legal recognition of gender should be amended by removing the requirement of infertility from the preconditions for legal recognition. Human rights education was also a central theme in the HRC's report.

3.2.2 THE HUMAN RIGHTS DELEGATION

The Human Rights Centre's Delegation functions as a national cooperative body of fundamental and human rights actors, deals with fundamental and human rights issues of a far-reaching significance and principal importance, and yearly approves the HRC's plan of action and annual report. According to law, the Delegation must be composed of representatives of civil society, fundamental and human rights research and bodies involved in promoting and safeguarding the rights.

The term of the first Human Rights Delegation ended on 31 March 2016. In its last meeting in February, the Delegation adopted the HRC's Annual Report 2015 and issued a statement on the restrictions of access to justice for asylum seekers.

The Parliamentary Ombudsman appointed a new Human Rights Delegation for the term from 1 April 2016 to 31 March 2020 after hearing the Director of the HRC. The Delegation has 38 members who were selected on the basis of an open application procedure and personal expertise, ensuring that the composition of the Delegation meets the legal requirement mentioned above. The Delegation includes representatives of the supreme overseers of legality, special ombudsmen and the Sámi Parliament.

A joint workshop was organised for the members of the old and new Delegations in April to provide a forum for the exchange of experiences. After the workshop, the new Delegation held an inaugural meeting and elected a vice chairperson and the members of its working committee.

In its second meeting in June, the Delegation discussed a survey sent to its members to map their views on the Delegation's working and operating methods, its tasks and the fundamental and human rights issues to be addressed. Key issues that members wanted to discuss included the rights of asylum seekers and refugees, immigration and the rights of the elderly and persons with disabilities. Broader themes included the need to clarify the roles and responsibilities of different fundamental and human rights actors and the use of indicators and policy programmes to monitor the implementation of rights. Members hoped that the Delegation would employ flexible working methods. The Delegation also approved the rules of procedure of its only permanent section, the Disability Rights Committee, and elected five people to the committee from among its members.

In September, the Delegation adopted the HRC's plan of action for 2017 and its own indicative working plan for the years 2016–2018. There was strong support for making the fundamental and human rights discussion based on the annual reports of the supreme overseers of legality, special ombudsmen and other actors an annual meeting theme.

In its December meeting, last meeting of the year, the Delegation discussed the Government's second national action plan on fundamental and human rights. The draft action plan was presented by the public servant responsible for the project at the Ministry of Justice. Comments on the draft were made to the Ministry of Justice and the network of contact persons for fundamental and human rights orally and later also in writing.

3.3 Rights of persons with disabilities

3.3.1 SPECIAL TASK OF IMPLEMENTING THE RIGHTS OF PERSONS WITH DISABILITIES

The ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 10 June 2016 brought the Parliamentary Ombudsman a new special task, provisions on which are contained in the Parliamentary Ombudsman Act. The tasks laid down in Article 33(2) of the CRPD are performed by the Parliamentary Ombudsman together with the Human Rights Centre and its Human Rights Delegation, which jointly constitute Finland's National Human Rights Institution.

The purpose of the CRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The leading principles of the CRPD are accessibility and the prohibition of all discrimination. The CRPD stresses the right to autonomy of persons with disabilities and their possibilities of participating in all policy-making that concerns them.

3.3.2 TASKS OF THE INDEPENDENT MECHANISM

The rights of persons with disabilities cannot be promoted, monitored and protected without the participation of all Human Rights Institution actors. The wording 'promote and protect' is an established way of conveying obligations and tasks related to human rights in UN documents. In the context of the CRPD, promotion means future-oriented active work that includes guidance, advice, training and information sharing. Protection means, among other things, that the state is expected to prevent human rights violations by third parties. Monitoring means the gathering and further use of information related to the practical fulfilment of the CRPD obligations with view to meeting these obligations better in the future.

Parliamentary Ombudsman

The Parliamentary Ombudsman protects, promotes and monitors CRPD implementation within the limits of his specific competence. The Ombudsman's tasks include overseeing the legality in exercise of public authority and supervising (protecting) the implementation of fundamental and human rights. Over time, the Ombudsman's activities have evolved towards also promoting fundamental and human rights, as in decisions on complaints and during visits and inspections, an effort has been increasingly made to guide authorities and other subjects of oversight towards good practices and legal conduct. Oversight and monitoring are interlinked in the Ombudsman's work, as observations of inadequacies in realising the rights of persons with disabilities made in the course of the oversight of legality are also part of general follow-up of how CRPD obligations are implemented in practice.

For the main part, the Parliamentary Ombudsman exercises oversight of legality by investigating complaints. The Ombudsman also examines shortcomings on his own initiative and when conducting inspections. In addition to the oversight of legality, the Ombudsman also serves as the National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture (OPCAT). The NPM visits places where persons are or may be deprived of their lib-

erty, including residential units for persons with intellectual disabilities. When performing this task, the Ombudsman may rely on the assistance of experts appointed by him, including persons with disabilities who have expertise significant for the NPM mandate. Other forms of cooperation with persons with disabilities and disability organisations will also be increased.

Human Rights Centre

The core tasks of the Human Rights Centre include promoting fundamental and human rights and monitoring their realisation. Unlike the Parliamentary Ombudsman, the Human Rights Centre does not investigate complaints or exercise oversight of legality. Rather than being limited to the activities of the authorities, the Human Rights Centre's competence also extends to promoting and monitoring CRPD implementation in the activities of private stakeholders.

The statutory duties of the Human Rights Centre include:

- promoting information provision, training, education and research activities and cooperation related to fundamental and human rights,
- making initiatives and giving statements with the aim of promoting and implementing fundamental and human rights, and
- participating in European and international cooperation related to promoting and implementing fundamental and human rights.

The Human Rights Centre's working methods in promoting CRPD implementation are primarily shaped by the Centre's statutory tasks but also its established practices. The Centre's activities have had a strong focus on promoting fundamental and human rights education and producing relevant education materials. Promoting CRPD implementation falls into place naturally within this operating model, while other established modes of operation are also used, including dissemination of information on electronic channels, events, reports and studies as well as initiatives and statements.

Among other things, the Human Rights Centre monitors CRPD implementation by gathering information on the national implementation of CRPD obligations, in particular on how the CRPD affects the realisation of the rights of persons with disabilities in real life. A key element of the monitoring is reporting breaches and inadequacies to the Committee on the Rights of Persons with Disabilities and following up the implementation of the Committee's recommendations. In this context, an autonomous position is essential, as the butt of any criticism against inadequate implementation of the obligations is the government.

Under Article 33(3) of the CRPD, persons with disabilities and their representative organizations shall be involved and participate fully in the monitoring process of CRPD implementation. For this purpose, a Permanent Disability Sub-Committee was set up under the Human Rights Delegation at the Human Rights Centre. The Sub-Committee held its inaugural session on 19 October 2016.

The Sub-Committee may submit proposals and express its views to the Parliamentary Ombudsman and the Human Rights Centre on how they could develop the realisation of the rights of persons with disabilities and the performance of tasks related to CRPD implementation. The Sub-Committee can also bring up issues related to the rights of persons with disabilities for the Human Rights Delegation to address and submit proposals on which the Delegation will make decisions. In return, the Parliamentary Ombudsman and the Human Rights Centre can request expert assistance from the Sub-Committee when performing their tasks related to CRPD implementation.

In 2016, the Human Rights Centre organised two seminars on the rights of persons with disabilities:

Seminar on the rights to political participation of persons with disabilities on 31 October.

The purpose of this seminar was to bring together experts from different institutions and organisations and discuss challenges and good practices relevant to the political participation of persons with disabilities. It was organised in cooperation with the OSCE's ODIHR Office and the Ministry for Foreign Affairs. The speakers at the seminar included Timo Soini, Minister for Foreign Affairs, and Katja Pehrman, Finland's Ambassador to the OSCE.

Launch of the report "As a person with disabilities, I am a second-class citizen" on 12 December.

At a seminar organised by the Human Rights Centre, the Non-Discrimination Ombudsman and the discrimination monitoring group, a report on every-day discrimination experienced by persons with disabilities was published and the results of this report compiled by the Ombudsman were presented. The seminar also considered actions needed in society to ensure that persons with disabilities would have genuine and equal access to services, education and work.

Report published by the Human Rights Centre on access to rights by persons with disabilities.

In the autumn of 2015, the Human Rights Centre conducted a broad round of interviews with the lawyers and other advisory employees of organisations representing persons with disabilities. The aim was to map the advisory services complementing the services provided by the authorities and to obtain information about the most common problems disabled persons face in their everyday lives. A report on these interviews was published on the Human Rights Centre's website on 10 June 2016, the date that marked the CRPD's entry into force in Finland.

Disability Team

As agreed with Director of the Human Rights Centre, a Disability Team was appointed by the Parliamentary Ombudsman in December 2016.

The team's tasks include:

- analysing the content of the national monitoring mechanism's role in the Office of the Parliamentary Ombudsman and the Human Rights Centre
- considering means of cooperation and participatory involvement with the Human Rights Delegation's Permanent Disability Sub-Committee
- planning and preparing for the performance of tasks under the CRPD in different ways
- monitoring and, where possible, supporting actions focused on the realisation of the rights of persons with disabilities in the activities and customer service of the Parliamentary Ombudsman and the Human Rights Centre
- charting cooperation with different authorities and organisations
- assisting in the national monitoring mechanism's information activities online and in the use of other communication methods, and informing the entire Office of topical disability issues.

The Disability Team consists of three experts from the Office of the Parliamentary Ombudsman and one from the Human Rights Centre.

International cooperation

The Human Rights Centre continued its efforts to prepare for the new tasks and acquired information by participating in international and European CRPD cooperation, including a meeting of the EU's CRPD Framework and national monitoring mechanisms, European Commission's CRPD Work Forum, and the Conference of State Parties to the CRPD held in New York in June. During the year, the Centre also took part in a seminar organised by the ENNHRI's CRPD Working Group.

Statements to international organisations in 2016:

- Statement to the European Union Agency for Fundamental Rights on the implementation of Article 33(2) of the CRDP concerning the national monitoring mechanism in Finland
- Statement on operating policies that take disability into consideration to the UN Special Rapporteur on the rights of persons with disabilities
- Statement on the implementation of Article 5 of the CRPD on equality and non-discrimination to the OHCHR.

3.3.3 OPERATING ENVIRONMENT AND TOPICAL LEGISLATIVE REFORMS

An amendment to the act on special care for persons with intellectual disabilities (*laki kehitysvammaisten erityishuollosta*, 381/2016) entered into force simultaneously with the CRPD on 10 June 2016. The purpose of the amendments is to reinforce the right to self-determination and independent living of a person in special care and to reduce the use of restrictive measures in special care.

In addition, new provisions were added to the act regarding the preconditions for using restrictive measures, the procedure for making decision on and keeping records of restrictive measures, later assessment of restrictive measures, and liability for acts in office and for damages among other things. The provisions on involuntary special care were also amended.

The Ministry of Social Affairs and Health continues to draft legislation on the right to self-determination. In connection with this legislative reform, provisions on the right to self-determination are to be transferred into a general act. The required amendments would also be made in mental health care and intoxicant abuse care legislation. People with memory disorders are the largest individual group concerned in the reform. The provisions would also apply to such groups as persons with brain injuries whose decision-making capacity is significantly reduced.

The overhaul of disability legislation will continue as a comprehensive reform where the act on services and assistance for the disabled (*vammaispalvelulaki*, 380/1987) and the act on special care for persons with intellectual disabilities will be combined into a single act on special services for persons with disabilities. Key objectives of this reform include strengthening the equality, participation and right to self-determination of persons with disabilities. The reform of disability legislation is part of the overhaul of social welfare legislation and the pending service structure reform.

The health and social services reform is an ongoing public sector project in Finland aiming to reduce the wellbeing and health gaps, improve the equality and accessibility of health and social services and curb the costs. The goal is to transfer the organisation of social welfare and healthcare services and some other regional tasks to the counties on 1 January 2019. The reformed disability legislation is also to enter into force at that time.

A report titled ”Alternative savings in services for persons with disabilities” contains proposals for making alternative savings in disability services (reports of the Ministry of Social Affairs and Health 2016:58). The backdrop to this report was a proposal for a special act on disability services made in 2015 by a working group on reforming disability legislation appointed by the Ministry of Social Affairs and Health (VALAS act, Ministry of Social Affairs and Health 2015:21). The working group’s proposals would have increased the costs by EUR 22 million. However, the reform of the disability legislation has been set down in Prime Minister Sipilä’s Government Programme as one of the legislative projects to be reassessed so that public spending does not increase. The Ministry of Social Affairs and Health tasked rapporteur Kalle Könkkölä with proposing an alternative model or models for how the targets set in the Government Programme for reducing the munic-

ipalities' duties and obligations can, in the context of legislation on disability services, be achieved while securing the rights of persons with disabilities to adequate services that respond to their needs. The rapporteur's proposals included better targeting of services, introduction of new operating models and streamlining administration to avoid cuts in services of a fundamental nature affecting persons with disabilities.

On 8 November 2012, the government made a decision on expanding the targets of the programme on housing for persons with intellectual disabilities (Kehas programme) by adopting a resolution on individual housing and services for persons with intellectual disabilities. As a goal was set that, after 2020, no person with disabilities will be living in an institution. A monitoring group appointed by the Ministry of Social Affairs and Health assessed the implementation of the programme's targets based on survey and interview data collected by it, workshops and regional plans.

In its final report titled Housing programme for persons with intellectual disabilities – evaluation of programme implementation and actions to be intensified in 2016–2020 (Reports of the Ministry of Social Affairs and Health 2016:17), the monitoring group lists areas in which more effective actions need to be implemented in the future. These include 1) realising the right to self-determination and choice of persons with disabilities, 2) assessment of service needs and individual planning of services, 3) the right of disabled children to an ordinary childhood and supporting the family's coping in daily life, 4) diversification of housing solutions, 5) improving employee competence, work practices and working conditions, 6) cooperation between branches of administration, and 7) moving persons with disabilities out of institutions. According to the monitoring group's report, the greatest development needs are associated with services for children with disabilities and their families.

The Ministry of the Environment is drafting a government decree on accessibility of buildings. The proposed decree contains more relaxed accessibility requirements on one hand, while it also adds detail to the current regulation on the other.

Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies was adopted on 26 October 2016, and it entered into force on 22 December 2016. The Ministry of Finance is preparing the national implementation tasks and legislation related to this directive. The purpose of the directive implementation project is to provide uniform criteria and practices laid down in law for public web services. According to the time limits set in the directive, national laws, regulations and administrative provisions necessary to comply with the directive shall be brought into force by 23 September 2018.

3.3.4 OVERSIGHT OF LEGALITY

The role of the rights of persons with disabilities has been stressed in the activities of the Office since 2014, in which year the Parliamentary Ombudsman's Annual Report for the first time contained a separate section on observations made in the course of the oversight of legality concerning the rights of persons with disabilities, and issues related to their rights emerged as a separate category. Issues related to the rights of persons with disabilities may crop up in all branches of administration.

The following problems, which were already discussed in the previous Annual Report, came up repeatedly when investigating complaints and carrying out inspections: problems related to restrictions of fundamental rights and special care for persons with intellectual disabilities, inadequacies in the preparation of service plans and special care programmes, shortcomings in the organisation of services, delays and incorrect procedures in processing and making decisions on cases, as well as inadequacies in the implementation of accessibility.

Complaints

The number of complaints falling into this category and own-initiative investigations on which decisions were issued was 171. This number was lower than the year before (219). During the year, 162 complaints were filed. Of the complaints and own-initiative investigations, 51 cases led into action being taken (30%). While the relative share of these cases declined from the year before (37%), it remained considerably higher than the Office's average figure (13%). A reprimand was issued in two cases, and a proposal was made in three. The Ombudsman gave his opinion on 36 cases, and 7 cases led to other actions. As the high number of cases that led into taking action is high, not all of them are discussed in this report.

The majority of complaints concern disability services provided by the social welfare services or special care for persons with disabilities. The greatest number of decisions (130 in total) thus concerned the category of social welfare customers in the statistics. The complainants often find that the disability services are inadequately organised, the processing of an application or a claim for a revised decision has been delayed, a decision made by an authority is incorrect, or an authority has neglected its obligation to make a decision. Some also complain about a social worker's conduct and the way in which a service is organised.

The number social insurance related cases solved in the reporting year was 23. Cases related to social insurance included Kela's conduct as an organiser of interpretation services and a body granting benefits, including disability allowances and rehabilitation services. Few cases related to the healthcare sector fell into the category of the rights of persons with disabilities in the reporting year, as issues concerning mental health rehabilitees, among other things, are mainly discussed in the section on healthcare. Complaints filed on behalf of persons with memory disorders are described in the category of social welfare.

Inspection visits

A higher number of inspection visits to residential units for persons with disabilities were conducted in the reporting year than in the previous years. Nine inspections were carried out, eight of which focused on residential units for customers with intellectual disabilities. Only one site had customers in involuntary special care (the psychosocial rehabilitation unit of Pirkanmaa Hospital District). In particular, inspection visits were made to units for persons with intellectual and severe disabilities, which also fall within the NPM's purview (OPCAT). The inspected sites contained both units maintained by the authorities and private providers to whom municipalities had outsourced services.

Unannounced inspection visits were made to Mörssärinaukio group home maintained by Helsinki social welfare and health services and two care homes of Savon vammaisasuntosäätiö foundation (SAVAS) in Kuopio (Louhimäki and Savolanniemi).

The other inspections were pre-announced, and documentary information was obtained from the sites before the visit, including entries and decisions made on restrictive measures. This provided preliminary information on the quality of the unit's activities. The sites had been asked to inform the residents' family members and friends of the possibility of having confidential interviews with the inspectors in advance of the visit. The following residential units for persons with intellectual disabilities were inspected: the institutional care units of Antinkartano rehabilitation centre in Ulvila, residential services for persons with intellectual and severe disabilities of Carea – Kymenlaakso Social and Health Services (Maununniitty and Kuntorinne) as well as institutional care unit Tuulikello in Kouvola and Kuusanmäki service centre wards 22 (respite care) and 24 (institutional care) in Kajaani. Additionally, Antinkartano rehabilitation centre's care home Mänty, which is a 15-place housing unit for persons who have become disabled in their adult years (rather than persons with intellectual disabilities).

Promoting accessibility and participation as well as implementing reasonable accommodation are cross-cutting themes of the CRPD covered in the Office's inspection activities. Careful consideration and re-assessment of practices are also required under the provisions of the new act on special care for persons with intellectual disabilities. Persons with disabilities are not always able to file complaints themselves, which highlights the importance of the inspections.

For details of the observations made by the Ombudsman in his role as the National Preventive Mechanism, see section 3.4.

Observations on the rights of persons with disabilities made on other visits and inspections

Paying attention to the implementation of the rights of persons with disabilities, including accessibility of public offices and residential units, is a standard procedure on inspections of different branches of administration.

On an inspection visit to a child welfare unit, the indoor facilities were found to be spacious, accessible and on a single level. However, the building did not have a toilet equipped for the disabled, nor did the front door of the unit allow for accessible entrance, for example for a wheelchair user.

A residential unit for homeless substance abuse and mental health patients was found to be inaccessible. The main building had three floors but no lifts. Persons with mobility aids cannot be placed in this unit. The rooms in another housing unit that was inspected (intended for substance abuse and mental health customers) were also not accessible. The main building had facilities on two levels, and there was no lift. The facilities of a unit offering housing services for homeless persons, on the other hand, were accessible, including a unit where one of the customers indeed was a wheelchair user.

One inspection revealed that a residential unit was home to a young person with disabilities, for whom no special support measures had been organised, apart from school transport (a bus card). The Deputy-Ombudsman initiated an own-initiative investigation on how the support needs of the disabled young person placed in the unit had been established.

A visit to a library for the blind in Helsinki on 1 November 2016.

On other inspections, offices of public authorities that were not accessible to persons with restricted mobility were discovered. On an inspection of the Financial Supervisory Authority, it was found that the entrance did not have a ramp for customers with restricted mobility, and the call button used to open the door was placed so high that it could not be reached by wheelchair users. Because wheelchair users are required to ask for assistance from outsiders who happen to walk by

or make a phone call to the office in order to access the customer service area, they are effectively not treated equally with those who can enter through the door without assistance.

On a visit to a reception centre, the inspectors were told that in addition to accessibility problems, the challenges facing the centre included taking the rights of persons with disabilities into account in general.

Statements

The Ombudsman issued a statement to the parliamentary Social Affairs and Health Committee on the government proposal (HE 96/2015 vp) for an the act amending the act on special care for persons with intellectual disabilities (396/5/16). After the Social Affairs and Health Committee had produced its draft report, the Ombudsman issued a statement on the same government proposal to the Constitutional Law Committee (1203/5/16).

3.3.5 PROPOSALS

Accessibility in a restaurant car

The Ombudsman investigated a complaint that concerned the accessibility of restaurant cars used by the VR Group (DuettoPlus cars). According to the complainant, persons with disabilities were placed in a less disadvantaged position compared to other customers as restaurant services were offered to them in a carriage with wheelchair space, rather than making the actual restaurant car accessible for wheelchairs. In the complainant's opinion, there were no acceptable grounds for treating persons with disabilities differently as restaurant car users.

Assessing the activities of the VR Group was outside the Ombudsman's competence as such. However, the Ombudsman evaluated the complaint from the perspective of the Finnish Transport Safety Agency's activity, as the agency's tasks include issuing operating licences for rolling stock, and it serves as the national supervisory authority referred to in the EU's regulation on rail passenger rights.

In the context of structural issues concerning the accessibility of railway cars, the Commission decision (PRM TSI) valid when the rolling stock referred to in the complaint was approved for use contained no particular standards for restaurant cars. However, these cars also had to meet the requirements set for rolling stock regarding such aspects as seating, lighting and aisles. Under PRM TSI, not every carriage was required to have wheelchair space, wheelchair accessible facilities or disabled toilets, and the number of seats for wheelchair users, for example, depended on the length of the train. When the carriages were combined into a train together with other compatible carriages, it was sufficient that all TSI requirements concerning persons with restricted mobility were met.

The EU regulation on rail passenger rights, on the other hand, regulated the right of persons with disabilities and reduced mobility to access services. The link between the regulation on rail passengers rights and the Commission's PRM TSI decision was that, through compliance with the TSI, railway companies had to ensure access to all services. The TSI, on the other hand, did not require full and equal access to the services. For example, it did not require that the full length of the entire train should be accessible, or that all carriages, including the restaurant cars, should have space for wheelchairs, or that the restaurant cars could be accessed from all other carriages also by wheelchair users.

On the other hand, the regulation on rail passenger rights required the railway company to ensure that a person with disabilities or reduced mobility could receive assistance on board a train and during boarding and disembarking from a train. Assistance referred to all reasonable efforts to offer assistance to a disabled person or a person with reduced mobility in order to allow that person to have access to the same services in the train as other passengers. What the possibility of

using restaurant car services means, for example, was in the Ombudsman's opinion left open to interpretation; whether it meant that the person should be able to access the service in the actual restaurant car, or whether it was acceptable to offer him or her the same services in a different location. For example, the VR Group offered restaurant car services to customers in wheelchairs by having the services that a customer wished to use brought to the carriage with wheelchair space from the restaurant car by a member of the train's staff.

The Ombudsman obtained statements from the Ministry of Transport and Communications, the Finnish Transport Safety Agency, the National Institute for Health and Welfare, the Non-Discrimination Ombudsman and the VR Group. They contained diverse conclusions. Relying on the EU regulation on rail passenger rights and national non-discrimination legislation – the Constitution and the Non-Discrimination Act – the conclusion could be made that the method of providing restaurant car services referred to in the complaint was discriminatory to persons with disabilities. On the other hand, it was pointed out that, because of the prohibition on competition restrictions, Finland could not set national requirements concerning space for wheelchair users in restaurant cars or, in practice, require that wheelchair access should always be provided to the restaurant car, as the PRM TSI, which obliges Finland directly, did not contain standards to this effect.

The Ombudsman noted that reasons related to the prohibition of restrictions on competition under Union law could not necessary and in all situations be given priority over the rights enshrined in the European Charter of Fundamental Rights. On the other hand, it was obvious that there were conflicts between EU regulation on rail transport, the European Charter of Fundamental Rights and general national regulation on equality, or at least the interpretations that were possible in the light of them, that could not be resolved by the Ombudsman.

In these cases the national authorities, or primarily the Finnish Transport Safety Agency but also the Ministry of Transport and Communications had to, under their obligation to promote fundamental rights pursuant to the Constitution, take all available measures to resolve this conflict to the extent that it was possible. The Finnish Transport Safety Agency thus noted that in the future, the accessibility of restaurant cars could be promoted by including requirements on the accessibility of restaurant car infrastructure in the PRM TSI the next time the provisions are reviewed. The same requirements would then apply to all member states, without being an impediment to market access.

The Ombudsman further noted that several legal remedies were available for an individual passenger who felt that the VR Group discriminated against him or her on grounds of disability.

The Ombudsman's conclusion was that he did not have sufficient legal grounds for intervening in the authority's action in this matter. However, the Ombudsman found that from the perspective of their equal opportunities for participation, it was unsatisfactory that persons with disabilities did not have the same concrete access to restaurant car services as other passengers. The Ombudsman thus found it important that the Finnish Transport Safety Agency use any means available for it to promote the accessibility of restaurant cars, for example by striving to exert influence to ensure that requirements concerning restaurant car accessibility will be included in the PRM TSI provisions. The Ombudsman informed the Ministry of Transport and Communications and the Finnish Transport Safety Agency of his views (651/4/15).

The Ombudsman also sent his decision to the European Ombudsman for information, asking her to consider whether she would be able to promote the inclusion of requirements concerning the accessibility of restaurant car infrastructure in the PRM TSI provisions (2273/2016).

The European Ombudsman opened a query to seek the European Commission's opinion (Q8/2016/EIS), to which the Commission responded on 21 November 2016. In his response to the European Ombudsman, the Parliamentary Ombudsman expressed

his satisfaction with the indication in the Commission's response that the working group on revising PRM TSI appointed by the European Union Agency for Railways will consider if specific provisions on access to restaurant cars for wheelchair users could be included in this document. The European Ombudsman concluded the matter on 24 January 2017.

Level of challenge in interpretation assignments

A customer entitled to interpretation services for persons with disabilities must first apply for a right to interpretation services provided during foreign travel. After receiving a decision granting this service, he or she places an order for interpretation services with Kela's centre for interpretation services for the disabled. The level of challenge of the interpretation assignment is only indicated in this order. In a case examined by the Ombudsman, the assignment referred to in the order was assessed as a basic level assignment by Kela, whereas the complainant felt it was of a demanding level.

The Ombudsman found that defining the level of challenge of an interpretation assignment is a decision that concerns the manner in which a service is organised and that is relevant to the interests and rights of the person entitled to this service. The Ombudsman stressed that Kela must without delay make a decision that can be appealed on the matter if it finds that basic level interpretation is sufficient, even if the person placing the order believes that the assignment is of a demanding level.

The Ombudsman also proposed that Kela consider if the form used to apply for interpretation services for foreign travel should be improved so that it guides the applicant to provide justifications for the potential need for interpretation of a demanding level (3891/4/15).

According to Kela's response, the agency also felt that the application process for services related to foreign travel should be improved so that, while filling in the application, the applicant expresses his or her opinion on both the right to obtain interpretation services for foreign travel and the organisation of the service. Kela reported that in the future, the customers will be required to provide information on the contents and purpose of the travel already when applying for the right to services, and give details on the need for interpretation during the travel.

This change will enable Kela to form an opinion on not only the right to the interpretation service but also the organisation of the service when processing an application that concerns foreign travel. Kela is currently planning the procurement of interpretation services in 2018. According to the response, changes in the organisation of foreign travel, including in the customer's application process, are also being planned.

Benefit recovery procedure

The application form for certain benefits paid by Kela contains a consent clause by which the customer applying for the benefit consents to the recovery of the benefit from the bank if it has been mistakenly paid after the beneficiary's decease. Kela has an agreement on the procedure for recovering certain benefits with the banks.

The Ombudsman found that Kela had acted incorrectly when it had requested that a bank repay a benefit paid to a beneficiary of a disability allowance for a child after the beneficiary's death, as the beneficiary had not given consent to the recovery in advance, and Kela had not expressly agreed upon the recovery procedure of the benefit in question with the bank. In addition, after the child's death, the benefit had been recovered from the child's account, even though it had been paid in to the parent's account.

Kela reported that it had changed its recovery procedure. According to information provided to the Ombudsman, in cases where amounts of disability allowances have mistakenly been paid after a person under 16 has died, Kela will in the future contact the person to whom the allowance has been paid directly, and he or she will be asked to repay the allowance to Kela. The Ombudsman

felt that this change was essential. The Ombudsman sent his decision to the Ministry of Social Affairs and Health with a view to its possible incorporation in the legislative reform (1566/4/15).

3.3.6 OTHER DECISIONS

Shortcomings in the preparation of statutory service plans and special care programmes

The Ombudsman drew Jyväskylä disability services' attention to the fact that if they organise a service for a resident in compliance with the act on the special care for persons with intellectual disabilities, they must also prepare a special care programme for the customer. In the case in question, only a public servant's decisions on services referred to in the act had been made for the customer, while no special care programme had been prepared. The Ombudsman also found that the disability services had neglected processing the complainant's initiative on applying for special care appropriately and without delay (116/4/16).

The Ombudsman found that the disability services of the City of Vantaa had neglected their statutory obligation to prepare for a child a service plan referred to in the act on special care for persons with intellectual disabilities and the act on the status and rights of social welfare clients. The City's conduct was not apt to promote customer-centredness as referred to in the latter act, nor to inspire trust in the authority responsible for organising social welfare services. Assessing the service needs of persons with disabilities as a whole is particularly important when the person has multiple needs for support and assistance.

The Ombudsman did not consider it an appropriate justification for delays in preparing a service plan that, according to experts of the services network, the child's needs for additional services could only be assessed later (541/4/15).

The special care programme of a person with intellectual disabilities stated that the programme would next be reviewed "as the circumstances or service needs change, or on request". The Ombudsman drew the attention of the joint municipal authority's social welfare services to the obligation of including in a special care programme the date on which the programme will be reviewed at the latest (107/4/16).

According to the Substitute for Deputy-Ombudsman, the work practice of writing a customer's service plan by hand in the social and healthcare services may in a case that was examined have put at risk the right of a person with disabilities to obtain information on entries made in the service plan that were significant for the person. The rights of a customer with visual impairment could have been realised better by allowing the customer to read and check the service plan in some other way that took account of the disability. In view of the various portable computers and terminal devices which are easily available today, the Substitute for Deputy-Ombudsman felt that this accommodation would not be an unreasonable impediment, financially or otherwise.

The Substitute for Deputy-Ombudsman further stated that in general terms, the obligation to provide reasonable accommodation referred to in the CRPD may in some cases mean that the rights of a person with disabilities to access information may have to be secured by, for example, assessing the working methods used with that person and, in this respect, the accessibility of information on individual grounds (233/4/16).

Delays and procedural errors in decision-making and other processes

The Ombudsman issued a reprimand to a social services manager for illegal conduct as a complainant's claim for a revised decision had been handled as a reminder rather than taking it to the social services committee for processing. As a consequence, the Ombudsman asked the social

services committee to ensure that it would process the complainant's claim for a revised decision, unless it had already done so, and report to the Ombudsman no later than 31 August 2016 (4096/4/15).

The social services committee reported that it had processed the complainant's claim for a revised decision concerning the decision made by a public servant in the disability services.

The Ombudsman issued the social welfare and health services of a city a reprimand concerning negligence in the organisation of housing services, decision-making and implementing a Regional State Administrative Agency's decision.

In this case, the city had been unable to organise a suitable housing service responding to the needs of an autistic young person. In its decision on the organisation of the housing service, AVI Southern Finland had stated that inability to find a suitable provider of housing services in a tendering process could not be used as a justification for not granting a service in a situation where the need for the service had been indisputably established.

According to the AVI's decision, services must be organised as indicated by the customer's service needs. By the aforementioned non-appealable decision, the AVI had reversed a public servant's decision and referred the matter back to the social welfare services.

The social welfare and health services had not, however, taken immediate action to implement the AVI's decision, and no appealable decision had been made in the matter. For this reason and because the process of organising housing services for the customer had also taken an unreasonably long time in other respects, the Ombudsman found the city's conduct highly reprehensible. In his assessment of the case, the Ombudsman took into account the fact that the customer was a young person with an autism spectrum disorder whose immediate need for housing services had been established (24/4/15).

The Ombudsman found that the city had violated the act on the status and rights of social welfare clients and the act on services and assistance for persons with disabilities in the formulation of a service plan, as over a year had elapsed since the service plan had been drawn up. The Ombudsman stressed that the authority had the ultimate responsibility for ensuring that a service plan is drawn up without undue delay. If the customer cannot personally participate in the planning and implementation of other measures related to his or her social welfare because of an illness, mental incapacity or other similar reason, the service plan should be prepared in cooperation with the customer and his or her legal representative, or the customer and his or her family member or friend (1156/4/15).

In the Ombudsman's opinion, the social welfare and health services could not impose less favourable terms on a valid decision on personal assistance provided for a customer regarding working time compensation paid to the family members who served as personal assistants by simply notifying the customer of this.

The Ombudsman found that the social welfare and health services had failed to comply with the act on the status and rights of social welfare clients and the Administrative Procedure Act, as no appealable decision had been issued to the complainant on ceasing to pay the working time compensation granted in a decision made by another public servant. The customer was entitled to receive a new public servant's decision on changes in the practices of paying working time compensation so that, should he or she wish, the matter could ultimately be decided by a court (5658/4/15).

In another case, a service provider had halved the time dedicated to providing services for a person with severe disabilities without asking the person's opinion and without a decision being made on this matter by a social worker. The Ombudsman regarded this a violation of the act on the status and rights of social welfare clients and the

Administrative Procedure Act. If a municipality changes the manner in which a service is organised or provided that has been agreed upon and on which a decision has been made earlier, an appealable decision must be made. Before the decision is made, a person with severe disabilities must be heard pursuant to the act on services and assistance for the disabled (4433/4/15).

The Ombudsman found that there had been undue delays in transferring a person with intellectual disabilities from a psychiatric hospital to a unit providing special care for persons with intellectual disabilities. The processing of the matter began in spring 2014, and a decision on the matter should have been made within a reasonable delay, in principle within a period of three months. The complainant moved to the housing services in August 2015. In the Ombudsman's opinion, the matter should at the latest have been resolved in autumn 2014, and the complainant could thus have taken the matter to a court if the decision had been unfavourable (420/4/15).

The Ombudsman drew the attention of a city's social welfare services to the obligation to implement a court decision without due delay in matters that concern subjective rights referred to in the act on services and assistance for the disabled, including transport services. The Ombudsman found that the complainant's case had not been processed without due delay as required under the Administrative Procedure Act and the act on services and assistance for the disabled, as the city's social welfare services took some three and a half months to implement a Supreme Administrative Court decision (1251/4/15).

In the Ombudsman's view, the actions of a city's social welfare services put at risk the customer's right laid down in section 15 of the act on client fees in social welfare and health care (*asiakasmaksulaki*, 734/1992) to file a claim for a revised decision concerning the fee with the municipal body responsible for organising a service. For this reason, the Ombudsman found the conduct of the city's disability services reprehensible.

A procedure is unsatisfactory in terms of the customers' legal protection if, when determining the customer fee for special care, no separate decision on the fee on which a claim for a revised decision can be filed is made, or if customer fees are recorded in a customer's special care programme without attaching separate instructions for filing a claim for a revised decision with the municipal body. The Ombudsman informed the city's social welfare services of his view and asked them to report to him on the actions they have taken as a consequence (3307/4/15).

The city reported that it would, at the beginning of 2017, introduce a practice where a reference to the determination of performance-based customer fees will be included in decisions on disability services. According to its report, the city will continue not to demand a separate decision on which a claim for a revised decision can be filed on customer fees charged for a service. After receiving this report, the Ombudsman launched an own-initiative investigation of the decision-making procedure in the city's disability services.

The Ombudsman stressed that when determining a fee, the extent of the actual costs incurred must always be established. Customers of housing services cannot be obliged to pay a monthly sum for accessories and equipment that they do not, in actual fact, need or use. When determining the fee, the municipality can take the costs based on a customer's actual use of the services into account. In the Ombudsman's view, if the customer prefers, he or she should also be able to purchase services, accessories and equipment that are not part of housing services referred to in the act on services and assistance for the disabled at his or her own cost.

The Ombudsman drew the attention of the municipality's social welfare services to the provisions on the determination of customer fees and the obligation to provide special services associated with housing services referred to in the act on services and assistance for the disabled free of charge. The Ombudsman further noted that, ultimately, a court will assess whether the deter-

mination grounds and amount of a customer fee charged to a customer are compliant with the law (4709/4/15).

In the interest of customers' legal protection, the Ombudsman supported the idea that the Housing Finance and Development Centre of Finland (ARA) would, in its new instructions on rent determination for projects for special groups assisted by ARA, state more clearly the requirements laid down in the act on services and assistance for the disabled concerning rent determination and the municipalities' responsibility to cover the costs of housing services for persons with severe disabilities. The Ministry of the Environment also issued a statement according to which rules applicable to persons with severe disabilities can be included in the rent determination instructions (4181/4/15).

The Ombudsman criticised Kela's conduct related to processing an application for rehabilitation services, among other things because the justifications of the decision were inadequate, and the decision contained no appeal instructions. In the Ombudsman's opinion, the preconditions for processing applications for rehabilitation services appropriately include continuous monitoring of the decision-making activities and provision of personnel training by Kela, so that the agency can, for example, ensure the consistency of the justifications of its decisions and the equal treatment of applicants (497/4/15).

Shortcomings in the organisation of a service or school attendance

Article 19 of the CRPD safeguards the right of persons with disabilities to living independently and being included in the community. The key content of this Article is about ensuring solutions for housing, mobility, communication and access to information that are responsive to their individual needs and life situations for persons with disabilities. Personal assistance and organisation of assisted living referred to in the act on services and assistance for the disabled, which are part of social welfare services, protect the rights to independent living and inclusion in community referred to in this Article.

In the Ombudsman's opinion, the value of a service voucher should be set at a level that enables persons with severe disabilities to factually meet their needs for assistance to the extent specified in the decisions concerning them and using the forms of services stated in the decisions. Based on the information obtained by him, the Ombudsman felt that the instructions and practices of a municipality's social welfare and health services centre concerning the organisation of personal assistance could in some situations prevent or impede the full implementation of the rights of persons with disabilities and their access to services. The Ombudsman asked the municipality's social welfare and health services centre to report on the actions it had taken as a consequence of the decision (1101/4/16).

Among other things, the city reported that it had launched home care night patrol activities on 1 January 2017 and can thus provide better services for customers living at home, also at night and during weekends. Additionally, more personnel had been hired for home care services. A complement to the instructions on personal assistance was also being prepared.

The Ombudsman drew the social welfare services' attention to the protection of confidentiality, use of decisions valid for a fixed term and safeguarding the continuity of services in a case where several fixed-term decisions had been issued to a complainant over four years. Forcing a person with severe disabilities to resort to an appeal process in a situation where no changes have taken place in his or her circumstances can put at risk the person's right to indispensable care in the context of organising personal assistance.

In this respect, too, the Ombudsman found decisions valid for a fixed term problematic. When decisions are valid for a fixed term, safeguarding the continuity of services optimally and in a manner consistent with the best interests of the relevant person is impossible. The Ombudsman noted

that, within the framework of Administrative Procedure Act provisions, an authority could also amend decisions that are valid until further notice, for example if essential changes take place in the circumstances, state of health or functional capacity of a person with disabilities (1033/4/16).

The right to basic education is enshrined in the Constitution. Inadequacies in the implementation of legal protection, especially when the education provider and a child's parents disagree on the child's need for support in learning and school attendance and its organisation, come up in the education sector every year. Legal protection is implemented inadequately if an education provider in general fails to make a decision that can be appealed, for example when organising instruction in an exceptional manner or refusing an application for a personal assistant's services.

In the Ombudsman's opinion, the education services of a municipality had violated the Basic Education Act, and he found this error quite serious from the perspective of the child's best interest. Under the Basic Education Act, exceptional teaching arrangements can be used to organise a pupil's education, for example due to his or her illness. The Ombudsman stressed that sick leave granted by a doctor cannot release a pupil from attending compulsory education. The basic principle is that the municipality is responsible for providing education also in these situations, ensuring that the pupil receives the instruction specified in the curriculum.

Each pupil has an equal right to education and the support he or she requires. In the case in question, a child's state of health had only made it possible for the child to attend school for a small part of the school year and cover a small part of the syllabi. During the spring term, the child had only attended school for some 40 hours. Based on a doctor's statement, the school had considered that the child was on sick leave and attended school part time whenever he was well enough. The child had mainly studied at home with their mother, following a weekly plan provided by the school (2426/4/15).

Treatment and restrictive measures

The Ombudsman considered it proven that an employee who was part of a care home's staff had violated the dignity of a disabled person in need of special care by shouting at this person when they had been making noises in the common facilities of the home. Inappropriate language had been used in this situation and, additionally, the customer's right to good care and adequate attention had been breached by issuing a threat that he would not get food the next day if they did not keep quiet.

The Ombudsman found it important that the person responsible for the services offered by the care home pay attention to improving staff competence and well-being at work in the future, by means of work guidance if necessary (4878/2/14).

The Ombudsman found a rehabilitation unit's conduct reprehensible as it may have put at risk the implementation of a person's right to legal protection and good treatment. He felt that the rehabilitation unit had only identified some of the measures that had in fact been used to restrict customers' right to self-determination and fundamental rights. As the staff had not identified all the restrictive measures used by them, it was also not possible to talk to the customers' parents in advance about all restrictive measures used while providing special care.

According to the information obtained, it appeared that the person in question, or his parents, had not been explained the alternative procedures as required under section 5 of the act on the status and rights of social welfare clients, and no attempt had been made to provide social welfare in cooperation and in a manner that would respect the person's right to self-determination (1074/4/15).

3.4
National Preventive Mechanism against Torture

3.4.1
THE OMBUDSMAN'S TASK AS A NATIONAL PREVENTIVE MECHANISM

On 7 November 2014, the Parliamentary Ombudsman became the Finnish National Preventive Mechanism (NPM) under the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Human Rights Centre (HRC) and its Human Rights Delegation, which operate at the Office of the Parliamentary Ombudsman, help fulfil the requirements laid down for the NPM in the OPCAT, which makes reference to the so-called Paris Principles.

The NPM is responsible for conducting visits to places where persons are or may be deprived of their liberty. The scope of the OPCAT has been defined as broadly as possible. It includes prisons, police departments and remand prisons, but also places like detention units for foreigners, psychiatric hospitals, residential schools, child welfare institutions and, under certain conditions, care homes and residential units for the elderly and persons with intellectual disabilities. The scope covers, in all, thousands of facilities. In practice, the NPM's visits mean, for instance, visits to care homes for elderly people with memory disorders, where the objective is to prevent the poor treatment of the elderly and violations of their right to self-determination.

The OPCAT emphasises the NPM's mandate to prevent torture and other prohibited treatment by means of regular visits. The NPM has the power to make recommendations to the authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and preventing actions that are prohibited under the Convention against Torture. It must also have the power to submit proposals and observations concerning existing or draft legislation.

Under the Parliamentary Ombudsman Act, the Ombudsman already had the special task of carrying out inspections in closed institutions and overseeing the treatment of their inmates. However, the OPCAT entails several new features and requirements with regard to visits.

In the capacity of the NPM, the Ombudsman's powers are somewhat broader in scope than in other forms of oversight of legality. Under the Constitution of Finland, the Ombudsman's competence only extends to private entities when they are performing a public task, while the NPM's competence also extends to other private entities in charge of places where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence. This definition may include, for example, detention facilities for people who have been deprived of their liberty on board a ship or in connection with certain public events as well as privately controlled or owned aircraft or other means of transport carrying people deprived of their liberty.

International bodies have considered it advisable to organise the work of the NPM under a separate unit. At the Office of the Parliamentary Ombudsman, however, it has seemed more appropriate to integrate the tasks of the NPM into the work of the Office as a whole. Several administrative branches have facilities that fall within the scope of the OPCAT. However, there are differences between the places, the applicable legislation and the groups of people who have been deprived of their liberty. Therefore, the expertise needed on visits to different facilities also varies.

As any separate unit within the Office of the Ombudsman would in any case be very small, it would be impossible to assemble all the necessary expertise in such a unit and the number of visits conducted would remain considerably smaller.

Participation in the visits and the other tasks of the Ombudsman, especially the handling of complaints, are mutually supportive activities. The information obtained and experience gained during visits can be utilised in the handling of complaints, and vice versa. For this reason, too, it is important that those members of the Office personnel whose area of responsibility cover facilities that fall within the scope of the OPCAT also participate in the tasks of the NPM. In practice, this means the majority of the Office's legal advisers, *i.e.* some 25 people.

The OPCAT requires the States Parties to make available the necessary resources for the functioning of the NPM. The Government proposal concerning the adoption of the OPCAT (HE 182/2012 vp) notes that in the interest of effective performance of obligations under the OPCAT, the personnel resources at the Office of the Parliamentary Ombudsman should be increased. Regardless of this, no additional personnel resources have been granted for the Ombudsman to perform the duties of the NPM.

In the report on its visit to Finland in 2014, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended that steps be taken to increase significantly the financial and human resources made available to the Finnish Parliamentary Ombudsman in his role as the NPM. The Committee also suggested that consideration be given to setting up a separate unit or department within the Office of the Parliamentary Ombudsman to be responsible for the NPM functions.

In budget proposal for 2014, the Ombudsman requested that funding for one new post focusing on supervisory tasks be added to the Office's operating appropriation. No such addition was made. To save costs, the Ombudsman did not propose a new post of a legal adviser in his budget proposal for 2015. In the budget proposal for 2016, the Ombudsman has again requested funding for establishing one post of a legal adviser to discharge the duties of the NPM. No additional funding was allocated for this purpose.

In its recommendations issued in December 2016 on the basis of Finland's seventh periodic report, the UN Committee against Torture (CAT) expressed its concern for the Ombudsman's insufficient financial or human resources to carry out the mandate of the NPM. The CAT recommended that the State should strengthen the NPM by providing it with sufficient resources to enable it to carry out its mandate independently and efficiently. The CAT also recommended that Finland should give consideration to the possibility of establishing the NPM as a separate entity under the Parliamentary Ombudsman. The State has been requested to provide a response to the recommendations by 7 December 2017.

3.4.2 OPERATING MODEL

The tasks of the National Preventive Mechanism have been organised without setting up a separate NPM unit in the Office of the Parliamentary Ombudsman. Two public servants at the Office have been assigned to coordinate the NPM duties for a fixed term in addition to their other tasks. The coordinators are responsible for the international relations of the NPM and for internal coordination within the Office. This arrangement will be in force until the end of 2017. Even though new human resources have not been made available, the plan is to have one legal adviser focus full time on coordinating the tasks of the NPM. In the summer of 2016, the Office employed a trainee who focused, in particular, on the work of the NPM.

The Ombudsman has also appointed an OPCAT team within the Office. Its members are the principal legal advisers working in areas of responsibility that involve visits to places where persons are or may be deprived of their liberty, as referred to in the OPCAT, or where customers' freedom is or may be restricted. The team has nine members, and it is led by one of the NPM coordinators. In 2016, the OPCAT team reviewed and discussed, among other things, experiences

gained from the use of external experts and matters related to visits (*e.g.* conducting follow-up visits and visits outside office hours).

In the autumn of 2016, induction training was provided to new external experts regarding the visits undertaken by the NPM. Previously, only one external expert had participated in the visits. After the training, the NPM has been able to use a total of eight external experts, all of whom have a background in health care: three psychiatrists (one of whom also specialises in adolescent psychiatry), one specialist in forensic psychiatry, two medical specialists in geriatrics, one medical specialist in intellectual disabilities and one psychiatric nurse. At the beginning of 2017, training has also been provided to three experts by experience whose expertise will be used during visits to closed social welfare institutions for children and adolescents.

During the visits conducted by the NPM, efforts have been made to engage more frequently in constructive dialogue with the staff regarding good practices and procedures. Feedback on observations as well as guidance and recommendations may also be given to the supervised entity already during the visit. At the same time, it has been possible to discuss amiably how the facility could, for example, correct the inappropriate practices observed.

A report is drawn up after each visit, presenting the observations made during the visit. The draft report is often sent to the facility visited to provide it with the opportunity to comment on the observations and notify any measures taken in response. After that, the facility may also be requested to notify by a given deadline the measures it will take in relation to those observations that have not yet been dealt with. If, during a visit, something has arisen that needed investigating, the Ombudsman has taken up the investigation of the matter on his/her own initiative and the issue has not been discussed further in the report.

3.4.3 INFORMATION ACTIVITIES

A brochure on the NPM was published in 2016. It is available in Finnish, Swedish, English, Estonian and Russian, and it will be translated into other languages, if necessary.

Full reports on some of the visits conducted by the NPM have been made available on the public website of the Office of the Parliamentary Ombudsman. The aim is to draw up summaries of all visits, presenting the place visited, the aim of the visit as well as the main observations and recommendations. Moreover, the summaries will be updated with information on the measures taken by the facilities in response to the recommendations.

3.4.4 COOPERATION WITH OTHER OPERATORS

In the field of police administration, meetings have been held with representatives from the National Police Board regarding the reform of the act on the treatment of persons in police custody (*laki poliisin säilyttämien henkilöiden kohtelusta* 841/2006), plans to renovate police prisons and the national operational guidance of police prisons. Reports on visits to police prisons have been submitted to the National Police Board for information. Police prisons were also discussed in connection with a visit to the National Police Board.

The police's internal oversight of legality at police departments is conducted by separate legal units. It has been emphasised that these units should also inspect the operations of police prisons in their respective territories. The National Police Board submits to the Parliamentary Ombudsman each year a report on the oversight of legality within its area of responsibility. The report has also been submitted for the year 2016. Among other things, the report indicates that the visits conducted as part of the National Police Board's oversight of legality focused, in particular, on the legal protection of persons deprived of

their liberty and more specifically on the provision of information on their rights, notifications of the deprivation of liberty and postponing such notifications, and the legal protection of young persons deprived of their liberty.

The Finnish Border Guard also submits an annual report to the Parliamentary Ombudsman on its internal oversight of legality. The report is drawn up by the Headquarters of the Finnish Border Guard.

In the field of criminal sanctions, reports on visits have been published in full on public websites. All visit reports are sent for information to the Central Administration of the Criminal Sanctions Agency, the management of the criminal sanctions region in question and the Ministry of Justice. The central and regional administration are also often requested to notify the measures taken due to the observations. The Parliamentary Ombudsman, in turn, receives the reports drawn up on the facilities visited as part of the internal oversight of legality in the criminal sanctions field.

In 2016, the Deputy-Ombudsman visited the Central Administration of the Criminal Sanctions Agency to discuss the situation of remand prisoners, facility projects and certain issues concerning the restraint of prisoners. In the most problematic prisons (Riihimäki and Mikkeli), a representative from the relevant Region Centre was invited to participate in the final discussion of the visit.

The Director General of the Criminal Sanctions Agency was invited to participate in a meeting held at one of the prisons to discuss observations made during visits and matters that had emerged from complaints against the prison in question (Riihimäki). The topics discussed included the distance between prisoners and staff, atmosphere problems, the insufficiency of facilities for unsupervised visits, long periods between visits, the cancellation of activities, the closed conditions of students, tight schedules (overlapping activities), limited leisure-time activities, the issuance of decisions concerning the possession of property, and access to the library.

A meeting was also held with *Kriminaalihuollon tukisäätiö* (Krits), a nationwide non-governmental non-profit aftercare organisation, with a view to begin exchanging information and learn about the work of the organisation's Ombudsman Office for Offenders. Krits visits approximately 10 prisons each year. Thus, it gains plenty of information on the treatment, conditions and health care of prisoners. Since the meeting, Krits has provided the NPM with valuable information before its visits to prisons on the problems that prisoners and their families have reported about the institution in question. Krits, in turn, has been given copies of reports on visits to prisons and outpatient clinics.

In the health care sector, collaboration partners include the National Supervisory Authority for Welfare and Health (Valvira) and regional state administrative agencies (AVI). Before visits, the competent regional state administrative agency is regularly contacted to receive information on its observations about the facility in question. Moreover, the Office of the Parliamentary Ombudsman, Valvira and regional state administrative agencies try to organise a cooperation meeting once a year. The last meeting was held in June 2016. The agenda included the flow of information between the supervisory authorities, collaboration in the supervision of psychiatric hospitals as well as the division of powers and duties in the supervision of prisoners' health care.

Since the beginning of 2016, Valvira and the regional state administrative agencies have also been responsible for supervising the organisation of prisoners' health care. In practice, the supervision tasks have been centralised and assigned to AVI Northern Finland, which conducts guidance and assessment visits to the Prisoners' Health Care Unit independently or together with Valvira. In 2016, the target of 12 visits was achieved. Supervision plans and reports on visits are sent to the Parliamentary Ombudsman for information. In turn, the Ombudsman sends its own supervi-

sion plans and reports for information to Valvira and the regional state administrative agency.

In March 2016, legal advisers from the Office of the Parliamentary Ombudsman visited Valvira to agree on collaboration in the supervision of prisoners' health care. Representatives of AVI Northern Finland participated in the discussion via Skype. The legal adviser responsible for prisoners' health care matters at the Office also met the new director of the Prisoners' Health Care Unit in June. Among other things, the parties agreed on procedures concerning the flow of information.

Before visits to psychiatric units, the NPM has also contacted non-governmental organisations (NGO). During the reporting year, it contacted the National Family Association Promoting Mental Health in Finland (FinFami) and its local associations in the regions of Pirkanmaa and South Karelia.

In the field of social welfare, reports on visits are often also sent to the relevant regional state administrative agency for information.

3.4.5 INTERNATIONAL COOPERATION

The collaboration of the Nordic NPM network continued with a meeting organised by the Swedish NPM in Stockholm in June 2016. In addition to Swedish representatives, the meeting included participants from the Norwegian, Danish and Finnish NPMs. The Swedish participants also included a psychiatrist who acts as an external expert of the Swedish NPM. The event focused on visits to psychiatric institutions. The NPMs discussed, in particular, their observations about the long periods of seclusion and restraint experienced by psychiatric patients. The participants also visited the Helix psychiatric hospital. It was agreed that the Finnish NPM would organise the next meeting with a focus on the inspection methods used in different countries, interviewing techniques and the use of external experts. The meeting was held in January 2017. A separate training day on interviewing techniques and the use of external experts was organised in connection with the meeting.

In October 2016, Finland hosted a meeting of Baltic and Nordic ombudsmen. The second day of the event was dedicated to discussions on the functions of NPMs. The topic was introduced by Lithuanian and Finnish representatives. The participants also celebrated the 10th anniversary of the OPCAT.

On the international United Nations Day on 24 October 2016, staff from the Office of the Parliamentary Ombudsman participated in an event organised by

On the second day of their meeting (5 October 2016), Baltic and Nordic ombudsmen focused on the activities of national preventive mechanisms.

the Human Rights Centre, the UN Association of Finland and the Ministry for Foreign Affairs on the theme "50 years of UN Human Rights Conventions". One of the purposes of the seminar was to consider how Finland can promote the respect for and implementation of human rights. As one of the speakers, Parliamentary Ombudsman Petri Jääskeläinen discussed the topic "Implementation of fundamental and human rights: the significance of UN human rights conventions".

In October 2016, the Finnish NPM issued a statement to the UN Committee against Torture (CAT) on how the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has progressed in Finland and how the activities of the NPM have contributed to the implementation of the Convention. The statement was part of the Committee's consideration of the seventh periodic report of Finland. The delegation of the Finnish NPM, led by the Parliamentary Ombudsman, also met the CAT in a private meeting held in Geneva in November 2016. The delegation stayed for another day to hear the questions that the Committee's rapporteurs addressed to the State of Finland regarding its periodic report. Many of the issues raised were discussed in the NPM's statement to the Committee.

Before the meeting with the CAT, the representatives of the NPM visited the office of the Association for the Prevention of Torture (APT) and met its Chief of Operations Barbara Bernath and other staff. The parties discussed, among other things, the Finnish NPM's statement to the CAT, which the representatives of APT had already familiarised themselves with.

The NPM's report on 2015, its first year of operation, was submitted for information to the CAT and its Subcommittee on Prevention of Torture (SPT). In November 2016, the SPT addressed a few comments and questions to the NPM on the annual report. Overall, the SPT considered the annual report to be of good quality and illustrative. The NPM will send its reply to the SPT during the first part of 2017.

In December 2016, the coordinators of the NPM met SPT member Mari Amos, who is the subcommittee's rapporteur for Finland. The parties discussed, among other things, the resources of the NPM and touched upon some of the issues that the SPT had asked about.

In November 2016, the Nordic ombudsmen adopted a joint Nordic letter addressed to the subcommittee. The letter was signed by the ombudsmen of Denmark, Finland, Greenland, Norway and Sweden. In the letter, the ombudsmen expressed their critical view on plans to establish the NPM Observatory, an NGO monitoring the national preventive mechanisms.

3.4.6 TRAINING

Two public officials from the Office of the Parliamentary Ombudsman attended a three-day training workshop for NPMs organised in Vilnius, in June 2016, by the Lithuanian ombudsman, the International Ombudsman Institute (IOI) and APT. The workshop a follow-up to a similar training organised in Riga the year before. This time the theme was "Monitoring of Psychiatric Facilities".

One of the coordinators at the Office took part in the third Jean-Jacques Gautier NPM Symposium on monitoring psychiatric institutions. The symposium was organised in Geneva by APT in September 2016. In addition to NPMs, the participants included experts by experience and representatives of various NGOs.

In September 2016, two legal advisers from the Office of the Parliamentary Ombudsman specialising in health care issues attended a two-day symposium on reducing risks and preventing violence, trauma, and the use of seclusion and restraint in psychiatric care. The symposium was organised by Niuvanniemi Hospital.

The NPM organised a one-day induction training for its external experts in September 2016. In addition to the Office's own staff, training was provided by psychiatrist Veronica Pimenoff, who has participated in visits conducted by the CPT

as a medical expert and has since 2015 also acted as an external expert on the visits of the Finnish NPM.

In September 2016, one of the NPM coordinators participated in an international training event organised in Helsinki. The training concerned best practices in forensic psychiatry, focusing on the theme "Modern forensic in-patient facility design standards". The speakers included Professor Harry Kennedy from Ireland and Architect Christopher Shaw. One of the examples of modern psychiatric hospitals mentioned at the training was the Swedish hospital Helix, which the coordinator had visited in June in connection with the meeting of the Nordic NPMs. The theme is very topical in Finland, because a new hospital complex is being planned in Helsinki. The complex would include a psychiatric hospital and a unit of forensic psychiatry.

In December 2016, the staff of the Office of the Parliamentary Ombudsman were provided with training on the Non-Discrimination Act. The event included a presentation of the Non-Discrimination Ombudsman's activities as the National Rapporteur on Trafficking in Human Beings. Information was also provided on supervising the removal from the country of foreign nationals, *i.e.* the practical supervision carried out by the Non-Discrimination Ombudsman and its effectiveness. The topic was followed up in February 2017 when a representative from the police came to the Office to talk about the challenges associated with the return flights of foreign nationals and the use of force by the police in such situations.

3.4.7 VISITS

The role of an NPM requires conducting regular visits. The Office of the Parliamentary Ombudsman has made a conscious effort to increase the number of visits carried out. In 2014, the Office carried out a total of 111 visits, which was nearly 25 per cent more than in the year before. During 2015, the NPM's first full year of operation, the Office conducted a total of 152 visits, of which 82 within the NPM mandate. A clear majority of these were carried out unannounced. Visits conducted outside the mandate of the NPM may concern facilities that closely resemble the places visited in the role of the NPM (*e.g.* certain residential units for the elderly and reception centres for asylum seekers).

In the second year of operation, it was no longer possible to increase the number of visits without additional human resources. The aim has been to ensure that the quality of visits remains high because that has an impact on their effectiveness. In 2016, the total number of visits was 115, of which 56 were carried within the mandate of the NPM. A few follow-up visits were also conducted during the year. Of all visits, 31 were carried out completely unannounced. One facility was notified in advance that the visit would be conducted during the next two months. An external expert participated in seven visits, which were targeted at the following units: geriatric psychiatry wards of a psychiatric hospital, a psychiatric hospital, psychiatric wards of a central hospital, a police prison, a unit for persons with intellectual disabilities, a prison and an outpatient clinic of the Prisoners' Health Care Unit.

So far, the NPM has conducted only a few visits during 'inconvenient' hours, *e.g.* in the evening, at night or during weekends. Evening visits have mainly been made to social welfare units for minors to better ensure the presence of children and adolescents. In the health care sector, visits have been conducted in the evening to inspect the secure rooms of emergency care units. A new collective agreement for public servants has entered into force at the Office of the Parliamentary Ombudsman. The agreement allows compensation to be paid to those who conduct visits outside office hours. This will likely help diversify the times of conducting visits.

The task of the NPM has increased the focus on interviews with persons deprived of their liberty. At the places visited, efforts have been made to interview those who are the most vulnerable,

such as foreign nationals. In practice, this has led to an increase in the use of interpreters. Interpreters have participated in particular in visits to prisons and detention units for foreigners. The aim is to establish a separate pool of interpreters for the visits conducted by the NPM, selecting interpreters who are familiar with the environment and the related vocabulary. This will also help improve the quality of interviews.

Effective remedies were the special theme for 2016 in the field of fundamental and human rights at the Office of the Parliamentary Ombudsman. During visits, special attention was given to customers' and their families' access to effective remedies, such as objections, complaints and appeals. The Ombudsman has not yet adopted a special theme for the visits conducted by the NPM. However, individual visits may have focused on specific themes or targeted certain vulnerable groups. For more information on the Office's fundamental and human rights theme, see section 3.7.

3.4.8 KEY OBSERVATIONS, RECOMMENDATIONS AND AUTHORITIES' MEASURES

Police detention facilities

It is the duty of the police to arrange the detention of persons deprived of their liberty not only in connection with police matters but also as part of the activities of the Customs and the Border Guard. Most of the apprehensions, over 60,000 every year, are due to intoxication. The second largest group concerns persons who are suspected of an offence. A small number of people detained under the Aliens Act are also held in police prisons. Depending on the reason, the duration of detention may vary from a few hours to several months. There are approximately sixty police prisons in Finland. Their sizes and rates of use vary greatly. The largest police departments are currently undergoing a renovation programme.

Within its mandate as the NPM, the Deputy-Ombudsman has conducted dozens of visits to police detention facilities over the past two years. In 2016, 16 visits were made to police prisons. The facilities visited were located in Hyvinkää, Järvenpää, Porvoo (two visits), Vantaa (two visits), Espoo, Lahti, Vaasa, Kokkola, Jakobstad, Ylivieska, Raahe, Oulu, Mariehamn and Tampere. In addition, the operations of two detoxification centres (in Espoo and Tampere) were also examined.

Visits to police prisons are usually unannounced. During the year under review, only one visit to a police prison was pre-announced. The reason for the announcement was to ensure that the doctor of the police prison would be present because an external medical expert also participated in the visit. One police prison was subjected to both a regular visit and a follow-up visit during the same year. The follow-up visit proved useful because the police prison had not effectively implemented all the measures required after the first visit.

The observations and recommendations made during the year under review mainly concerned the same aspects as the year before. The most important issues were related to outdoor exercise facilities and opportunities, cells and their equipment, health care and the provision of information on rights. The following contains a summary of the observations and recommendations made.

- Only a few police prisons have facilities for activities outside the cells. As a rule, the outdoor exercise yards at police prisons are small. Some of them are so enclosed and secure that there is no view outside and, for instance, tobacco smoke remains in the space for a long time. It is questionable whether being in such areas can be called outdoor recreation at all.
- Renovations are not considered unexpected exceptional circumstances that would justify limiting the right of persons deprived of their liberty to outdoor exercise (Imatra).
- Cells do not usually get natural light and do not often have TV and electrical sockets.

- A cell did not have a call button. Therefore, it was recommended that the police prison should avoid using the cell unless it can provide continuous monitoring (Espoo). At another police prison, the cells for intoxicated persons did not have call buttons (Åland).

  The Åland police has notified that it will install call buttons in the cells.
- Renovated cells intended for remand prisoners did not have proper storage facilities for property (*e.g.* clothes) and food, and some of the property had to be kept on the floor. There was no place for hanging up clean laundry to dry in the cell, and no other place had been designated for the purpose. The Deputy-Ombudsman recommended that the police prison should consider adding storage solutions to the cells so that, for example, food items would not have to be stored on the floor. He also recommended that the police prison should arrange a space for drying clothes (Vantaa).
- The toilets of cells for remand prisoners did not have hand-held showers. The Deputy-Ombudsman recommended that police prisons should pay particular attention to female remand prisoners' need to maintain their personal hygiene and provide them with an opportunity to shower more frequently (Vantaa).
- In police prisons, remand prisoners are usually given bedlinen made of cloth. The Deputy-Ombudsman recommended that police prisons should ensure, on their own initiative, that the bedlinen used by remand prisoners are clean and undamaged and that they are changed when necessary.
- The confidentiality of phone calls with an attorney was not ensured in two police prisons, as the supervising warder was able to hear the remand prisoner's part of the conversation.

  The police reported that practices have been changed after the visit.
- The visits of an attorney may only be supervised if this is necessary or specifically requested by the attorney or the remand prisoner. As a rule, supervision cannot be considered necessary. The visit can take place in a room with a CCTV camera if the attorney and the remand prisoner can ensure that the camera is not on. The Deputy-Ombudsman recommended that any cameras in such visiting rooms should be covered and the attorney and the remand prisoner should be clearly told that the camera is not on (Vantaa).
- In previous years, attention has been paid to the fact that prisoners' toilet facilities were within the reach of CCTV cameras, meaning that there was no protection of privacy. The problem is exacerbated if the warder is of a different gender than the prisoner. The issue had still not been dealt with in two police prisons even though the National Police Board had already drawn the police departments' attention to the problem.

  The police prisons resolved the issue after the visit.
- Health care arrangements have room for improvement in all police prisons. Most police departments do not enjoy regular visits from health care staff. Instead, persons deprived of their liberty are taken to health centres when necessary. The practices of distributing and recording medication vary. Warders have received training in the distribution of medication only in exceptional cases, and medicines are not always stored appropriately.
- When persons deprived of their liberty arrive at the facility, they are not given a health examination and their health is not checked during the deprivation of liberty unless they request it. The Deputy-Ombudsman has recommended that police prisons should try to ensure that all persons deprived of their liberty for longer than 24 hours get to see a health care professional.
- The Deputy-Ombudsman has required that all persons deprived of their liberty be told upon arrival about their right to receive health care in the place of detention, at their own expense, with the permission of a doctor arranged by the police.

- The Deputy-Ombudsman recommended that the police prison should try to provide the health care professional working in the place of detention with appropriate facilities. At present, medicines were distributed in a room shared with the staff of the detention facility. As there was also no separate treatment room and patients were seen in their cells, the Deputy-Ombudsman recommended that all staff at the detention facility should pay special attention to ensuring the privacy of detained persons while they receive treatment and are being examined (Vantaa).
- The Deputy-Ombudsman has emphasised that a detained person's need for treatment must always be assessed by a health care professional and not by, for example, a police investigator. This applies to all forms of health care, including oral health care.
- It was observed during visits that warders were not familiar with the appeal provisions of the act on the treatment of persons in police custody (841/2006). The provisions apply, among other things, to decisions concerning the possession of property. The forms needed for the decision-making procedure and for making a claim for a revised decision were also not available. This was the case in the majority of police prisons visited.

  The police have reported addressing the issue in their internal communications and ensuring the availability of the forms.
- Police prisons did not have written information about the authorities that supervise police prisons to be provided to persons deprived of their liberty if they are unsatisfied with the way they have been treated or want to make a complaint for some other reason. The Deputy-Ombudsman considers it justified for police prisons to have written information about supervisory authorities.
- In two police prisons, it was noted that persons deprived of their liberty had not understood the information they had been given about their rights. The Deputy-Ombudsman pointed out to the staff of the police prisons that persons deprived of their liberty must be informed of their rights in a comprehensible manner.

Defence Forces detention facilities

In 2016, the NPM conducted two visits to the detention facilities of the Finnish Defence Forces. They were carried out unannounced in connection with the Ombudsman's regular visits to garrisons. The visits were targeted at the Kainuu Brigade and the Satakunta Air Command.

The treatment of persons deprived of their liberty in the detention facilities of the Defence Forces is subject to the provisions of the act on the treatment of persons in police custody (841/2006). During the visits, attention was paid to the structural elements of detention facilities in order to improve the safety of persons deprived of their liberty and to reduce the risk of self-harm.

- At the Kainuu Brigade, the closed space used for the detention of persons deprived of their liberty did not have a call button, an alarm device referred to in the act on the treatment of persons in police custody. The Deputy-Ombudsman noted that a communication method in which a person deprived of their liberty has to waive at a camera or knock on the door cannot be considered sufficient to ensure safety during detention. Such means do not always guarantee the attention of supervisory staff unlike a call button, which requires the control room staff to separately confirm receiving the alarm.
- At the Satakunta Air Command, the detention facility had a "curtain" that was made of a plastic bag or similar material and taped to the wall. The Deputy-Ombudsman considered it possible that self-destructive persons deprived of their liberty could use it to suffocate themselves. The Deputy-Ombudsman

recommended the immediate removal of the curtain. If the detention room cannot otherwise be darkened when a person deprived of their liberty so wishes, it should be considered whether the window could be covered in a similar manner from the outside.

Border Guard detention facilities

Based on the information received by the Deputy-Ombudsman, the Finnish Border Guard currently uses 15 closed spaces for the detention of persons deprived of their liberty. They are used for short-term detention before transferring persons to a police prison, a detention unit or a reception centre. The duration of detention in these facilities varies from one hour to several hours. The maximum time is in all cases 12 hours.

The location, standards and equipment of the facilities vary. During the year under review, no visits were made to the facilities. However, the following describes the measures required as a result of the Deputy-Ombudsman's earlier visit to the detention facilities of the Border Guard.

The administrative units of the Border Guard have adopted rules for the Border Guard's detention facilities. In addition to the national languages, the rules will be translated into English and Russian as well as other languages depending on the largest nationality groups using a given border crossing point.

In 2014, the Deputy-Ombudsman conducted a visit to the joint detention facilities of the Border Guard and the Customs at the Vaalimaa border crossing point. She decided to launch a separate investigation on the conditions and treatment of persons held in the facilities by the two authorities. The Deputy-Ombudsman requested, in particular, information on the division of responsibilities in the use and supervision of the facilities, guidelines and the implementation of CCTV monitoring.

On closer examination, it turned out that the facilities had not been identified as facilities that are subject to the provisions of the act on the treatment of persons in police custody and would have to be approved by the Border Guard before persons deprived of their liberty could be held in them. Thus, the inspected detention facilities had not been approved for the purpose. It also turned out that the Border Guard did not have a single detention facility approved under the Border Guard Act.

In a decision adopted in 2015, the Deputy-Ombudsman required that all facilities under the Border Guard's administration that are used for holding persons deprived of their liberty have to approved in accordance with the procedure set out in the Border Guard Act and the rights guaranteed for persons deprived of their liberty in various acts must be taken into account in the approval process. In order to keep track of the total duration of deprivation of liberty, the Deputy-Ombudsman considered it important that the time when a person is placed in a detention facility is always appropriately recorded. Moreover, the conditions in the facilities must ensure treatment with human dignity as required by fundamental and human rights.

During the investigation, the Border Guard Headquarters began its own examination of the detention facilities and conditions of persons deprived of their liberty in all border guard districts. The examination also covered the requirements set for detention facilities and their approval procedure in more general terms.

Following the Deputy-Ombudsman's opinion issued to the Border Guard, the rules of the Vaalimaa detention facility, drawn up by the Customs, mention that closed spaces in the facility are equipped with an alarm device that enables immediate contact with the staff. According to information provided by the Border Guard, the alarm system is still missing from two older detention facilities. The issue had been resolved by an order from the Border Guard, one of the co-users of the facilities.

Customs detention facilities

No visits were made to the detention facilities of the Customs in 2016. The measures taken in connection with the 2014 visit concerning the detention facilities and monitoring arrangements at the Vaalimaa Customs are discussed above in the section on the Border Guard. The report provided by the Customs showed that it also had not identified the detention facilities as facilities that are subject to the provisions of the act on the treatment of persons in police custody and would have to be approved by the Customs in accordance with the Customs Act or would require rules.

The Deputy-Ombudsman issued a decision addressed to the Border Guard in 2015. In the decision, she considered it important that persons deprived of their liberty on the same grounds must be treated equally in all cases, regardless of which authority is in charge of the detention. The decision was sent to the Customs for information, after which the Customs drew up rules for the Vaalimaa detention facility in February 2016.

In a decision issued in May 2016 concerning the Customs, the Deputy-Ombudsman referred in connection with CCTV monitoring to the opinions of international monitoring bodies and the decisions of the overseer of legality. She drew particular attention to the need to ensure the protection of privacy in toilet facilities. The Deputy-Ombudsman also noted the importance of providing detained persons with sufficient information on the special conditions mentioned in the rules of the facility and other provisions that apply to them. A detained person must be in possession of or have access to the rules of the facility as laid down by law.

The Deputy-Ombudsman drew particular attention to the rules on the use of telephone. Under the act on the treatment of persons in police custody, it is prohibited to listen to phone calls between an attorney and his or her client. The conditions must guarantee the confidentiality of such telephone calls. According to the act on the treatment of persons in police custody, the rules of a facility shall include provisions on the use of telephone.

The Deputy-Ombudsman communicated her views to the Customs and required the Customs to assess the need to also draw up rules for the other facilities it uses.

In August 2016, the Customs notified that it had further specified the rules of the Vaalimaa detention facility with respect to the privacy, access to information, communication and telephone use of persons deprived of their liberty. According to the Customs, persons deprived of their liberty are provided with a copy of the rules, which have been translated into Swedish, Russian and English. The Customs also reported that it is considering the need to establish rules for its other detention facilities (in total 10). The Deputy-Ombudsman found nothing to criticise in the Vaalimaa rules after the clarifying amendments. In other respects, progress will be monitored.

The Deputy-Ombudsman has considered the concepts and contents of international legal and executive assistance in a matter in which a criminal investigator from another country had, with the permission of the head of the investigation at the Finnish Customs and in the presence of an investigator from the Customs, interviewed a complainant who was in remand imprisonment about the complainant's connections to other offences than the one being investigated in Finland. The Deputy-Ombudsman took the view that in the circumstances it was problematic to justify the procedure on the grounds of consent. The Deputy-Ombudsman informed the Customs that collaboration among pre-trial investigation authorities and customs authorities must be based on international agreements and acts and comply with the procedures laid down in them.

Criminal sanctions field

The Criminal Sanctions Agency operates under the Ministry of Justice and is responsible for the enforcement of sentences to imprisonment and community sanctions. The Criminal Sanctions Agency runs 26 prisons. Prisoners serve their sentences either in a closed prison or an open institu-

tion. Of Finnish prisons, 15 are closed and 11 open institutions. In addition, certain closed prisons also include open units. Visits focus mainly on closed prisons. The average number of prisoners in 2016 was approximately 3,100. In January 2016, the Health Care Unit of the Criminal Sanctions Agency was transferred to operate under the Ministry of Social Affairs and Health as the Prisoners' Health Care Unit.

In 2016, visits were conducted to 11 prisons, four of which were open institutions. The sites visited were Käyrä Prison, Turku Prison, Jokela Prison, Riihimäki Prison, Suomenlinna Prison, Ylitornio Prison, Oulu Prison, Kestilä Prison, Pelso Prison, Mikkeli Prison and Kylmäkoski Prison. The supervision patrol activities of the Criminal Sanctions Region of Southern Finland were also examined. Three of the visits were unannounced. An external expert participated in one of the visits (Kylmäkoski). Rather than covering the entire prison, some of the visits only focused on certain activities, units or groups of prisoners. For example, the visit to Jokela Prison focused particularly on the conditions of isolation cells and the so-called "travelling cells" for temporary accommodation and on the procedure used when placing a prisoner in isolation under observation.

Three visits were made to the Riihimäki Prison in 2015. The visit conducted during the year under review was a follow-up to the earlier visits. It focused on the problems identified during previous visits and in complaints as well as on the measures that the prison had taken in response. In addition to the prison management, a representative of the regional administration and the Director General of the Criminal Sanctions Agency were also invited to the final discussion during the visit.

Three visits were made to the Prisoners' Health Care Unit (outpatient clinics in Turku and Kylmäkoski and Prison hospital). The related observations are discussed in the section on health care.

Placement within a prison

- The following groups of prisoners had been placed in the isolation unit: remand prisoners subjected to segregation by court order, prisoners who had requested segregated accommodation and prisoners segregated for other reasons. The isolation unit is not intended for accommodation and is inappropriate for the purpose (Turku).
- Remand prisoners and prisoners who are serving a sentence should be placed in different units. Remand prisoners had not been separated from convicted prisoners because the prison only had one unit for remand prisoners (Turku and Oulu). One prison did not have a single unit for remand prisoners even though they constituted approximately 40 per cent of all prisoners (Mikkeli).

  Mikkeli Prison reported later that it dedicated five units to remand prisoners.
- A prison had two prisoners under the age of 18. One of them had been placed in a closed unit and the other in the same unit with adult prisoners. Minors should always be accommodated in separate facilities to which adult prisoners have no access. When activities are organised for minors outside their cells together with adult prisoners, supervision must be sufficient (Turku).
- In certain prisons, many units have been designated as substance-free units. To be accommodated in these units, prisoners must agree to give a urine sample whenever requested. In practice, this commitment is a prerequisite for being allowed to participate in an activity or live in an open unit. Prisoners who do not wish to commit to a substance-free life should also have the opportunity to participate in activities or be placed in an open unit (Oulu and Pelso).
- The admissions unit (a unit for newly-arrived prisoners) is not suitable for accommodation. Remand prisoners subject to segregation restrictions had been living in the unit (Oulu).

- Prisoners were regularly placed in an isolation cell immediately after a suspected disciplinary infraction and held in segregation pending the disciplinary procedure. In most cases, the events were clear and there was little or no need for investigating the disciplinary infraction. The Deputy-Ombudsman did not consider it appropriate that prisoners are held in isolation cells merely for poor behaviour when they do not pose a concrete threat to order in the prison (Mikkeli).

  The prison has notified that isolation cells will only be used when there is an actual need for isolation.

The outdoor exercise yard of Mikkeli Prison (visit on 2–3 November 2016).

Prison facilities and the equipment in cells

- The women's unit had no hand-held shower heads or bidet showers – only ceiling-mounted shower heads – which made it considerably more difficult for them to maintain their personal hygiene (Turku).

  The prison promised to implement the necessary changes at the latest in early 2017.
- Accommodation cells had no night lights or reading lights (Mikkeli).
- There were not enough facilities for children's visits (Turku) or they were otherwise inappropriate for the purpose (Mikkeli).
- The outdoor exercise area had no rain shelters (Turku, Oulu and Mikkeli) or benches (Oulu and Mikkeli). The area was also too small considering the number of prisoners outside at the same time (Mikkeli).

  Turku Prison noted that prisoners are provided with waterproof jackets if it rains.

  Mikkeli Prison promised to expand the outdoor exercise area and improve its equipment. Moreover, the outdoor exercise area for segregated prisoners will only be used for justified reasons and short periods of time.
- The window frame in the cell intended for disciplinary solitary confinement was broken. This affected the temperature in the cell and made it draughty (Jokela).

  The prison took action to fix the window frame. They promised to consider prohibiting the use of the cell if the repairs were not completed by the beginning of October.
- A prison's ability to take in prisoners with mobility impairments seemed very problematic even though the prison should have a cell for persons with disabilities. The situation must be remedied to ensure that prisoners with reduced mobility can enjoy their legal rights on an equal basis with other prisoners without being treated differently from others due to the impairment without an acceptable reason. Unless the prison in question takes corrective action, it should not state that it can take in prisoners with reduced mobility. The Criminal Sanctions Agency should be able to provide appropriate facilities and enforce the sentences of prisoners with mobility impairments in accordance with the law (Riihimäki).
- Cell doors that open inwards constitute a safety risk (Oulu).
- The facilities at the admissions unit were untidy. The prison has the ultimate responsibility for ensuring cleanliness even if the task of cleaning has been assigned to prisoners (Oulu).

- An open institution did not have appropriate isolation facilities. It also lacked appropriate facilities for providing a urine sample, even though samples are collected frequently. The process of providing a sample could not be supervised discreetly (*e.g.* through a one-way mirror). Instead, the supervisor was next to the prisoner in the toilet (Kestilä).
- After renovation, a prison had no room dedicated solely for religious activities. The Deputy-Ombudsman referred to the preparatory documents of the Imprisonment Act, which state that if a prison does not have a church, it should have some other place suitable for practicing religion. This "other suitable place" means a separate peaceful space (Mikkeli).

  According to the prison, a space reserved for practicing religion can be separated with screens from the rest of the multipurpose room.
- Isolation cells had no furniture, and the prisoner had to eat on the floor. The conditions in isolation cells were inappropriate for the enforcement of disciplinary solitary confinement or the segregation of a prisoner pending the investigation of a disciplinary infraction. The cleanliness of the isolation cells was not up to standard. There were faeces on the bars of one of the cells. The toilet -seats in all cells were covered with stains, and one cell was missing a drinking water tap (Mikkeli).

  The prison reported that the isolation cells had been thoroughly cleaned and will only be used when there is an actual need for isolation.
- Suspicion of wide-spread use of prohibited substances had emerged in a prison. Therefore, weight plates had been temporarily removed from the gym to prevent the prisoners using substances from injuring themselves. The amount of free weights available in the outdoor exercise yard were also to be limited for the same reason. The family visit room was out of use at the time of the visit, because a drug detection dog had given an alert in the room. The prisoners' sauna was also out of use for the time being because prisoners had been moved to the sauna and the changing rooms during a special inspection that concerned the whole prison, and the rooms had been damaged and dirtied (Kylmäkoski).

  After the visit, the prison director reported that the prison had been able to lift some of the exceptional measures that were taken due to the safety situation and had an impact on the prisoners' conditions. Free weights had been made available at the gym up to a certain level of weight. The family visit room had been renovated and was intended to be taken in use in early 2017. The sauna renovation was also nearly finished.

  The Deputy-Ombudsman asked the prison to report on the measures taken due to the drug situation.

Protection of privacy

- Telephones intended for use by prisoners should be located so that telephone conversations in a normal voice cannot be overheard by others (Turku and Pelso).

  Turku Prison has begun planning the construction of telephone booths.

A phone booth in Mikkeli Prison (visit on 2–3 November 2016).

- At a prison admissions unit, both isolation cells had CCTV monitoring. Attention was drawn to the fact that camera monitoring of prisoners' cells is only allowed in the circumstances specified by law. If the preconditions are not met, a prisoner placed in a cell equipped with a camera must be told that the camera is not in use. For example, the camera may be covered. Prisoners' toilet use should not be monitored by a camera even if the preconditions for camera monitoring are otherwise fulfilled. Isolation under observation is an exception to the rule, but even in such cases arrangements should be made to ensure at least limited privacy. Monitoring can take place, for example, through tinted glass or plexiglass that obscures visibility (Turku).

  The prison reported that prisoners placed in isolation cells are not monitored unless there are grounds for it and that CCTV cameras are located in a way that prevents intimate areas from being visible to the control room when prisoners use the toilet.
- Attention was drawn to prisoners' ability to send confidential messages to the outpatient clinic (Turku). In another prison, the Deputy-Ombudsman considered it positive that units had been equipped with locked mail boxes through which prisoners could send messages to the outpatient clinic (Kylmäkoski).

  The prison reported that the outpatient clinic in Turku had promised to order pre-printed envelopes addressed to the unit for prisoners to send their forms to the health care unit.
- A prison was encouraged to take measures regarding urine sample collection facilities that do not have a one-way mirror between the supervisor and the person under supervision to make the situation easier and more comfortable for prisoners and staff alike (Riihimäki).
- One prison had no signs about CCTV monitoring in the visiting rooms or outside the visitor building of an open institution. People must be informed of the use of technical monitoring devices (Suomenlinna).

  The prison put up a notification of the monitoring. According to the prison, information had previously been provided orally.
- Prisoners should be allowed to wear their own clothes during visits (Mikkeli). This also applies to the skirts worn by Roma prisoners (Oulu). Prisoners were also required to wear prisoners' outfits in work activities and outside the prison (*e.g.* hospital visits). The practice is not based on law (Mikkeli).

  Mikkeli Prison agreed to change its practices.

Supervisory staff's participation in the distribution of medicines

- The office of a prison unit had a basket with medicines to be given to prisoners as needed. Warders do not have access to prisoners' health records, which also include information on their medication. Prisoners can give the health care unit their written consent allowing the unit provide information on their medication to supervisory staff who distribute

A letter box in Ylitornio Prison for messages to the health care unit (visit on 21 September 2016).

medicines. In the Deputy-Ombudsman's view this would be a good practice in terms of patient safety and the legal protection of the warder distributing medicines (Kylmäkoski).

- During a visit to an outpatient clinic, concerns were expressed about the inconsistent practices of supervisory staff in recording the over-the-counter medicines and PRN (as-needed) medicines they give to prisoners. The Deputy-Ombudsman considered such records to be important for patient safety. According to the Deputy-Ombudsman, it is the director's duty to supervise that warders record the medicines they have distributed regularly and in a consistent manner.

  During the concluding discussion of the visit, the prison director said that they would take action to harmonise recording practices.

Legal protection of prisoners

- During visits, it is repeatedly necessary to draw the prisons' attention to the availability of or need to update information on the provisions that apply to prisoners or the contact details of the authorities that supervise the prison. Prisoners may also lack awareness of the availability of information on the relevant provisions (Turku, Riihimäki, Suomenlinna, Ylitornio, Oulu, Pelso and Mikkeli).

  As a rule, prisons have reported that they will rectify the deficiencies and provide their staff with guidance on the issue.

  Turku Prison has promised to provide a guidebook for newly-arrived prisoners in connection with their arrival check and to clarify the information on where guidebooks and relevant legal regulations are available. It also promised to ensure that the control room and library of each unit will have copies of the Imprisonment Act and the Remand Imprisonment Act.
- None of the inmates interviewed by the NPM had been provided with orientation training or guidance on the activities, schedules and other practices of the institution upon arrival. The staff had not informed any of them of their rights and duties. Interviews with foreign prisoners revealed that they had not been given oral information about the above-mentioned aspects of prison life or their own rights and duties (Mikkeli).

  The prison reported that each prisoner will be provided with a guidebook for new prisoners when they arrive at the institution. The guide will be translated into as many languages as possible.
- Prisoners were unable to apply for permission for a child's visit in advance. At the beginning of the visit, the supervising warder would select the prisoner who was allowed to meet his or her child in the visiting room. Prisoners should be able to apply for permission for such visits in advance. The prison, in turn, must examine the preconditions for the visit and issue a decision on the matter (Turku).

  According to the prison, the practice has been changed and prisoners are now able to apply for permission for visits in advance.
- The number of prison leaves (permission of leave) granted to prisoners seemed low. According to prisoners, their sentence plans had not been updated. The Central Administration of the Criminal Sanctions Agency was enquired about the measures it will take regarding the observations (Turku).
- A prisoner serving a disciplinary punishment had been placed in an isolation cell (Jokela).

  According to the prison, this was a mistake. Disciplinary solitary confinement is usually implemented in a cell reserved for the purpose.
- The rules of prisons included provisions on matters that could not be regulated by prison rules. On the other hand, the rules did not include provisions on all the matters that they should (Ylitornio, Mikkeli and Oulu). Prison rules and the guide for new prisoners did not reflect the amendments to the Imprisonment Act (Pelso).
- A prison had made changes to its rules. Prisons are not allowed to amend or approve their own rules. Instead, they need to be approved

by regional directors. Prison rules have no legal effect until they have been approved. The changes introduced by the prison had an impact on the treatment of prisoners. The Deputy-Ombudsman considered the use of unapproved rules a very serious matter. The application of the rules had to be ceased immediately (Mikkeli).

The regional director approved new rules for the prison.

- Meetings between prisoners and their attorneys should in principle be unsupervised. This means that the visiting room cannot have CCTV monitoring and the prisoner and attorney should not be separated by a plexiglass. The room should also be such that conversations cannot be overheard by others (Oulu). In another prison, visits were also held in a room with CCTV monitoring. The video was also recorded, which is forbidden by law under all circumstances (Mikkeli).

Mikkeli Prison reported that they would equip the camera with curtains in order that the attorney at law could close the camera.

- Remand prisoners should be allowed to prepare for their trials and have access to pre-trial investigation documents. A remand prisoner had been given access to the pre-trial investigation documents only for one night after the unit had been closed. The documents had been taken away in the morning before the unit was opened (Mikkeli).

The prison reported that in the future all material required for a trial will be given to prisoners for the period they request, including daytime.

- A prison did not issue administrative decisions on the possession of property, and prisoners were not given appeal instructions. It appeared that the prison had never issued any decisions on denying the possession of property as required by law. The prison director had given guidelines on the possession of property, which were used as a basis for decisions on access to property. The director does not have the power to issue such guidelines, and decisions on denying the possession of property cannot be based on guidance given by the director. However, one of the regional centres of the Criminal Sanctions Agency had nonetheless approved the practice in its response to a complaint (Mikkeli).

According to the prison, it has begun issuing decisions on matters concerning the possession of property and providing instructions on claims for revised decisions.

- In the same prison (Mikkeli), reasoned written decisions were also not issued on a number of other matters which according to law require formal decisions. They involved, for example, a prisoner's request for segregated accommodation, withholding a postal item, placing a prisoner under observation and prohibitions to visit. Decision-makers were also unfamiliar with the relevant legal regulations or ignored them. The Deputy-Ombudsman came to this conclusion because the reasons given by the prison to justify its actions and decisions were not based on law. Moreover, the rules of procedure did not specify who is responsible for several key groups of decisions, such as decisions on the possession of property.
- An admissions unit's actions in relation to granting access to property and responding to inquiry forms were inappropriate. The delays in accessing services were too long. Moreover, the Deputy-Ombudsman considered it a shortcoming that prisoners were not given guidance about the fact that they have the right to choose which items they want to keep in their possession, if the number of items in the cell has to be limited, for example, for fire safety reasons and that this rule was not taken into account (Mikkeli).

The prison reported that the tasks of the admissions unit have been reviewed. The maximum time of delivery is now one week.

Contacts with the outside world and freedom of expression

- The new telephone system of all prisons has a feature that blocks call transfers; in other words, the call is cut off if it is transferred from the first dialled number to some other number. This has made it more difficult for prisoners to call, for instance, their solicitors and authorities or even prevented them from making such calls. A prison was urged to ensure that facilities intended for this purpose in all units have enough hands-free headsets and that both prisoners and staff are aware of the opportunity to use them (Turku).

  The prison reported that from now on prisoners have access to headsets.
- Certain prisons have adopted a policy of organising supervised visits during weekends only on one day. The number of visitors is often also limited, for example, to two adults and two children. Visit arrangements should be such that they effectively ensure the implementation of a prisoner's right to visitors. If a visitor has a justified reason for not being able to visit the prison during the specified visiting hours, the prison should be open to the possibility of organising a visit at some other time.

  Denying permissions of leave or applying limited visiting arrangements do not promote prisoners' reintegration into society by helping them maintain close relationships with others. With respect to family members, restrictions are also problematic in terms of the protection of family life. Closed prisons should organise an opportunity for supervised visits in a way that enables a prisoner's whole family to take part on a weekly basis (Oulu).
- A prison's policy of granting permission for unsupervised visits was stricter than those applied by other prisons. Moreover, the times reserved for children's visits were on weekdays in the middle of the day. It was difficult for visitors to visit the prison during the reserved times (Mikkeli).

  The prison changed its visiting hours, but the Deputy-Ombudsman still considered the visiting room inappropriate.
- Attention was drawn to the fact that a prison subscribed to a limited number of newspapers and had a small library collection. Foreign prisoners should also have the opportunity to watch television and listen to radio in a language they can understand (Oulu).
- The Deputy-Ombudsman was of the view that the library service of a prison did not meet the requirements laid down by law. After its renovation, the prison no longer had a library and loans from public libraries were not allowed. As a consequence of these observations made by the inspectors of the Criminal Sanctions Agency's Central Administration, the prison set up a library, which was located in a very small room which prisoners could not access one unit at a time. Library visits were also not included in the daily schedules of units. The library had a very limited book collection, and foreign-language literature was mainly available in Russian (Mikkeli).

  According to the prison, prisoners now have access to the library one unit at a time once a week without prior registration. The Deputy-Ombudsman recommended that the prison should consider moving the library to the multipurpose room, which seems to have no other use.
- The mail send to prisoners should be delivered as soon as possible, not only 2 or 3 times a week (Oulu).

Treatment, equal treatment

- All female prisoners did not have the opportunity to have a sauna (Oulu).
- Prisoners placed in the isolation unit should have the opportunity to shower daily (Pelso).
- Answers to inquiry forms only included the initials of the replying staff member instead of his or her signature, name and title. Prison-

ers' questions were not always answered, and the language used was sometimes inappropriate (Mikkeli).

The prison emphasised the correct procedures and practices to its staff.

- One prison applied a permission of leave policy that diverged from those of other prisons without a justifiable reason. Due to policy differences, prisoners are not treated equally with the inmates of other prisons when granting permissions of leave (Mikkeli).

  According to the prison, special attention has since then been given to granting permissions of leave.
- The Central Administration Unit of the Criminal Sanctions Agency has issued guidelines on imposing disciplinary punishments. The guidelines aim to harmonise the practices and policies of prisons. One prison applied a practice that was clearly stricter than the guidelines. Severe disciplinary punishments were imposed for minor infractions. As a rule, the prison imposed the maximum punishments defined in the guidelines or even more severe sanctions. Disciplinary decisions did not specify reasons for the application of maximum sanctions. In addition to the lack of justifications, decisions also included deficiencies concerning the recording and investigation of infractions (Mikkeli).
- The relations between the prison staff and prisoners were tense and poor. Prisoners expressed heavy criticism regarding the actions of the prison and its staff. They described the staff's behaviour as commanding, disdainful, arbitrary and humiliating. It also appeared that prisoners were often taken to the isolation unit using force even if the prisoners' behaviour did not warrant the use of force. It also seemed that in certain cases the staff had unnecessarily caused the situation to escalate with their own actions. The prison had many practices that were different from those followed in other prisons, were not based on law and were partially against provisions.

  In the interviews, prisoners mentioned, for example, that they had too much idle time. They considered it degrading that warders sometimes gave them their meals through the hatch in the cell door. The Deputy-Ombudsman considered the practice of serving food through the hatch to be inappropriate. He noted that warders should supervise prisoners and their facilities. Serving food is a natural opportunity for doing that and also for assessing the prisoner's condition by talking to them. The polarisation between prisoners and staff was stronger than usual, and a certain atmosphere of fear prevailed between the two groups.

  The Deputy-Ombudsman considered it highly important to change the prison's operating culture and attitude towards its inmates. The atmosphere would likely improve if the prison discontinued its unjustified and unlawful practices that were very different from those applied in other prisons (Mikkeli).

  The prison has reported that it will launch various projects concerning the treatment of prisoners and the relations between prisoners and staff in accordance with its action and development plan for 2017. It will introduce a feedback system for prisoners. Food will no longer be served through the cell door hatch.
- Foreign prisoners were interviewed in Arabic, Sorani and Russian with the help of interpreters. They said that none of them were provided with information on prison rules and activities or their own rights and duties when they first arrived. The prison had not provided interpretation. Two of the prisoners had been urged to learn Finnish if they wanted to speak with the staff. One remand prisoner had requested access to interpretation for approximately a month in order to settle and arrange personal matters. The requests had been unanswered or denied. Remand prisoners told that they had been unable to call their families to let them know that they were imprisoned in Finland (Mikkeli).
- Based on discussions with supervisory staff, the prison personnel had not been provided with training on dealing with prisoners who need special support. The flow of information

between the supervisory and health care staff was also considered a problem due to confidential regulations. The Deputy-Ombudsman noted that attending to inmates with special needs is difficult, particularly because the supervisory staff have not received relevant training.

The Deputy-Ombudsman recommended that the prison should actively contact the Prisoners' Health Care Unit whenever there is a need for guidance and training on these matters. Confidential regulations do not prevent the disclosure of information if the health care unit asks prisoners to give their written consent to the disclosure of their personal information (Kylmäkoski).

- The visit supported the view that the prison had succeeded in creating problem-free relations between Roma prisoners and prisoners from the majority population. This is not the case in many other prisons (Kylmäkoski).

Lack of time and activities outside the cell

Almost without exception, closed prisons contain units where the prisoners are forced to remain inactive in their cells the best part of the day without an acceptable reason stated in the law. Acceptable justifications for keeping a prisoner in isolation may include safety measures or isolation as a disciplinary sanction, which are relatively short-term situations. In the worst cases, isolation and inactivity mean that a prisoner is placed in a special unit for a lengthy period without justification. In addition to lack of activity, the problem in this case is that the unit is not intended for actual residential use, and the conditions in it are thus not suitable for long-term living.

On visits, attention is usually paid to the prisoners' possibilities of spending time outside their cells and participating in meaningful activities. Prisons have been informed of the fact that keeping prisoners inactive in their cells is unacceptable and unlawful. This problem mainly stems from lack of resources in prisons, rather than ignorance of the regulations or unwillingness to organise activities for the prisoners.

- When conducting an inspection in a prison, the Central Administration of the Criminal Sanctions Agency had drawn the prison's attention to the need to improve the operation of units with the strictest security by extending the hours during which the prisoners can leave their cells and developing and extending activities indicated by the prisoners' needs. As the Central Administration was planning a follow-up inspection of the prison in question, it was asked to report on the action taken (Mikkeli).
- A remand prisoner who could not speak Finnish had been kept isolated from other prisoners and without any activities outside the cell for months, excluding the possibility for outside exercise. The Deputy-Ombudsman found this space unsuitable for its purpose because of its small size, lack of exercise facilities and roof and closed-in walls. The prisoner's isolation was based on a court order and was thus not a breach of law. However, the conditions of outdoor exercise and complete lack of exercise and activities outside the cell were unacceptable. The cell window was small and placed high up, only showing a view of the sky. The window was locked, making it impossible to air the cell. The prisoner had no meaningful pastimes in the cell, except watching television.

  According to information obtained by the NPM, the prisoner was illiterate and had no common language with the prison staff. The prisoner was also obviously in severe pain. The prisoner's state of psychological and physical health and the conditions in the cell gave cause for concern. The prison management was informed. The prison and the prison outpatient clinic were asked to report on action taken (Oulu).

  After the request for information was received, the prisoner was placed in the Psychiatric Hospital for Prisoners for a three-week treat-

ment period. The prison reported that since that time, the prisoner's physical and psychological state had clearly improved.

- The prisoners' possibilities of taking exercise were inadequate. The Deputy-Ombudsman recommended organising gym training led by an instructor (Turku). In another prison, there was no gym, and the prisoners only had access to a sports hall for 30 minutes once a week (Mikkeli).

  Mikkeli Prison promised to improve the prisoners' possibilities of taking exercise by striving to use the sports hall more often and by purchasing exercise equipment for the common areas of the cell units. According to the Deputy-Ombudsman, the prison should continue investigating options for setting up a gym.

Basic education

For several reasons, the arrangements for organising basic education in a prison were unsatisfactory. Forming teaching groups was challenging, and the use of distance teaching by a video link had not gone ahead in the prison, either. In this respect, the Deputy-Ombudsman made reference to remote general upper secondary school studies based on video links organised in prisons of the Criminal Sanctions Region of Eastern and Northern Finland. His assessment of the situation was that teaching could also be organised following the same operating model in the Criminal Sanctions Region of Western Finland. The Deputy-Ombudsman asked the prison to report on actions taken to arrange basic education for prisoners (Kylmäkoski).

Supervision patrol activities

In addition to prisons, the activities of the criminal sanctions authorities that supervise sentences served outside prison were investigated on visits.

On certain conditions, a prisoner may be placed outside the prison for a trial period and supervised by means of technical equipment and other methods before conditional release (parole). Some short prison terms may be converted into monitoring sentence outside the prison. Persons sentenced to this type of a penalty may only move within a specified area outside their homes.

Their movements are supervised by technical methods. The criminal sanctions authorities supervise the serving of both types of penalties by means of unannounced inspection visits to homes, workplaces or other areas where these persons spend time. This supervision is performed by so-called support patrols. Support patrol activities were scrutinised in the Criminal Sanctions Region of Southern Finland. The observations made during the visit were related to the organisation of the activities and occupational safety.

Alien affairs

Slightly less than 5,700 asylum seekers made their way to Finland in 2016. The year before, this figure was some 32,000. Some 28,200 asylum decisions were made, in 51% of which asylum was denied. Under section 121 of the Aliens Act, an asylum seeker may be held in detention for such reasons as establishing his or her identity or enforcing a decision to remove him or her from the country.

There are two detention units for foreign nationals in Finland. Joutseno detention unit has 30 places, 10 of which are reserved for families, while Metsälä Unit has 40 places. As a result of the high number of negative asylum decisions, the number of foreign nationals taken into custody may be expected to increase. The Finnish Immigration Service has responded to this need, and according to its report, 40 new places will be set up in Joutseno detention unit in 2017. This must be considered a positive development, as otherwise there would be pressures to hold foreign nationals in the detention facilities of the police, which are only suitable for very short-term detention.

Some of the residents in reception centres and detention units may be victims of human trafficking, and recognising them is a challenge. The sys-

tem of assistance for victims of human trafficking operates in connection with Joutseno reception centre. A press release from the Finnish Immigration Service relates that in 2016, the system of assistance received almost 2.5 times as many applications as the year before. Of the 130 new customers accepted to the system of assistance, 21 were minors. The year before, 52 new customers were accepted, all of whom were of age.

The NPM's target is to visit both detention units roughly once a year. The NPM visited Joutseno detention unit in 2015 and Metsälä unit in 2016. The visits were pre-announced in order to ensure that interpretors were available for the language groups of the persons held in custody at the time of the visit. The NPM interviewed several Russian, Arabic and Chinese speaking detainees with the assistance of interpreters.

At the time of the previous visit in 2014 the Ombudsman had recommended that, when necessary, Metsälä detention unit should carry out a routine check-up on foreign nationals who have been returned to the detention unit after a failed attempt to remove them from the country. On the most recent visit, the unit reported that after each failed attempt at removal from the country, the foreign national returned to the unit is offered a possibility of meeting a public health nurse.

A check-up is not automatically conducted on all persons taken into custody as they arrive in Metsälä unit. Instead, the person fills in an initial health interview form, on the basis of which his or her health care needs are assessed. However, the conclusions addressed to Finland by different international bodies have suggested that a routine medical screening should be carried out on persons deprived of their liberty within 24 hours of their arrival. This had also been the Ombudsman's recommendation in connection with the actions taken as a result of the visit at Joutseno detention unit in 2015. At the same time, any experiences of torture and injuries of persons deprived of their liberty can be examined. The Ombudsman also stressed the necessity of routine check-ups in Metsälä unit.

On the visit to Metsälä detention unit, it also transpired that the health care services do not visit foreign nationals placed in isolation on a daily basis. The Ombudsman recommended that a person placed in isolation be visited as soon as possible after their isolation, and subsequently every day or even more frequently if necessary.

Persons held in custody who were interviewed during the visit praised the unit's staff and felt that they acted properly. Not a single interviewee reported having experienced inappropriate behaviour or treatment at the detention centre. Observations made during the visit indicated that the staff treat the customers appropriately and respectfully and respond to their needs. However, it turned out during the visit that many of those held in custody were uncertain about their legal position and lacked legal advice. The customers' uncertainty about their position also emerged in interviews conducted with the staff.

The outdoor exercise yard at the detention unit of the Metsälä reception centre operated by the City of Helsinki (visit on 21 December 2016).

On his visit to Joutseno detention unit, the Ombudsman had expressed his view that the instructions related to hunger strikes followed in the unit were not suitable for situations where, for example, the customers initiated a mass hunger strike. Since then, in June 2016, the Finnish Immigration Service issued instructions for situations where a person seeking international protection or taken into custody or a victim of human trafficking goes on a hunger strike. These instructions also address the possibility of a hunger strike involving a group of people.

In the reporting year, the Ombudsman also visited five different reception centres and six group homes or assisted living units intended for unaccompanied minor asylum seekers. These sites were not regarded as falling within the NPM's mandate as they do not restrict the residents' freedom of movement or use other restrictive measures. This situation may change, however, as regulations on residence requirements and new protection measures related to residence requirements applicable to children have been included in the Aliens Act. For example, a child may be ordered to remain within the area of a reception centre in the future. These amendments will enter into force in 2017.

The Ombudsman also does not supervise the return flights of foreign nationals in his role as the NPM, even if he has the competence to do so. The reason for this is that the Non-Discrimination Ombudsman has been assigned the special task of monitoring removals from the country.

Social welfare / children's units

Three child welfare units were visited in 2016: Pienkoti Aura (Jyväskylä), Nuorisokoti Hovila (Jyväskylä) and Veikkari special children's home (Paimio).

Visits to child welfare units are usually unannounced. As an exception, the visit to Veikkari special children's home was pre-announced to ensure that as many of the children placed in this unit as possible would be present and could be heard.

There was a special focus during the reporting year on the conditions and treatment of unaccompanied minor asylum seekers at reception centres. Visits were conducted on six different sites in total: Karhusaari group home (Helsinki Deaconess Institute), Turku Reception Centre's group home (Finnish Red Cross), Heikkilä assisted living unit (Medivida Oy), Siuntio assisted living unit (Finnish Red Cross), Keuruu assisted living unit (Finnish Red Cross) and Säynätsalo assisted living unit (Jyväskylä region support home). The visits to reception centres were also unannounced.

The purpose of the visits was to gather information on the well-being of the young people placed in these units, their living conditions and the organisation of reception services. It was also verified that every child had a guardian, that legal aid had been organised for them and that they knew how to contact their guardians and counsels. The minors in these units are not subjected to restrictive measures and, for example, their freedom of movement may not be restricted under the law. Consequently, the visits were conducted under the Parliamentary Ombudsman's mandate rather than in the Ombudsman's role as the NPM.

Pienkoti Aura

- The NPM welcomed the unit's efforts to provide for and promote the children's right to meet and keep in touch with their parents and other significant persons. Meetings between children and their family members were supported systematically: for example, the unit paid for the children's and their family members' travel costs to the meetings. Family members could also stay overnight in the visitors' room at the unit. Additionally, the unit had a flat in the centre of Jyväskylä where children and their family members could spend weekends together.
- The unit has a practice of recording meetings between a child and a social worker and the way the meetings carried out. This is a good

practice and promotes the realisation of the child's rights.
- The staff were unsure of how requests for access to a document should be processed. The unit received general guidance related to correct practices during the visit. When a child leaves substitute care, the daily notes made on the child in the unit are usually destroyed by order of the municipality that placed the child in care, rather than filed in the municipal archive.
- As a spot check, one decision to restrict a child's freedom of movement was analysed. Shortcomings were found in it: the section on hearing the interested parties did not relate the content of the hearings or the views expressed. The manner in which the interested parties were informed of the decision, the date of the decision, or the party issuing the decision had not been recorded in the decision. The instructions for appealing the decision were also incorrect. The unit was provided with guidance related to correct procedures.

Nuorisokoti Hovila

- The institution has a practice of recording meetings between a child and a social worker and the way the meetings are carried out. This was found a good practice and promotes the realisation of the child's rights.
- The seclusion room did not have a call button, and a child placed in it had to draw the staff's attention by knocking on the door or the wall. The Deputy-Ombudsman's view was that an isolation room should have an alarm system. The Deputy-Ombudsman was informed during the visit that an alarm system is about to be installed in the isolation room as part of the youth home's new call system. The new system will make it possible to install an alarm device both in the isolation room and in each young person's room.
- When children arrive in the unit, they are asked to strip, and a decision on a physical examination is made on this procedure. As this practice was discussed with the home, it was noted that asking a child to strip is a bodily search, not a physical examination referred to in the Child Welfare Act. On the other hand, the Child Welfare Act provision on bodily search does not give a right to strip the child.

  The Deputy-Ombudsman proposed to the Ministry of Social Affairs and Health that the Ministry assess whether the provision on bodily search should be reviewed, at least in the case of young people who are the most demanding to care for.
- Recording CCTV system was installed at the unit's entrances. The unit's staff or the children placed in the unit were not aware of being recorded, even if a notice stating this was attached to the building's door. The Deputy-Ombudsman noted that the residents and employees of the unit, and possibly also outsiders, should be adequately informed of the recording CCTV system.

  The unit's director reported that, in order to increase awareness, the issue would be discussed at future meetings with employees and customers.
- The children could only use their phones during a limited call time. If their phone calls are restricted during this period, a decision on restricting contact is made. The Deputy-Ombudsman noted that if a child's right to use a telephone to keep in touch is restricted for reasons other than those related to their upbringing, a decision on restricting contact should be made, at least if this is demanded by the interested party.
- A decision to restrict a child's freedom of movement or a decision on special care may not be used to also restrict a child's contacts. A separate decision that can be appealed should be made on restricting contacts.

The Deputy-Ombudsman launched an own-initiative investigation of how a child's basic education is organised when he or she is subjected to restrictive measures.

Veikkari special children's home

- The difficulties young people experienced in accessing acute psychiatric care was found a problem in the unit. Even when a young person is taken by ambulance to a psychiatric assessment, he or she is usually returned to the unit the next day.
- The facilities were not accessible.
- Most social workers meet the children assigned to them at least twice a year, also outside meetings organised to prepare customer plans, which was considered positive. The social workers of a certain municipality, on the other hand, hardly ever come and meet the children placed in the institution by that municipality.
- As a rule, decisions to restrict a child's freedom of movement were made for seven days. The Deputy-Ombudsman noted that when making decisions on the duration of such a restriction, the type of restrictions that are essential for the child's situation and interests in each individual case should be assessed. For example, routinely restricting a child's freedom of movement for at least seven days without individual grounds could not be considered acceptable.
- The unit had made a decision on restrictive measures that involved isolation concerning a young person who was registered with the unit but who, at the time the decision was made, was physically located at an other unit. The young person had been apprehended after running away and taken to another unit to wait for transport back to their place of substitute care. The unit had been following instructions issued to it. The Deputy-Ombudsman found that the unit or the staff in the place of substitute care do basically not have a right to impose restrictive measures on a child outside the unit. Decisions on such measures should be made by the competent employee in the temporary place of substitute care.
- The unit had rules on using telephones and restricting telephone use in different situations. The Deputy-Ombudsman stated that restrictions related to children's upbringing may never interfere with a child's statutory rights. For example, when children's use of personal phones is only restricted during the night with the intention of making sure that they get enough sleep, this is a normal rule related to their upbringing. If a child welfare institution restricts a young person's mobile phone use with a blanket ban, or if the young person's calls are listened to when he or she is using the institution's mobile phone, these are actual restrictions of contacts, on which a decision must be made.
- Based on the unit's practices, it appeared that the children are regularly searched when returning from leave or after having run off. According to the Deputy-Ombudsman, these practices mainly seem to be based on the institution's own rules rather than individual consideration referred to in the Child Welfare Act. The Deputy-Ombudsman stressed that if a child is subjected to restrictive measures, there must be individual grounds for their use stated in the law. The measures must be justified in the relevant decision or in records kept on the measures. In principle, a child can give his or her consent to the search. The preconditions for this include explaining to the child that submitting to the search is voluntary. However, there should be no negative consequences for a child who refuses to consent to a search or testing. It appeared that, in practice, the children had no other option except to give their consent.
- The unit used a so-called grade system in which the young people progress as indicated by their behaviour and can attain different benefits and rights. They have the possibility of earning "Veikkari money" which they can use to buy the things they want. The Deputy-Ombudsman found that the grade system used by the unit contains practices which have a bearing on the young people's fundamen-

tal rights and which may be used to factually restrict their rights and freedoms referred to in the Child Welfare Act without making a decision required under the Child Welfare Act.

The Deputy-Ombudsman decided to launch an own-initiative investigation on how the municipalities placing young people in the unit have supervised the grade system used by it and assessed its actual nature.

Social welfare / units for older people

The Ombudsman conducts visits to care and residential units for older people in his role as both the NPM and the Parliamentary Ombudsman. When restrictions are placed on older persons in such units, the NPM is competent to pay supervisory visits to them. In many cases, the resident have memory disorders and their freedom of movement is restricted for this reason. The following four sites were visited in 2016: Palvelukeskus Hopeahovi (Kerava), Esperi Hoivakoti (Kerava), Harjukoti (Loppi) and Hoivakoti Salmela (Loppi). All these visits were announced.

On visits to units for older people, special attention is paid to whether the care and attention received by the residents is respectful of human dignity. Another key theme is how well the municipalities look after the right of their most vulnerable residents to the indispensable subsistence and care necessary for a life of dignity and adequate social and health services enshrined in section 19 of the Constitution.

The health care received by older persons and their access to physiotherapy/rehabilitation, oral hygiene and health, nutrition and hydration, personal hygiene and outdoor exercise/recreation are assessed on the visits. The staffing of the unit and the appropriateness of its facilities are also scrutinised. In addition, the NPM always look at how the residents' right to self-determination and privacy are implemented, what restrictive measures are used, and what decisions are made and records kept on their use.

- Based on observations made on the sites, regularly visits to the units by a doctor were considered a positive aspect in general. As a shortcoming, on the other hand, was considered the lack of sufficient individual physiotherapy arranged for the residents. The Deputy-Ombudsman has also found the lack of outdoor exercise a problem on all sites – especially in winter and in the case of those residents who would like to go outdoors and who would benefit from it.
- Terminal care was as a rule provided appropriately. Apart from one unit, the staff had received or were about to receive training on terminal care. One unit provided terminal care in double rooms, which the Deputy-Ombudsman found problematic in terms of the older persons' privacy and respectful treatment.
- In two units, all rooms were single rooms with private sanitary facilities. One unit additionally had small rooms of no more than 19 square metres intended for two residents, while another had rooms for up to four residents with no en-suite toilet. A curtain hanging from the ceiling could be pulled around the beds to provide privacy during care procedures. The Deputy-Ombudsman did not find these facilities compliant with modern requirements.
- In one institution, renovation work on the ventilation system was being carried out during the visit. A noisy machine was operated in the common area while three residents were spending time in it. No staff could be seen in this area. The NPM requested that the residents be moved to a more peaceful environment for the time of the renovations.
- The NPM familiarised themselves with the care plans of two residents in the unit and found them to be of poor quality. The Deputy-Ombudsman drew the unit's attention to the importance of care plans in safeguarding methodical care of a high quality and the need to prepare the plans meticulously. In another unit, the Deputy-Ombudsman paid attention

to the fact that the care plans did not include providing oral healthcare or keeping records of it.
- The Deputy-Ombudsman drew attention to using diapers of the correct size. This is important in order to provide high-quality care and to avoid skin sores and other problems.
- The unit had a self-monitoring plan posted on the office wall. On request of the NPM, the unit promised to move the plan to the corridor for everyone to see.

Residential units for persons with intellectual and other disabilities

In total, nine residential units for persons with intellectual and other disabilities were visited. Three of these visits were unannounced. The units were located in Tampere, Ulvila, Kouvola, Helsinki, Kuopio and Kajaani and included both institutional care and housing services units. Of these, six were units for persons with intellectual disabilities, one a unit for persons with severe disabilities, and one a unit that cared for both types of customers. A doctor specialised in intellectual disabilities participated in one of the visits as an external expert.

Particular attention on visits to units providing institutional care and housing services for persons with disabilities was paid to practices related to restrictions of fundamental rights and the use of restrictive measures. On these visits, the Ombudsman stressed the importance of the new provisions of the act on intellectual disabilities (*laki kehitysvammaisten erityishuollosta, 519/1977*) that entered into force on 10 June 2016, using restrictive and protective measures as the last resort, and the significance of supporting the residents' right to self-determination when providing housing and rehabilitation services for persons with disabilities. The housing conditions, accessibility of facilities, possibilities for participation available for persons with disabilities and access to adequate assistance were also assessed on the visits.

With the ratification of the UN Convention on the Rights of Persons with Disabilities, the Parliamentary Ombudsman became part of the mechanism referred to in Article 33(2) of the Convention designated to promote, protect and monitor the implementation of the rights of persons with disabilities. The Ombudsman thus also paid attention to the implementation of the rights specified in the Convention on his visits.

- A visit was conducted in a unit providing institutional care for persons with intellectual disabilities (Antinkartano rehabilitation centre, Ulvila), partly because the Ombudsman had received complaints concerning the organisation of special care and the use of restrictive measures. On the visit, the staff's attention was drawn to the fact that so-called care-related measures (including support belts, helmets, bed rails) can in some situations restrict a person's fundamental rights and right to self-determination.

  In this connection, the NPM brought up the new provisions on restrictive measures in the act on intellectual disabilities that must be taken into consideration when updating the instructions on using coercion. A decision must be made on the use of restrictive measures, and under the new provisions, the resident's legal representative, family member or similar also need to be informed of the decision without delay when the resident is personally unable to use legal remedies. It was also pointed out to the staff that holding on to a customer for a short while, or for less than 15 minutes, in order to calm him or her down is also a restrictive measure.
- Corrective action had been taken by the social welfare services of Satakunta Hospital District as a consequence of the amendments to the act on intellectual disabilities that entered into force on 10 June 2016. Training related to the contents of this legislation had been provided for the staff, and new written operating instructions had been issued. The documents related to decisions on restrictive measures and

instructions for appealing had been updated. Supervision within the hospital district's operating area has been intensified to ensure compliance with the new legislation.

- In a unit providing housing services for persons with intellectual and severe disabilities (Maununnitty, Kouvola) and an institutional care unit for persons with intellectual disabilities (Tuulikello, Kouvola), records kept on restrictive measures were very limited. Both commonly locked residents up in their rooms for the night (for up to 12 hours) as a restrictive measure. No separate decision that could be appealed had been made on locking the doors. During the visit, it was pointed out to the staff in both units that the residents' legal protection may be compromised by inadequate records and lack of decisions.
- Two wards of a unit providing institutional care for persons with intellectual disabilities (Kuusanmäki, Kajaani) had not, as late as in December 2016, started applying the amended provisions of the act on intellectual disabilities that entered into force in June 2016, and no decisions on restrictive measures had been made in the wards. For this reason, the residents lacked the possibility referred to in section 21 of the Constitution to have their cases dealt with appropriately by a legally competent court of law.

  The Ombudsman decided to investigate this matter separately on his own initiative.
- In acute situations, residents in a housing unit for persons with severe disabilities (Maununniitty, Kouvola) could only obtain assistance by shouting. The Ombudsman pointed out that the residents should always be able to contact the staff also by other methods.
- In a unit providing institutional care for persons with intellectual disabilities (Tuulikello, Kouvola) not all residents had the possibility of using the toilet at night. In this old property, the rooms did not have en-suite toilets, and a portable toilet was used instead. The Ombudsman stressed that the possibility of residents, also those with challenging behaviours, to use the toilet at night and to easily contact the night staff must be safeguarded.
- A unit providing institutional care for persons with intellectual disabilities (Tuulikello, Kouvola) had two secure rooms, one of which was in use at the time of the visit. The room had no furniture and no clock. The NPM were left unsure of how easily a person placed in the secure room could contact the staff. One entry in the records kept on restrictive measures noted that the person in question had urinated into a floor sewer.

  The Ombudsman drew attention to treating customers with dignity and good social welfare and health care. Persons placed in seclusion must have free access to a toilet. For this reason, too, a secluded person must have the possibility of contacting the staff without delay. The possibility of placing clocks in the secure rooms, or in a place where the persons in the secure rooms can see them, allowing them to keep track of time, was discussed during the visit.

  After the visit, the service manager reported that the secure rooms had been equipped with clocks.
- In a unit providing institutional care for persons with intellectual disabilities (Tuulikello, Kouvola), a customer lived in what was previously the secure room, as a result of soiling the rooms with faeces. The room was monitored by recording CCTV system. The necessity for camera surveillance was discussed during the visit. It should only be used when this is absolutely essential in order to protect the resident's safety. Additionally, the file description required under the Personal Data Act must be prepared when using a recording CCTV system. The room appeared very ascetic to be used for permanent residence. On a positive note, the resident also had access to other facilities in the immediate vicinity of the room.

  After the visit, the service manager reported that the camera's recording capability had been disabled.

- In a unit providing institutional care for persons with intellectual disabilities (Kuusanmäki, Kajaani), metal rings were found on the wall of the common area. A hammock had been attached to them that was no longer used. The Ombudsman recommended that the metal rings be removed to eliminate a potential safety risk.

  After the visit, the service manager reported that the rings for the hammock had been removed.
- An external expert that participated in a visit to a unit providing institutional care for persons with intellectual disabilities (Kuusanmäki, Kajaani) drew attention to the many drugs administered to one of the residents. The dose of one psychosis drug also exceeded the recommended maximum dosage.

  The Ombudsman recommended that the customer's medication be reviewed.
- In a unit providing institutional care for persons with intellectual disabilities (Kuusanmäki, Kajaani), the residents were allowed to call their family and friends on two days a week using the ward's mobile phone. Only one customer had a personal mobile phone. The ward's phone could only be used in the presence of an instructor. Its use was restricted as any emergency and other calls were directed to the phone in question. Discussions with residents' family and friends and complaints received by the Ombudsman indicated that the residents found keeping in touch difficult.

  The Ombudsman recommended that the ward review its practices in order to appropriately safeguard the customers' right to keep in touch with family and friends. He asked the unit to consider if the ward could have several phones, making it easier for the customers to contact their families.
- In a unit providing institutional care for persons with intellectual disabilities (Antinkartanon kuntoutuskeskus, Ulvila) problems were observed in the arrangements for the school attendance of customers in the age of compulsory education during institutional rehabilitation periods. After a visit in May, the rehabilitation centre managed to reach an agreement with the relevant municipalities on making appropriate arrangements for the children's school attendance, starting from the following autumn. The Ombudsman requested that the social welfare services of the hospital district report on the situation at the end of 2016.

  According to information provided by the social welfare services of Satakunta Hospital District, some progress has been made with organising school attendance, but mainly due to the challenges presented by certain pupils, the issue has not yet been resolved in all respects.

In addition, the NPM visited the psychological rehabilitation unit of Tampere University Hospital's Intellectual Disability Support Services in 2016. This was the only unit visited which, at the time of the visit, had customers in involuntary special care. This visit was follow-up on the first visit in November 2015. This time, the theme of the visit was hearing the customers and their family and friends. For this reason, the visit was pre-announced, and the unit was asked to inform the residents' family members and friends of it.

- On the previous visit, it had been observed that the doors to some residents' rooms were kept lock at night, and the residents had no bell for calling the staff if necessary. The NPM were now informed that this practice had been dropped, and the doors of all residents are currently kept open, also at night. This was made possible by increasing the number of night staff.
- The decisions on restrictive measures that the unit submitted in advance showed that in the case of one customer, so-called hygiene overalls had been used as a restrictive measure. When asked about the grounds for using the overalls, it turned out that the customer had kept stripping off and caused water damage with the discarded clothes. However, the latter reason had not been recorded in the decision.

In this context, the staff was instructed to record all grounds for using restrictive measures in the decision.

Health care

In the health care sector, the accurate number of those health care units that fall within the NPM's mandate is not available. A request for information has been submitted to the Ministry of Social Affairs and Health by the Office of the Parliamentary Ombudsman. The Ministry has been requested to submit to the Ombudsman a list of 1) units providing psychiatric special care, 2) secure rooms in the operating units of somatic health care, and 3) other health care operating units where people deprived of their liberty are or may be held. The processing of this request for information has not yet been completed at the Office of the Parliamentary Ombudsman.

In early 2016, the media spread news of serious abuses uncovered in the closed psychiatric wards of Turku City Hospital. According to the newspaper report, patients had been humiliated, assaulted and drugged senseless. In February, the National Supervisory Authority for Welfare and Health (Valvira) initiated an own-initiative investigation to verify if Kupittaa Psychiatric Hospital was operating appropriately. It soon turned out that the incidents aired in public mainly had taken place in a single geriatric psychiatry ward at City of Turku's Kupittaa Psychiatric Hospital in 2013. Valvira together with AVI Southwestern Finland conducted two inspections in this ward. The second inspection also extended to other wards.

The Ombudsman monitored the investigation, and the decision issued by Valvira on 15 June 2016 and the inspection reports were forwarded to him. In its decision, Valvira noted that placing acute psychiatric patients in single rooms reduced the incidence of violence and the need for coercive measures, as well as accelerating patients' recovery. The general objective should be placing these patients in single rooms.

Old medicine bottles in the Pitkäniemi Hospital Museum.

As a consequence of this incident, the Ombudsman felt there was a particular need to focus on geriatric psychiatry wards on visits to operating units of the health care system. While a geriatric psychiatry unit might not provide involuntary treatment referred to in the Mental Health Act it may, for example, find it necessary to restrict a patient's freedom of movement in a manner that falls within the NPM's mandate.

In the spring, the NPM visited the neuropsychiatry and geriatric psychiatry wards of the City of Tampere's Hatanpää Hospital and Pirkanmaa Hospital District's Pitkäniemi Hospital. A consultant psychiatrist participated in these visits as an external expert. Hearing patients with memory disorders is challenging, and it is usually not possible to obtain sufficient information on such questions as the patients' treatment this way. Consequently, the visits were pre-announced; the units were asked to inform the patients' family and friends of the visit and this opportunity to come and discuss their experiences of their family members' treatment and care with the NPM.

In both units, the Ombudsman stressed the hospital management's responsibility for preventing poor treatment of the patients. The Ombuds-

man also recommended that the patients and their families be provided with more written information on patient rights and care plans.

In Hatanpää Hospital, attentio n was paid during the visit to how the wards have provided for the safe mobility of patients with memory disorders. The Ombudsman recommended that hand rails be fixed to the walls and that the flooring on one of the wards be repaired. The use of different techniques for improving the patients' orientation was also recommended. For example, the patients' ability to find their own rooms and the common areas of the wards can be promoted by painting the doors in different colours or attaching pictures to them. The patients can be assisted in finding their own beds by means of identifying signs or personal items.

The Ombudsman also recommended that the doors of exercise yards and balconies be marked clearly to indicate when they are open. The goal should be allowing the patients access to outdoor exercise on a daily basis if they so wish. A determined effort should be made to achieve this goal, if necessary by hiring more staff. The actual realisation of outdoor access should also be monitored, for example by a list drawn up for each patient.

Shortcomings were found in instructions provided for security personnel. The Ombudsman recommended that a point be included in the instructions stating that when safeguarding the personal integrity of staff members, the security guard must follow instructions provided by the staff. The Ombudsman also recommended removing from the instructions references to legislation that only applies to patients placed under observation or in treatment by an order. The hospital did not treat patients involuntarily, and these provisions were thus not applicable.

Following the visit, the Ombudsman launched an own-initiative investigation of the following matters:

- The Ministry of Social Affairs and Health was asked to clarify and issue a statement on how the consent of a patient's legal representative to an important decision on treatment required under the Act on the Status and Rights of Patients can be obtained when the patient is unable to make the decision personally and has no family members or friends who participate in his or her treatment.
- The Regional State Administrative Agency was asked to establish and issue a statement on whether restraining a patient over long periods had been appropriate.
- Hatanpää Hospital was asked to establish how the contusions found in a patient's arm had been caused.
- Hatanpää Hospital was requested to provide information on the actions of the security guards on one of its wards.

An electroconvulsive therapy room in Pitkäniemi Hospital (visit on 20 April 2016).

A view from a balcony at the geriatric psychiatry ward in Pitkäniemi Hospital (visit on 20 April 2016).

The neurological and geriatric psychiatry wards of Pitkäniemi Hospital were informed of the Ombudsman's view, according to which patients in both involuntary and voluntary treatment should, if they so wish, have access to outdoor exercise daily. A draft report on the visit was sent to the hospital for comments. The hospital reported that it had taken action related to many viewpoints contained in the draft. These viewpoints concerned such issues as more detailed monitoring of the patients' outdoor exercise, placement of acute patients in single rooms, providing grounds for decisions to take patients in for observation as well as rectifying shortcomings observed in the seclusion room.

It was also recommended that the patients be informed better of their rights, including the right to obtain a second opinion on continuing their treatment at the hospital's cost and the right to, at their own cost, be assessed by a doctor chosen by them. Patients in involuntary treatment should also be clearly informed of their right to receive a decision that can be appealed on having their possessions removed from them if they do not accept the ward's practice of keeping the patients' possessions in the office.

Any assaults committed on the wards should, as a rule, be reported to the police. The hospital should have instructions on documenting the injuries of a patient brought in by the police. The Ombudsman also expressed his view that a security guard cannot perform duties that belong to health care professionals.

Following the visit, the Ombudsman launched an own-initiative investigation of the following matters:

- The Regional State Administrative Agency was asked to establish if the staffing ratio of Pitkäniemi Hospital is adequate.
- The Regional State Administrative Agency was asked to investigate if keeping a patient restrained for a long period had been appropriate.
- The Ministry of Social Affairs and Health was asked to investigate and give a statement on how a patient who has lost the ability for self-determination is represented in connection with an important decision on his or her treatment and commitment to involuntary treatment.

The NPM conducted a pre-announced visit in *the acute psychiatric ward of Vammala Hospital* in spring 2016. The ward did not have a brochure intended for patients and their families that would explain the operation of the ward and the patient's rights in as plain a language as possible. The staff was instructed to familiarise themselves with the brochure available on Valvira's website titled "Information about involuntary psychiatric care and patient rights".

The Ombudsman felt that it would be a good idea to establish in advance where the hospital should obtain a second opinion on the need to continue treatment in case of patients coming

A courtyard at Vammala Hospital where psychiatric patients can spend time outdoors independently (visit on 19 April 2016).

from several different municipalities. The ward's seclusion room did not have a clock that would enable a patient placed in the room to keep track of time.

The Ombudsman recommended that a clock be purchased. During the visit, it turned out that the seclusion room was used very little. The Ombudsman found this a positive development that could finally lead to abandoning the seclusion room altogether. The Ombudsman welcomed the green area built in the institution's courtyard that enabled also those patients whose freedom of movement is restricted to take outdoor exercise independently.

The NPM visited *the psychiatric wards of South Karelia Central Hospital* in late 2016. The NPM also visited the hospital's outpatient and assessment clinic for mental health patients, which provides detoxification and opioid replacement therapy. A psychiatric nurse participated in the visit to psychiatric wards as an external expert.

The hospital was informed in advance of a two-month period during which the visit would take place. This made it possible to obtain documents from the hospital and peruse them in advance. Before the visit, the NPM also contacted the patient ombudsman and the Regional State Administrative Agency, from whom a lot of useful information was obtained on aspects to which special attention should be paid on the visit.

In particular, the visit focused on the fact that, even if the hospital has managed to clearly reduce the use of different restrictive measures, an increase can be seen in the statistics since 2014. In the final discussion, this question was addressed, noting that the stalling of positive development may partly have taken place because the issue has not been actively brought up.

The unit did not have a plan for reducing the use of coercion in which quantitative and qualitative targets would be set for restrictive measures. The NPM noted that the unit should prepare such a plan. Instructions for special situations had been prepared for the unit. In this context, it was stated that the instructions should be turned into a user-friendly manual for the wards. This would promote consistent action by all nurses and, for example, help them understand how soon the doctors should come and check a patient. The chief physician explained that the doctors on call had been given instructions on this matter, but the nurses did not seem to know what they can expect of the doctors.

The NPM drew the unit's attention to the fact that the ward could have several patients in the same room, while other rooms were vacant. In the interest of the patients' recovery, however, spreading the patients into the rooms evenly could be considered an appropriate goal. Attention was also focused on the risk of compromising the privacy of patients placed in the seclusion

A visit to the psychiatric wards of South Karelia Central Hospital (23 November 2016).

room. Other patients in the ward called at the nurse's station, which had a direct visual link with the seclusion room through the security camera monitor.

As in previous years, the Ombudsman felt it was important to visit *the emergency care units of somatic hospitals*, which use so-called secure rooms. These rooms are used for patients brought to emergency care services who, for example because they are aggressive or confused, cannot be placed among other emergency patients.

This situation is a problem because there are no legislation on seclusion in somatic health care. However, secluding a patient may sometimes be justified under emergency or self-defence provisions. Usually, these situations involve an emergency where it is necessary to restrict the patient's freedom to protect either his or her own or other persons' health or safety.

In his legal practice, the Ombudsman' has also required that the legal provisions and ethical norms that guide the actions of doctors and other health care professionals (so-called double standard requirement) must be taken into account in these situations. Additionally, the procedure may not violate the patient's human dignity. Having appropriate equipment in the seclusion room is of major importance when assessing if a patient's seclusion has, as a whole, been implemented in a manner that qualifies as dignified treatment and high-quality health and medical care. As minimum requirements that a secure room must fulfil can be regarded the conditions laid down in the Mental Health Act for the seclusion of a psychiatric patient.

A patient placed in a secure room must be monitored continuously. This means that the patient must be monitored by visiting the seclusion room in person and observing the patient through a video link with image and audio.

Different emergency care units have numerous security rooms, and they are used regularly. Regardless of this, patients rarely complain to the Ombudsman about their placement in a secure room or their treatment while in there.

In 2016, the NPM visited the emergency care units of two university hospitals. Both visits were unannounced and took place in the evening time.

In the case of *the emergency care services of Turku University Hospital*, the NPM were satisfied that the secure room was not used in breach of the principles described above. On the other hand, there was scope for improvement in cooperation between various authorities. The observations made during the visit indicated that the emergency care unit personnel did not have a clear idea of how other authorities (such as the police and the detoxification centre) operate, even if their customers are partly the same. However, by increasing cooperation between the authorities, limited resources could be used more efficiently and appropriately.

A visit to the *First Aid Unit Acuta in Tampere University Hospital* left the NPM unsure of whether or not patients placed in the secure room are monitored appropriately. For this reason, the unit was asked to submit patient documents concerning patients placed in the secure room to the Ombudsman after the visit. Several monitoring entries had been made on each patient, the time intervals of which varied from 10 minutes to several hours, while the longest interval was over three hours. There is no general official policy on the time intervals of monitoring a secluded patient. In principle, the patient should be monitored as indicated by his or her situation. While camera surveillance may reduce the need to visit the patient, it does not eliminate the need for personal visits. In his previous comments, the Ombudsman has expressed the view that the patient's monitoring is insufficient if his or her status is only checked every half an hour. Appropriate records must always be kept of the monitoring.

A secure room at the Tampere University Hospital (Tays) First Aid Unit Acuta (unannounced visit on 19 April 2016).

Prisoners' health care was transferred to the administrative branch of the Ministry of Social Affairs and Health at the beginning of 2016. The Prisoners' Health Care Unit operates in connection with the National Institute for Health and Welfare (THL). At the same time, the powers of Valvira and the Regional State Administrative Agencies were expanded to also cover the prisoners' health care organisation. In practice, the supervision has been centralised to AVI Northern Finland, which conducts guidance and assessment visits to the outpatient clinics and hospitals of the Prisoners' Health Care Unit on its own or together with Valvira. By the end of the year, 12 of these units had been visited.

During the reporting year, the NPM made pre-announced visits to Turku and Kylmäkoski outpatient clinics of the Prisoners' Health Care Unit. An external expert participated in the latter visit. In addition to these, an inspector from the Office of the Parliamentary Ombudsman conducted a pre-announced visit to the Prison Hospital in Hämeenlinna. The purpose of the visit was to investigate a matter initiated as a complaint.

The outpatient clinic is almost always visited at the same time as the relevant prison. In this connection, prisoners are usually heard, gaining an impression of their experiences of the outpatient clinic's operation and of aspects to which special attention should be paid when visiting the clinic.

In Turku outpatient clinic of the Prisoners' Health Care Unit, keeping the clinic open during the weekends and having a doctor in attendance every weekday were considered positive aspects. The NPM also welcomed the fact that the prisoners have access to a dentist four days a week and that there is no queue for dental care.

The Ombudsman observed that incoming prisoners' check-ups are almost exclusively based on an extensive interview. The form used in the

check-ups does not contain questions about injuries or a body chart in which injuries could be recorded. However, the CPT report on Finland drew attention to the procedure of recording injuries claimed to result from inappropriate treatment. This comment also concerned incoming prisoners' check-ups.

The persons conducting the check-up should take into account the possibility that the prisoner may have been subjected to physical violence before arrival in the prison while in the custody of another authority as a person deprived of his or her liberty. The Ombudsman stressed that if appropriate documentation in this phase is lacking, the possibility of referring the matter to investigation by the authorities, if this is what the victim would like, is usually lost – or at least the investigation is hampered. This is important in terms of the legal protection of persons deprived of their liberty and, on the other hand, of those authorities or other actors at whom suspicions are levelled.

The Ombudsman recommended that any signs of physical violence be discussed with the patient and that their absence is also recorded in the patient documents. If injuries are found, an appointment with a doctor should be made for the prisoner, so that the injuries can be examined and recorded appropriately.

A screening of treatment needs had been carried out for all inmates serving a life sentence in the prison in the previous year, and the Ombudsman felt that this was a step in the right direction. The clinic was encouraged to continue this type of screening activities at regular intervals. The Ombudsman also recommended that the clinic carry out a screening of the treatment needs of other prisoners serving long sentences.

When prisoners were interviewed, they expressed their dissatisfaction at not receiving a response to their inquiry forms. The Ombudsman does not find the clinic's action related to responding to the inquiry forms lawful if the general practice is not to inform the patients of the time of their doctor's appointment in advance. They should also be informed if the appointment is rescheduled. In this respect, prisoners should not placed in a different position from other patients. The Ombudsman found it important that the clinic's practice related to informing patients of the times of their doctor's appointments, and possibly other appointments, be changed so that it is compliant with the law.

Whether or not the form currently in use is suitable in general for contacting the clinic was also discussed during the visit. This applied to all Prisoners' Health Care Units, which is why the Ombudsman noted he would take it up separately with the National Institute for Health and Welfare and the Prisoners' Health Care Unit, rather than assessing the question any further. However, the Ombudsman encouraged the clinic in continuing its efforts to design its own form that would only relate to health care issues. This would be another way of helping to streamline the patients' interaction with the clinic.

The Ombudsman also recommended that the clinic work together with the prison to ensure that the confidentiality of the prisoners' interactions with the health care services is not compromised. If the inquiry form is the prisoner's only way of contacting the health care services, attention should be paid to secrecy in its use. As an example, he cited a prison where messages intended for the clinic can be placed in a locked letterbox intended for this purpose.

The Ombudsman also drew attention to monitoring the state of health of prisoners who are under observation. The NPM were told that a prisoner placed in observation, or isolating observation, is always visited at the time of the placement. Subsequently, the prisoner is visited as required. A prisoner in solitary confinement is visited roughly once a week.

The imprisonment act (*vankeuslaki*, 767/2005) does not contain specific provisions on how often the health care services should visit these prisoners. The CPT standards require that the health care services visit a prisoner placed in isolation immediately and, subsequently, at least once a day. The Ombudsman found it important that the clinic visits a prisoners placed under observation

or isolating observation every day. The Ombudsman also recommended that a prisoner placed in solitary confinement or in isolation be visited regularly.

On a visit to *the Kylmäkoski outpatient clinic of the Prisoners' Health Care Unit*, particular attention was paid to the fact that the clinic has less access to a doctor's services than when the Ombudsman last visited it in 2013. A doctor only visits Kylmäkoski once or twice a week and has time to see no more than a few patients during one working day, as his or her working time is mainly taken up by written consultations. This naturally results in a queue for doctor's appointments and continuously increases the nurses' daily workload.

Additionally, no psychiatrist visited the clinic, and outside psychiatric services were used little. Dental health services had also been outsourced. The visits of the dentist, who came from Helsinki, were not regular. The nurses had time to conduct at least a brief check-up on all new prisoners. The addition of a section on possible signs of violence to the check list developed for this purpose was proposed.

3.4.9 OTHER ACTIVITIES

Statements issued

In the criminal sanctions sector, three statements were issued during the reporting year to the Department of Criminal Policy at the Ministry of Justice. One of these concerned *alternatives and arrangements for remand imprisonment*. The Deputy-Ombudsman found justified and supported the proposals put forward by the working group as options for remand imprisonment, which included an electronically supervised enhanced travel ban and house arrest. Through these methods, the use of deprivation liberty and the different harmful effects of remand imprisonment on the prisoner could be reduced.

On the subject of holding remand prisoners in the detention facilities of the police, the Deputy-Ombudsman noted that Finland, too, should achieve the goal of holding these prisoners in remand prisons after a decision on their imprisonment has been made. The Deputy-Ombudsman found it extremely important that the working group's proposals be implemented. The processing of the matter has advanced since that time, and the government has submitted a proposal on it to the Parliament (HE 252/2016 vp). The Office of the Parliamentary Ombudsman has issued a statement on the proposal to the Legal Affairs Committee.

Another important issue relevant to the rights of persons deprived of their liberty on which the Deputy-Ombudsman issued a statement to the Ministry of Justice concerned *restraining prisoners during transport*. The Deputy-Ombudsman did not find the contents of the draft bill justified as it proposed dropping individual consideration. Under the draft bill, all prisoners travelling together could be restrained on certain conditions, without individual consideration in the case of each prisoner.

The Deputy-Ombudsman noted that the proposal was problematic in terms of the Constitution, in breach of international recommendations concerning persons having been deprived of their liberty, and inconsistent with international monitoring bodies' practice. This matter has also progressed to the Parliament, and the Office of the Parliamentary Ombudsman issued statements on the government bill (HE 263/2016 vp) to the Legal Affairs Committee and the Constitutional Law Committee in early 2017.

Several amendments were made to the *Aliens Act* in 2016. The provisions that concern district court hearings on taking foreign nationals in custody were lightened. In the future, cases that concern holding a foreign national in custody will only be heard again by the district court on request of the person in custody. Previously, such a case had to be brought before the court every two weeks. The Ombudsman issued a statement on this matter

both in the drafting stage and during the parliamentary hearing. In addition, the Ombudsman was consulted on the legislative amendment by parliamentary committees.

In connection with the *rights of persons with disabilities*, the Ombudsman issued a statement to the Constitutional Law Committee on a government bill on special care for people with disabilities (HE 96/2015 vp). The purpose of the amendment is to reinforce the right to self-determination of persons in special care and to reduce the use of restrictive measures. The provisions entered into force in June 2016.

Own-initiative investigations and decisions issued on them

The Ombudsman ordered that three Helsinki District Court judges and the director of Metsälä detention unit *be prosecuted* for negligent breach of official duty. The charge is based on their failure to process decisions to keep foreigners taken in custody in isolation as required by the law. This came to light as the Ombudsman visited the detention unit in December 2014.

The Deputy-Ombudsman initiated an own-initiative investigation on *electroshock weapon use by the police*. In his decision on the matter, he proposed that the National Police Board prepare guidelines on electroshock weapon use. Attention should also be paid to the quality of training – including in-service training – and its supervision. The possibilities of recording electroshock weapon use by a camera should, additionally, be examined and assessed. These aspects are significant for the legal protection of a person against whom coercive measures are used and also an individual police officer. Initial reports on electroshock weapon use were presented to the Deputy-Ombudsman in connection with a visit to the National Police Board.

In connection with a visit to a *police prison*, it was found that the prison continues using a so-called restraint bed that the CPT had criticised on its visit in 2014. The CPT had recommended that the use of the restraint bed be discontinued immediately. In Finland's response to the CPT, the use of the bed was considered acceptable. The Deputy-Ombudsman launched an own-initiative investigation on this matter and requested information from the National Police Board on the use of the restraint bed and any instructions concerning it. A detoxification centre located beside the police prison was also requested to provide information on how its personnel participate in assessing and monitoring the state of health of a person tied to the restraint bed. The processing of this matter remains unfinished.

During the reporting year, the Deputy-Ombudsman asked the National Police Board to submit to him a report on *deaths of persons deprived of their liberty in police custody* in 2000–2016. A report on whether these cases led to pre-trial investigations, prosecutions or sentences was also requested. Additionally, information on how the police strive to prevent suicides and deaths of persons deprived of their liberty during transport and whether instructions or training on this issue have been provided was also requested. The matter is still pending at the Office of the Parliamentary Ombudsman.

In the *criminal sanctions sector*, the practice of an open prison that imposed a disciplinary sanction on prisoners who refused to provide urine samples was investigated as a separate issue. In the decision issued on this matter, the Deputy-Ombudsman noted that the practice was not based on law and that it was also not possible to provide for a disciplinary punishment on this basis in the prison rules. At the same time, the situation in other prisons besides the open prison in question was investigated. No other open prison had a similar practice.

Legislative proposals

When inspecting documents related to a prison visit, it was found that a warden had, when transporting a prisoner, brought a pillowcase to stop the prisoner from spitting. When it was observed that the prisoner had collected a mouthful of saliva during transport, the prisoner's face was covered with a pillowcase. This action was considered problematic, which is why an own-initiative investigation of how the Criminal Sanctions Agency is prepared for the need for such protection measures was launched. This individual case will not be investigated, as it is pending as a criminal matter in the case of this prisoner.

The information provided indicated that following the observations made during the visit, the prison had given up using pillowcases and purchased hoods specifically designed to prevent spitting. The Criminal Sanctions Agency had not issued separate instructions on anti-spitting devices.

In his decision, the Deputy-Ombudsman found that preventing spitting by mechanical devices is a restriction of fundamental rights that interferes with the prisoner's personal integrity, and legislative provisions that are carefully limited and sufficiently detailed should be laid down on it. The current legislation contains no provisions on protection measures and use of force to prevent spitting, or the devices used for this. The Deputy-Ombudsman informed the Ministry of Justice of the absence of regulation on devices that prevent spitting. He proposed that the Ministry of Justice consider if more specific legislation on protection against spitting is needed.

On a visit to a *child welfare unit*, it was noted that under the Child Welfare Act, the staff does not have a right to order a child to strip. Asking a child to strip is a bodily search, not a physical examination referred to in the Child Welfare Act. On the other hand, the Child Welfare Act provision on bodily search does not give a right to strip the child. The Deputy-Ombudsman submitted a proposal to the Ministry of Social Affairs and Health aiming to assess if the provision on bodily search should be reviewed, at least in the case of young people who are the most demanding to care for.

Proposals on recompense

In his role as a supervisor of fundamental rights, the Ombudsman can make proposals concerning recompense for human rights violations. When it is no longer possible to rectify a problem, the Ombudsman may suggest that an authority make an apology to the person whose rights have been violated, or that financial compensation be considered. The proposals have in most cases led to a positive outcome.

Below, some examples of proposals on recompense made in 2016 are given that are associated with violations against persons deprived of their liberty or with their treatment. For more information about proposals on recompense and the action taken as a consequence, see section 3.6.

No justifications required by law for placing a *prisoner* in observation were given, no decision was made on placing the prisoner in observation, and the health care staff was not informed of the placement. In addition, the manner in which the strip search that proceeded the observation and the conditions in which the prisoner was kept were inappropriate. The Deputy-Ombudsman found it credible that the prisoner had been cold at night in the isolation cell in scant clothing and without a blanket. The Deputy-Ombudsman proposed that the State of Finland pay the prisoner compensation for being placed in observation without proper grounds.

The Ombudsman proposed that a *patient* be recompensed for a chain of events that started when the patient left a central hospital's joint emergency services. A doctor had been in breach of the Mental Health Act by not ensuring, when requesting executive assistance from the police,

that a health care professional would accompany the patient during transport. The patient was then locked up in the secure room of the emergency services unit, which did not appear necessary. No decision made by a doctor on the patient's seclusion was found in the documents. The monitoring of the secluded patient was also insufficient. According to the Ombudsman, this had compromised and violated the patient's fundamental rights to personal freedom and safety, and the Ombudsman thus recommended that recompense be paid for the violations.

The possibilities of *a patient in involuntary care* of contacting their legal representative were restricted without grounds laid down in the Mental Health Act and following an incorrect procedure. According to the Ombudsman, this could constitute a violation of the protection of privacy enshrined in the Constitution and the European Human Rights Convention. The patient's psychotic symptoms were not a sufficient reason to restrict contact with a legal representative by over 24 hours, especially when the patient no longer was secluded. The Ombudsman requested that the hospital district consider if it could compensate the patient for this violation of rights.

3.5 Shortcomings and improvements in implementation of fundamental and human rights

The Ombudsman's observations and comments in conjunction with oversight of legality often give rise to proposals and expressions of opinion to authorities as to how they could in their actions promote or improve the implementation of fundamental and human rights. In most cases, these proposals and expressions of opinion have had an influence on official actions, but measures on the part of the Ombudsman have not always achieved the desired improvement.

On the recommendation of the Constitutional Law Committee (PeVM 10/2009 vp), the 2009 Annual Report contained for the first time a section outlining observations of certain typical or persistent shortcomings in the implementation of fundamental and human rights. Also outlined were examples of cases in which measures by the Ombudsman had led or are leading to improvements in the authorities' activities or the state of legislation. The Constitutional Law Committee has expressed the wish (PeVM 13/2010 vp) that a section of this kind will become a permanent feature of the Ombudsman's Annual Report.

Not all problems relating to legality or fundamental and human rights come to the Ombudsman's knowledge. Oversight of legality is founded to a large degree on complaints from citizens. Information about shortcomings in official actions or defects in legislation is obtained also through inspection visits and the media. However, receipt of information about various problems and the opportunity to intervene in them can not be completely comprehensive. Thus lists that contain both negative and positive examples can not be exhaustive presentations of where success has been achieved in official actions and where it has not.

The way in which certain shortcomings repeatedly manifest themselves shows that the public authorities' reaction to problems that are highlighted in the implementation of fundamental and human rights has not always been adequate. In principle, after all, the situation ought to be that a breach pointed out in a decision of the Ombudsman or, for example, in a judgement of the European Court of Human Rights should not re-occur. The public authorities have a responsibility to respond to shortcomings relating to fundamental and human rights through measures of the kind that preclude comparable situations from arising in the future.

Possible defects or delays in redressing the legal situation can stem from many different factors. In general, it can be said that the Ombudsman's stances and proposals are complied with fairly well. When this does not happen, the explanation is generally a dearth of resources or defects in legislation. Delay in legislative measures also appears often to be due to insufficient resources for law drafting.

3.5.1 TEN CENTRAL FUNDAMENTAL AND HUMAN RIGHTS PROBLEMS IN FINLAND

This section in the Annual Report for 2013 described ten central fundamental and human rights problems that Parliamentary Ombudsman Jääskeläinen brought up in an expert seminar on the evaluation of the Finnish National Action Plan on Fundamental and Human Rights in December 2013. The list of problems had been put together on the basis of observations made in the course of the Ombudsman's work.

The same ten problems mainly remain topical today. The changes that have been made and potential progress have been included in the following descriptions.

Shortcomings in the conditions and treatment of the elderly

There are tens of thousands of elderly customers living in institutional care and assisted living units. Shortcomings related to nutrition, hygiene, change of diapers, rehabilitation and access to outdoor recreation are identified continuously. These shortcomings are often consequences of insufficient staffing, which may also lead into excessive use of medication.

There are also shortcomings in safety, outdoor recreation arrangements and services for running errands.

Measures limiting the right to self-determination in the care of the elderly should be based on law. However, the required legislative foundation is entirely lacking.

There are insufficient resources for internal oversight of the administration. The regional state administrative agencies do not, in all cases, have the means to supervise the activities. Sufficient means of supervising services provided at home are lacking. In practice, the only means of supervising the adequacy and quality of services for the elderly provided at home are the authorities' self-monitoring and ex post supervision.

Shortcomings in child protection and the handling of child matters

A general lack of local government resources for child protection, the low number of tenures, in particular those of competent social workers, and great turnover of employees have a negative impact on the quality of child protection services.

The supervision of foster care in child protection is insufficient. The child protection authorities at the municipal level do not have enough time to visit foster care locations and they are not sufficiently familiar with the conditions and treatment of the children. Children's right to confidential discussions with their social workers is not realised as laid down in the law. The regional state administrative agencies do not have enough resources for inspections. There is little scope for supervising family care, in particular.

Customer plans that support parenting are not always made for the parents of children placed in foster care.

The children are not always heard, and their opinions are not established in a manner that would take the child's best interest into account.

Mental healthcare services for children and the youth are lacking. It is difficult to arrange the treatment needed by children placed in foster care.

The insufficiency of and delays in open welfare support services for families cause problems for families that need services. This insufficiency is manifested as an increased need for child protection and reflected in children's mental health problems. The objectives of the new social welfare act (*sosiaalihuoltolaki*, 1301/2014) is to strengthen basic services and thus reduce the need for corrective action. The idea is to lower the threshold for seeking help by providing social welfare services in connection with other basic services.

The total handling time in matters related to the care of a child and other matters often becomes unreasonably long from the perspective of the child's interest. In particular, preparing a report of the child's circumstances takes an excessively long time.

Shortcomings in the guarantee of the rights of persons with disabilities

Equal opportunities for participation are not realised for persons with disabilities. There are shortcomings in the accessibility of premises and services and the implementation of reasonable adaptation measures.

The policies for limiting the right to self-determination vary in institutional care. While a recent amendment to the act on special care for persons with intellectual disabilities (*laki kehitysvammaisten erityishuollosta*, 381/2016) is likely to improve the situation in part, the practices in institutions will need to be reassessed and improved.

The social and health services for children with disabilities are insufficient.

Statutory service plans and special care programmes are not always prepared, they are inadequate, or there are unjustified delays in their preparation. The municipalities' application practices regarding disability services are inconsistent, and the instructions issued may prevent the customers from accessing statutory services.

Not enough support is provided for the employment of persons with disabilities. In many cases, persons with mental disabilities work at activity centres for a salary lower than minimum wage.

The implementation of the equal rights to education of persons with disabilities is fraught with problems. The support services are inadequate. There are shortcomings in municipal decision-making; the instructions for appealing are sometimes inadequate, and administrative decisions are not always made on all matters, even if the decisions affect the rights of a person with disabilities.

Policies limiting the right to self-determination at institutions

Measures limiting the right to self-determination often lack legal grounds, including in situations where they are based only on "institutional power". In unregulated situations, limiting measures may be excessive or inconsistent. The supervision of policies limiting self-determination is insufficient, and the controllability of these measures has shortcomings, especially in those cases where no procedural guarantees of protection under the law are provided.

An amendment to the act on special care for persons with intellectual disabilities that became valid in the year under review now contains specific provisions on restrictive measures. The requisite legal basis is still completely lacking, however, in such fields as care for older persons and somatic health care.

Problems with legal aid for foreigners and insecurity of immigrants without documentation

Due to the higher number of asylum seekers and restrictions in the availability of legal aid, fewer and fewer asylum seekers receive legal aid in the first stage.

As a result of shortcomings in legal advice, foreigners placed in detention often are unaware of their rights and their situation.

Shortcomings and ambiguities have been identified in meeting the basic needs of immigrants without documentation, such as social and health services and basic education. A government bill was submitted to the Parliament in 2014 (HE 343/2014 vp) that would have improved the right to health services of certain groups among the so-called undocumented persons (including pregnant women and minors), but the bill lapsed.

The number of decisions to cease the provision of reception services (157 decisions in 2016) is likely to increase, as more refusals of asylum have been issued to asylum seekers whose involuntary repatriation fails. The municipalities currently have different practices related to the offer of social and health services to persons whose reception services have ceased.

Flaws in the conditions and treatment of prisoners and remand prisoners

For many prisoners, the lack of activities is a serious problem. Some prisoners are forced to remain in their cells 23 hours per day. The Council of Europe Committee for the Prevention of Torture (CPT) recommends that prisoners have at least eight hours per day outside of their cell.

Remand prisoners are still too often detained in police prisons. The CPT has criticised Finland for this for 20 years. According to international prison standards, those suspected of an offence should be kept in remand prisons rather than police detention facilities, where conditions are suitable only for short stays and where remand prisoners are at risk of being put under pressure. The CPT issued its report on an inspection visit made to Finland in 2014 during the reporting year. While the CPT's criticism of the practice of holding remand prisoners in police prisons was more strongly worded than before, there is no certainty that changes can be made rapidly in this respect. The Parliament is debating a government proposal concerning legislation on alternatives to and the arrangement of reprimand imprisonment (HE 252/2016 vp), the aim of which is to shorten the times for which remand prisoners are held in police prisons.

Toiletless cells used for confining prisoners are against the international standards of prison administration and can violate the human dignity of the prisoners. Cells with no toilets remain in use in Hämeenlinna prison. A completely new prison will be built in Hämeenlinna, however. Once the new prison is completed – apparently in 2019 – cells without toilets will no longer be used.

Shortcomings in the availability of sufficient health services

There are shortcomings in the organisation of statutory health services. For example, there are problems with the distribution of care supplies and the handing over of assistive devices for medical rehabilitation. For financial reasons, sufficient quantities of supplies and assistive devices are not always handed out.

The round-the-clock dentist service required by the Health Care Act has not been implemented, and access to dental care is not always implemented as required in the legislation on the care guarantee.

Neither has the access to treatment assured under the statutory care guarantee been implemented in full in other health care. In many cases, the queues for treatment are too long.

There are shortcomings in the healthcare of special groups, such as conscripts, prisoners and immigrants without documentation.

Shortcomings in the learning environment of basic education

Bullying at school is often left to run its course. The schools do not have the means of identifying aggressors and intervening in bullying.

Indoor air problems are continuously and increasingly identified at schools. There are major differences between municipalities. Some have effective working groups on indoor air, while others do not even have a pre-agreed operating model for what should be done when problems come up.

The availability of student welfare, rehabilitation and other school-related and learning support depends on the child's place of residence and the financial situation of the home municipality. The unique needs of the child cannot always be taken into consideration. A new act on student and pupil welfare (*opiskelija- ja oppilashuoltolaki* 1287/2013) entered into force on 1 August 2014.

The purpose of this act is, among other things, to harmonise the practices of organising and implementing pupil and student welfare. Based on inspection findings, the municipalities have complied reasonably well with the statutory periods for access to student welfare services.

Shortcomings are associated with the accessibility of school and study environments. This may impede the realisation of the local school principle, for example, and in general hamper the integration of disabled schoolchildren in general education.

Lengthy handling times of legal processes and shortcomings in the structural independence of courts

Delayed trials have long been a problem in Finland. This has been identified in both the national oversight of legality and in the ECHR case law. Despite some legislative reforms that have improved the situation, trials can still last an unreasonably long time. This can be a serious problem in particular for matters that require urgent handling, such as child-related matters.

With respect to the structural independence of the courts, the fact that the court system is led by a ministry is problematic. In the year under review, the Ministry of Justice launched a project to prepare the establishment of a national courts administration. Problems that put the independence of courts at risk include the large number of temporary judges, and the fact that the local councils in practice select jury members for District Courts on the basis of political quotas.

Continuous under-resourcing undermines the operation of the courts.

Shortcomings in the prevention and recompense for fundamental and human rights violations

Fundamental and human rights violations are not always taken seriously, which partly results from insufficient human rights training and education.

International human rights treaties are not ratified quickly enough in Finland. This, in turn, slows down the creation of the structures and procedures aimed at securing the rights guaranteed by the treaties.

The legislative foundation for the recompense for basic and human rights violations is lacking. No action has been taken to draft amendments to the contents of the Tort Liability Act (the duty of public administration to pay recompense for violations of fundamental and human rights).

3.5.2 EXAMPLES OF POSITIVE DEVELOPMENT

For the Ombudsman's recommendations concerning recompense for mistakes or violations and measures for the amicable settling of matters, see sub-chapter 3.6. These proposals and measures have mostly led to positive outcomes.

3.6 The Ombudsman's proposals concerning recompence and matters that have led to an amicable solution

The Parliamentary Ombudsman Act empowers the Ombudsman to recommend to authorities that they correct an error or rectify a shortcoming. Making recompense for an error or a breach of a complainant's rights on the basis of a recommendation by the Ombudsman is one way of reaching an amicable settlement in a matter.

Over the years, the Ombudsman has made numerous recommendations regarding recompense. These proposals have in most cases led to a positive outcome. In its reports (PeVM 12/2010 vp and 2/2016 vp), the Constitutional Law Committee has also taken the view that a proposal by the Ombudsman to reach an agreed settlement and effect recompense is in clear cases a justifiable way of enabling citizens to achieve their rights, bring about an amicable settlement and avoid unnecessary legal disputes. The grounds on which the Ombudsman recommends recompense are explained more extensively in summary of the annual reports of 2011 (page 84) and 2012 (page 65).

In 2016, the Supreme Court addressed the issue of recompense for suffering in two decisions.

The decision KKO:2016:57 concerns the preconditions for granting leave for continued consideration.

A District Court had required the State to pay to person A EUR 2,000 in recompense for suffering due to a violation of the sanctity of the home and privacy. A Court of Appeal had constituted that there were no grounds for granting leave for continued consideration. According to the Supreme Court, there are no separate legal provisions on eligibility to recompense for suffering claimed on the basis of a house search performed without legal grounds and the issue has not been discussed in the published case-law of the Supreme Court or Courts of Appeal.

There is very limited case-law on the State's liability for non-pecuniary damage caused by a violation of fundamental and human rights in general and particularly with respect to Article 8 of the European Convention on Human Rights (ECHR) and section 10 of the Constitution of Finland. The preconditions for recompense for suffering are still partly unclear, for example, in terms of when a violation is serious enough to exceed the threshold of requiring the State to pay damages. Having a decision on the substance of the matter to guide interpretation has also been important for determining the amount of compensation payable for such violations and defining the facts that should be considered when assessing the matter.

The opportunity to refer a house search to a court for examination and to claim damages in such cases are fairly new legal remedies. Therefore, taking into account the large number of house searches performed, the importance of the decision extends beyond the individual case. The issues addressed have also clearly been of general interest. Thus, the case concerned a typical situation in which the Court of Appeal should have granted leave for continued consideration in order to set a precedent. The Supreme Court quashed the Court of Appeal's decision and sent the case back to the Court of Appeal.

The decision KKO:2016:20 primarily concerned a claim for damages based on a faulty procedure applied by the Administrative Court of Helsinki and its incorrect decision issued on 27 October 2003.

The Supreme Court considered that there was a causal link between the incorrect conduct of the Administrative Court and the fact that N had been ordered to be deported and had been under the threat of deportation until 3 January 2006. Medical certificates stated that N's depression and anxiety were at least partly caused by uncertainty about the outcome of N's residence permit application and that the uncertainty had lasted for a long time. The Administrative Court's incorrect procedure had contributed to prolonging N's residence permit process.

Therefore, the Supreme Court found it to be established that this had caused N to suffer. According to the Supreme Court, when considering damages for violations of fundamental and human rights, it is unnecessary to assess under the Tort Liability Act whether the suffering is due to a personal injury or whether the damages constitute damages for anguish. When determining the amount of compensation, consideration should be given to the severity and duration of the violation and its consequences. In view of the serious nature and long duration of the violation and its consequences, the Court estimated a compensation of EUR 5,000 to be reasonable.

In a decision issued in 2015, the Supreme Administrative Court adopted an interpretation that was favourable to human rights, disregarding a restriction laid down in the entry-into-force provision of an act amending the Act on Compensation for the Excessive Length of Judicial Proceedings.

The decision KHO:2015:139 states that the purpose of the Act on Compensation for the Excessive Length of Judicial Proceedings is to ensure access to effective national remedies if the length of judicial proceedings can be considered excessive and in violation of Article 6(1) of the ECHR. In such cases, the State could be ordered to recompense for the human rights violation caused by the delay.

Therefore, the entry into force of the amendment to the Act on Compensation for the Excessive Length of Judicial Proceedings should not be delayed in administrative judicial procedures, for example, due to reasons concerning central government finances. Instead, the entry-into-force provision must be interpreted in a manner that is favourable to human rights, ensuring that the national appeal process gives parties to judicial proceedings, as quickly as possible, access to the same legal protection as they would have at the Court of Human Rights. The claim for compensation for the excessive length of judicial proceedings due to the time taken by an Administrative Court to rule on the matter should have been examined despite the restrictions laid down in the entry-into-force provision.

Under the State Indemnity Act (*laki valtion vahingonkorvaustoiminnasta*, 978/2014), the majority of claims for damages addressed to the State are processed by the State Treasury. The act is applied to the processing of a claim for damages from the central government if the claim is based on an error or neglect by a central government authority. According to information obtained from the State Treasury, a total of 692 claims for damages were submitted in the reporting year. Most of these cases were initiated as claims for damages filed with the State Treasury or the relevant authority. Seven cases were initiated as a result of a proposal for recompense made by the Parliamentary Ombudsman. The State Treasury issued a total of 544 decisions.

A significant share of these, more than 229 decisions, concerned the administrative branch of the Ministry of Justice and, in particular, financial losses incurred in guardianship services. They included failures to apply for subsistence subsidy, care and housing allowances, and collection charges ensuing from late payments. All proposals concerning recompense made by the Parliamentary Ombudsman to the State Treasury led to the payment of compensation.

During the reporting year, the Ombudsman issued 17 recommendations for recompense, and settlement was reached with regard to one previous recommendation. In addition, during the handling of complaints, communications from the Office to authorities often led to the rectification of errors or insufficient actions and, therefore, contributed to an amicable settlement. In numerous other cases, guidance was provided to complainants and authorities by explaining the applicable legislation, the practices followed in the administration of justice and oversight of legality, and the means of appeal available.

3.6.1 RECOMMENDATIONS FOR RECOMPENSE

The following gives an overview of the recommendations for recompense made by the Ombudsman during the year under review. Some of the cases are still waiting for a response from the authorities.

Right to personal liberty and integrity

Unlawful conduct of a paramedic

The prehospital emergency care of a complainant who had an epileptic seizure was not carried out in accordance with the Act on the Status and Rights of Patients due to unconsented interference with the complainant's physical integrity.

According to the Ombudsman, the prehospital emergency care provided to the complainant had violated the right to personal integrity and the protection of private life enshrined in the European Convention on Human Rights (ECHR) because under these rights the unconsented treatment of a patient is only allowed if it is based on law.

In the case-law of the European Court of Human Rights, medical procedures performed without a patient's consent or the support of legal provisions that would justify the procedure have been considered violations that give rise to monetary compensation. The Court has paid particular attention to whether the measure has aroused in the patient feelings of fear, anguish or inferiority. The complainant reported feeling humiliated, hurt, worthless and dirty. The Ombudsman considered it obvious that the conduct of the prehospital medical personnel had caused the complainant suffering that should be recompensed (1418/4/15).

The hospital district reported that the complainant had been invited to a meeting to discuss the event. As a result, the head of prehospital emergency care apologised to the complainant. At the complainant's request, the parties also agreed that the head of prehospital emergency care and the paramedic in question would visit the complainant for the paramedic to also apologise. The recompense process had been initiated, but the amount had not yet been determined.

Seclusion of a patient

A complainant had left the joint emergency services of a central hospital. The doctor ordered the complainant to be brought back. When requesting executive assistance, the doctor violated the Mental Health Act by not ensuring that a trained health care professional would accompany the patient during transport. Back at the hospital, the complainant had to be placed in a locked room.

Placing the complainant in a secure room at the emergency services unit did not seem necessary. Moreover, no formal doctor's decision on the seclusion was found in the documents. During seclusion, the complainant's state was monitored only once. The monitoring had been insufficient and against the institution's own guidelines. According to the Ombudsman, the measures had compromised and violated the complainant's fundamental rights to personal liberty and security (1768/4/15).

The managing director of the hospital district's joint municipal authority had issued a decision apo-

logising for the unfair treatment of the complainant. In addition to the apology, the managing director considered it reasonable to pay the complainant EUR 200 in recompense for the violation of fundamental and human rights.

Unlawful deprivation of liberty

Person A had been deprived of their liberty from 25 March to 6 April 2016. The deprivation of liberty had clearly been contrary to law. A Court of Appeal had released A and had not ordered A to be detained in connection with sentencing. The criminal judgment application used at the time had conveyed the District Court's order for detention to the enforcement authorities even though the Court of Appeal had expressly decided otherwise.

The Ombudsman concluded that the actions of the authorities did not meet the requirements of protection under the law and the inviolability of personal liberty, which are guaranteed as fundamental rights. Even though A's deprivation of liberty was taken into account when A's custodial sentence was enforced, it was not enough to recompense for the suffering caused by the unlawful detention (943/2016).

The State Treasury paid EUR 780 in recompense for the violation of fundamental rights.

Protection of privacy, personal data and sanctity of the home

Disclosure of confidential information in a press release by the police

A police department had issued a press release about a child who had gone missing in a children's home. Among other things, the text included the child's name and photograph and information on the child's disappearance from a specific children's home.

The Substitute for a Deputy-Ombudsman concluded that publishing the child's name and photograph had been necessary to reach the child. However, by mentioning that the child lives in a children's home the press release had disclosed confidential information. The secrecy of such information has not been connected to any requirement of causing damage in the Act on the Openness of Government Activities. The information included in the press release had been published in the media and was widely accessible. Thus, the publication of the information violated the right to privacy and protection of personal data of the child who was under the age of 18 (2243/2/15).

The State Treasury decided to pay the child EUR 500 in reasonable recompense for the violation of privacy and protection of personal data.

Unlawful house search

A house search had been carried out in a complainant's home at 6 a.m. without a special reason as required by law. Moreover, another search had been conducted in the complainant's home at 9 a.m. on the same day even though no one had actually made a decision on the search. The search was also not carried out in full compliance with the procedures laid down by law to ensure the legal protection of the target of the search. According to the Deputy-Ombudsman, the sanctity of the complainant's home had been violated in a manner that breached the Constitution of Finland and the ECHR (2773/4/15*).

A house search had been carried out in a complainant's home because the complainant was suspected of unlawful use of narcotics (an attempt to obtain a small amount of a narcotic substance for personal use). Based on Supreme Court decisions, conducting a house search solely on the grounds of unlawful use of narcotics may be against the principle of proportionality. Apart from the type of the offence, no grounds had been detailed for the search. Moreover, no written decision on the search was issued before or after conducting the search.

According to the Deputy-Ombudsman, the search did not meet legal requirements. Moreover, no acceptable reasons were given for restricting the right of the complainant's spouse, who had been in the apartment, to be present during the search. According to the Deputy-Ombudsman, the sanctity of the complainant's and their spouse's home had been violated in breach of the Constitution of Finland and the ECHR (877/4/15).

The State Treasury requested for more time to process the recommendations for recompense. The request was based on the Supreme Court decision KKO:2016:57, which has been discussed above.

Unlawful observation

No justifications required by law for placing a prisoner in observation were given, no decision was made on placing the prisoner in observation, and the health care staff were not informed of the measure. The observation was preceded by a body search. Several warders participated in the search, which was considered excessive. Moreover, the complainant had to be naked and was not given clothes until approximately ten minutes after the search had begun. During the body search, the cell was monitored by a CCTV camera. The prison did not provide sufficient evidence to prove false the complainant's claim of not being provided with appropriate clothes and bedding.

The Deputy-Ombudsman found it credible that the complainant had been cold at night in the isolation cell in scant clothing and without a blanket. All the lights were on in the cell overnight. According to the Deputy-Ombudsman, there were no grounds for placing the prisoner under observation. Moreover, the conditions during observation were against rules and violated the prisoner's human dignity. The case also involved other elements that were problematic in terms of respect for private life. The time the prisoner had spent under observation was taken into account when measuring the disciplinary punishment, and a caution was considered a sufficient sanction for the disciplinary infraction. However, the Deputy-Ombudsman considered this to be insufficient (5540/4/15).

The State Treasury paid the complainant EUR 500 in recompense for the violation of fundamental rights.

Disclosure of information about a person being a customer of social welfare services

Hospital patient records revealed that a patient was customer of child welfare services. Such information should not have been disclosed to third parties without the consent of the child's guardian. Because the guardian had not consented to the disclosure of the information, it should have been omitted from the copy of patient records sent to a third party. As this was not the case, the conduct was against the Act on the Openness of Government Activities and the Act on the Status and Rights of Patients. The disclosure of information about the patient being a customer of social welfare services also violated the protection of private life (3425/4/15).

The hospital district informed the Ombudsman that they had tried to reach the complainant but had been unsuccessful.

Protection of property

Delay in withdrawing sequestration

The enforcement office had not been notified of a District Court's decision to repeal a precautionary measure. As a result, property belonging to a complainant (*i.e.* an apartment which the complainant owned and used as their habitual residence) was under the precautionary measure for two years without grounds.

According to the Deputy-Ombudsman, the party responsible for notifying the enforcement authority of the withdrawal of the precautionary measure was in this case the prosecutor. Even though the division of duties was somewhat unclear and the prosecutor's office believed that the

notification task belonged to the court, the prosecutor was still responsible for the matter. The Deputy-Ombudsman referred to a decision by the European Court of Human Rights, which states that when a delay in returning seized property is solely attributable to a public authority the delay violates the article on the protection of property included in the Protocol to the ECHR (1021/4/15).

The State Treasury paid the complainant EUR 2,000 in recompense for the conduct that had violated the protection of property.

Right to social security

The Deputy-Ombudsman considered the conduct of an adolescent psychiatry outpatient clinic to be inappropriate when a child's necessary treatment and therapy were discontinued after the clinic received information about the child being suspected of an offence. The clinic should have taken into account the child's individual need for treatment and support, which the child had also clearly expressed after the suspected offence had come to light. The child wanted the treatment to continue (582/4/15).

The city reported that the chief physician and the person in charge from the outpatient mental health services had met the family and apologised for the family's negative experience and the poor communication, admitting that the situation could have been handled better. The city proposed a recompense of EUR 300 to the child for the violation of fundamental rights.

A child had moved in with a complainant's family in April 2015. The complainant and the child had not been provided with services and support measures due to a disagreement about municipalities' responsibility to provide and pay for services. After the child had moved in with the family, the municipality's department of social services and health care had not made any effort to check how the family had organised the child's care and whether the care provided was in the child's best interests. The joint municipal authority and the department of social services and health care had not clarified to the complainant and the child their rights and the authorities' duties as required by the Act on the Status and Rights of Social Welfare Customers (*laki sosiaalihuollon asiakkaan asemasta ja oikeuksista*, 812/2000).

According to the Deputy-Ombudsman, both authorities had neglected their duty to clarify and provide advice (5315/4/15).

According to the joint municipal authority, the complainant was granted a start-up benefit up to EUR 2,908 in accordance with the Family Care Act (perhehoitolaki, 263/2015). A social worker from the joint municipality authority's substitute care services had agreed with the complainant on drawing up a family care contract after which the family will receive family care payments. According to the complainant, the new level of support was sufficient and the complainant was happy with the solutions put forward by the family social services of the joint municipality authority.

The joint municipal authority also reported that it will instigate administrative litigation proceedings because the city's department of social services had placed the child in another municipality without adopting a decision in accordance with the Child Welfare Act.

Protection under the law

Damage caused by an incorrect procedure

The Deputy-Ombudsman recommended in 2014 that a Centre for Economic Development, Transport and the Environment should consider how it could compensate a complainant for the damage caused by its conduct (5330/4/13; the Ombudsman's summary of the annual report 2014, p. 77).

The Centre for Economic Development, Transport and the Environment had referred the compensation proposed by the complainant to the State Treasury. The State Treasury processed the matter primarily as a claim for compensation for damages and secondarily as a recompense

matter. It rejected the complainant's claim for compensation for damages on the grounds set forth in its decision. The State Treasury considered reasonable recompense to be EUR 1,500.

Disciplinary punishment served by a prisoner not guilty of an infraction

A Court of Appeal had overturned a disciplinary punishment imposed on a prisoner for a disciplinary infraction. However, the prisoner had already served more than 24 hours of the solitary confinement punishment. The Deputy-Ombudsman considered the series of events, in which a non-final disciplinary punishment had been enforced, the punishment was later repealed due to an appeal and the prisoner had not received any form of recompense for serving a disciplinary punishment without being found guilty of the infraction, problematic in terms of the presumption of innocence enshrined in the ECHR and the right to a fair trial guaranteed by the Constitution of Finland (5726/4/15 and 1374/4/16).

The State Treasury paid EUR 70 in recompense for the violation of fundamental rights.

Unlawful excessive length of a pre-trial investigation

A complainant was assaulted in March 2008. The assault was immediately reported to the police. At the end of 2014, the police notified the complainant that the case file had gone missing due to IT problems and had not been rediscovered until then. The complainant still demanded a punishment, and the investigation of the case was relaunched. However, in April 2015 the police department notified that the case had become time-barred.

The Deputy-Ombudsman concluded that the right to prosecute for the suspected offence had become time-barred during pre-trial investigation due to reasons attributable to the police. It was evident that a charge would have been brought and judicial proceedings carried out if the pre-trial investigation had been performed. Due to the police, the complainant had lost the opportunity to have their case dealt with by a court of law and present their claims against the assaulter. The offence had caused the complainant actual costs as well as pain and suffering, as referred to in the Tort Liability Act (2387/4/15).

To compensate for the economic loss referred to in the Tort Liability Act, the police department paid the complainant EUR 3,861.60 in damages for the pain, suffering and costs caused by the event. The State Treasury paid the injured party EUR 9,000 in recompense for the six-year delay in the pre-trial investigation.

Negligence in financial and debt advisory services

A financial and debt advisor had not provided debtors with guidance and advice as required by law and had not carried out their tasks appropriately.

The Deputy-Ombudsman took the view that complainants had reason to believe that their application for debt restructuring had been filed with the District Court and that, as a result, they did not need to contact, for example, the enforcement authorities to ensure that their home would not be auctioned. By taking initiative, the complainants had avoided the forced sale of their home as the application for debt restructuring had later been submitted to the District Court and the enforcement suspended.

According to the Deputy-Ombudsman, it was evident that the city should have arranged appropriate supervision and ensured that guidelines on recording matters in the financial and debt advisory services' recording system were comprehensive and appropriate. The Deputy-Ombudsman also recommended that the city should consider how to compensate the complainants for the inconvenience caused by the delay and the need to clarify the matter (111/4/15).

The city notified that it had improved and enhanced the supervision of its financial and debt

advisory services. It also reported paying both complainants EUR 1,000 in recompense, as they had requested. The city had also apologised to the complainants.

Limitation of contacts

The Ombudsman took the view that a complainant's contact with a lawyer had been restricted through an incorrect procedure and without grounds under the Mental Health Act. Restricting contacts may violate the right to privacy guaranteed in the Constitution and the ECHR.

The complainant's psychotic symptoms were not a sufficient reason to restrict contact with a legal representative by more than 24 hours, especially when the complainant was no longer being kept in seclusion. Under the Mental Health Act, the specialising physician who was on call was not competent to make the decision. Only the chief physician in charge of psychiatric treatment at the hospital or comparable physician has the competence to make such a decision. Moreover, the limitation of contact should have been imposed by issuing a decision that can be appealed (1086/4/15).

According to the hospital district, the limitation of contacts in the particular case had to be implemented so quickly that there was no time to issue a written decision. The decision was issued immediately during normal office hours. The procedural error in restricting contacts was made because the guidelines issued to the operating unit were not followed. An apology had been expressed to the patient about the matter.

Wrongful conduct in enforcement

A complainant's receivable that was under enforcement proceedings had become time-barred with respect to one of the debtors. This was discovered when the enforcement office had begun investigating the matter after the complainant had called the office. Liability for the debt had changed from joint liability to one fourth per debtor in accordance with the number of debtors.

The investigation did not reveal why the changes in the liability shares of the remaining debtors due to the debt becoming time-barred had not been taken into account in the enforcement of the debt as soon as it had been noticed that the time limit had been exceeded.

The Deputy-Ombudsman concluded that the case did not meet the requirement of appropriate processing. Due to the actions of the enforcement office, the excessive amount collected from one debtor, which the complainant was required to return under enforcement, had become larger than it would have been if the necessary measures had been taken immediately (4059/4/15).

Processing of a request for information

The processing of a complainant's request for information by a city's social services and health care centre took more than 11 months.

The Ombudsman considered it evident that the case constituted a violation of both the Personal Data Act and the Act on the Openness of Government Activities. The justifications given for the excessive length of the process were not sound (the matter was not urgent, it did not concern the complainant's state of health, the information was in a separate register and the request did not specify the intended use of the information).

All requests for information must be processed within the time limit laid down by law. Moreover, the Decree on the Openness of Government Activities provides that in order to create and realise good practice on information management, authorities shall plan and implement their document and information administration and the information management systems and computer systems they maintain in a manner allowing for the effortless realisation of access to documents.

A customer requesting access to his or her personal data does not have to provide reasons

for the request. If the authority considers the request for information to be incomplete, it must ask the customer to complete the application. The conduct in the case was against the law also because the authority had not replied to the complainant's letters. The conduct violated the complainant's right to good governance, as guaranteed by the Constitution (4788/4/15).

3.6.2 CASES RESULTING IN AN AMICABLE SETTLEMENT

The following section describes certain cases where, during the handling of complaints, communication from the Ombudsman's Office to the authority led to the rectification of the error or insufficient action and, therefore, an amicable settlement.

The Ombudsman has provided complainants with guidance on the available legal remedies in numerous replies to complaints. Examples of such cases are also presented below.

Police

In a few cases, a police department decided to start a pre-trial investigation or continue a suspended pre-trial investigation.

A property manager had changed the locks of an apartment owned by a complainant and prevented the complainant from using the apartment. During the pre-trial investigation, there was no reason to suspect an offence because the complainant had been notified of the decision adopted by the housing company's general meeting for shareholders on taking possession of the apartment and the complainant had not brought a claim to dispute the decision.

According to the police department, the property manager should have applied for an eviction order by submitting an application for a summons to the District Court. The property manager had no right to take action to enforce the decision on taking the apartment into possession. The police department had taken action to begin a pre-trial investigation (1986/4/15).

The decision to conclude a pre-trial investigation because no offence has been committed requires that the investigation has shown very clearly that no offence has been committed. If the relevant provisions are open to interpretation when applied to the case under investigation, *i.e.* if it is unclear whether the actions meet the criteria of an offence, the case should, in the Deputy-Ombudsman's view, be referred to the prosecutor for consideration of charges.

In its statement, the police department considered that the decision in the complainant's case should have been taken by the prosecutor. The police department reported that it had urged the head of the crime prevention sector to ensure that the prosecutor is notified of the complainant's case and that the provisions of the Criminal Investigation Act are complied with (4391/4/15).

A decision on a pre-trial investigation concerned a real property transaction in which, according to a complainant, the complainant's uncle sold a property worth approximately a million euros to a relative for a fraction of the market price. The seller's dementia had been known before and during the transaction. The person who reported the event had submitted a detailed request for investigation, including grounds for suspecting an offence. The allegations were of such a nature that their further examination in a pre-trial investigation would have enabled a better evaluation of the likelihood of an offence.

According to the police department, there had been sufficient grounds to initiate a pre-trial investigation in the matter, an investigation was ordered to be launched and a new head of the investigation had been assigned for the case. The National Police Board also took the view that the process of considering the "reason to suspect" criterion should have been supported by gathering views from people who were independent of the parties to the transaction (5277/4/15).

According to the Deputy-Ombudsman, a decision on a pre-trial investigation included both inaccurate contents and incorrect legal references. The decision made by the head of the investigation did not include any facts that would have constituted grounds for concluding the investigation at that stage, at least not by a decision taken by the head of the investigation. As a rule, the sufficiency of evidence should be evaluated by a prosecutor, not the head of the investigation.

The Helsinki Police Department reported that the head of the investigation had reopened the case. A pre-trial investigation will be conducted in the matter. After questioning relevant people, the case will be referred to a prosecutor at the Prosecutor's Office of Helsinki for consideration of charges (2008/2016).

Enforcement (distraint)

A complainant did not receive notification of an enforcement matter concerning a parking fine becoming pending or the garnishment of a tax refund at their home address. The notification of the garnishment had been sent to the complainant's previous address. The complainant had submitted a notification of the new address to the Local Register Office at the time of moving, *i.e.* a year before, in accordance with rules.

Based on the information received, the notification of the new postal address had not been forwarded to the enforcement authorities' information system. The district enforcement officer reported having called the complainant in connection with the investigation of the complaint, explaining the situation and apologising for the events.

In accordance with the complainant's wishes, the garnished tax refunds were immediately remitted to the creditor and the complainant received receipts of the payments for reference in further actions. The parking fine was recorded in the enforcement authorities' information system as a receivable that has been paid at the latest on the due date of the demand for payment. This detail is not included in public certificates from the enforcement register (5109/4/15).

A complainant's tax refund was garnished on application by a debt collection agency to collect a receivable under a District Court's decision in a civil matter. At the time of the event, the complainant had a valid address in the Population Information System and the address was subject to an order concerning non-disclosure for personal safety reasons. The enforcement authority's information system had sent an automatic request for information from the Population Information System. In the automatic enquiry process, the complainant's address in the enforcement authority's information system had been erroneously updated with Helsinki as the municipality of residence even though the complainant's address was not located in Helsinki.

Because the address had not been transmitted, the assistant enforcement officer considered the debtor unknown. The assistant enforcement officer had received a notification about the debtor's information being incomplete. In its report, the National Administrative Office for Enforcement took the view that the assistant enforcement officer could have seen from the debtor's information in the information system that the debtor's address was subject to non-disclosure for personal safety reasons.

According to the Office's guidelines, a valid address must be requested from the Local Register Office if information about the address is incomplete or incorrect. The National Administrative Office for Enforcement reported that it had returned the scheduled fee of EUR 12 and deleted the information on the garnishment from the public record (5399/4/15).

Despite being repeatedly contacted by a complainant, an assistant enforcement officer did not take initiative to clarify the identifying details of a receivable. The matter concerned the obligation to verify a payment liability with respect to a re-

ceivable under public law. In the case, a child had been incorrectly debited a receivable which had not been identified in sufficient detail.

The Office of the Ombudsman examined the matter due to a complaint from the child's father and contacted the assistant enforcement officer and the Ministry of Justice. Based on the information gathered, the matter concerned an invoice for court costs sent by a Court of Appeal. The costs had mistakenly been collected from the wrong person. The enforcement authority terminated the collection, and the Deputy-Ombudsman decided to investigate whether the fees and other receivables processed by Palkeet (Finnish Government Shared Services Centre for Finance and HR) are identified at an appropriate level of detail (*e.g.* 4008/4/15).

Social welfare

A complainant criticised the conduct of the city and a private provider of health care services in a matter that concerned the cost of physiotherapy provided to the complainant's spouse. The complainant had received incorrect information about the provision of physiotherapy and it being free of charge. The department responsible for residential care home services apologised for the unclear information and said it would ask the care home to organise a care meeting to discuss customer fees and other relevant matters with the complainant. The director of the care home has since then reported that they have discussed the matter with the complainant and scheduled a meeting (190/4/15).

A complaint criticised the conduct of a city's social welfare and health care services in a matter that concerned public access to documents and decision making. The complaint included a decision on a research permit rejecting a request for information. The decision did not include appropriate instructions for appeal.

A statement was requested due to the complaint. The statement and the attached decision showed that the complainant's request for information had been re-evaluated. The decision had been made considering the right of access of a party concerned in a matter and right of access on the basis of an application for a research permit. Instructions for appeal to a Court of Appeal were appended to the decision. Because the matter had been rectified, there was no need for further action by the Deputy-Ombudsman (5502/4/15).

A complainant was dissatisfied with how the city's disability services department and mental health centre had organised the complainant's housing services.

According to the Ombudsman, the complainant had a right to apply for services for supported living from the city's social welfare services under the Social Welfare Act (*sosiaalihuoltolaki*, 1301/2014) or the Disability Services Act (*laki vammaisuuden perusteella järjestettävistä palveluista ja tukitoimista*, 380/1987). Persons with disabilities can also apply for disability services and other social welfare services to be provided at their own home.

In response to the application, the complainant was entitled to a decision that can be appealed. A civil servant's decision can be appealed in accordance with instructions concerning claims for a revised decision, and a decision made by a municipal body can be appealed against to a Court of Appeal in accordance with appeal instructions. The Ombudsman cannot change decisions that civil servants and courts make under their power of discretion. Ultimately, the appropriateness and sufficiency of social welfare and housing services are evaluated by a competent court (2924/2016).

General municipal affairs

A complainant had applied for the position of administrative director in a municipality. After appointment to office, the complainant received a letter, which contained, among other things, a summary of all applicants and their full applications, including appendixes. According to the complaint, the letter included confidential information.

According to the Deputy-Ombudsman, the complaint did not detail what kinds of secret information were included in the documents. Considering this and the provisions of the Act on the Openness of Government Activities on parties' right of access to information, a non-disclosure obligation and prohibition of use, the Deputy-Ombudsman decided that the complaint did not merit further investigation.

However, the Deputy-Ombudsman informed the municipal executive of her reply to the complaint and the legal rules explained in it and drew the executive's attention to the provisions of the Act on the Openness of Government Activities regarding the criteria for keeping information confidential and the authorities' obligation to stamp a document provided to a party to indicate that it is secret (672/4/16).

Education

A complainant had a child who was attending first grade at school. Under the Basic Education Act, the child was entitled to free transportation to school, which was organised as a taxi service. After a homeward journey, the taxi driver had left the child in the home yard. Without keys or a mobile phone, the child had to wait outside in cold weather for two hours before one of the parents got home.

According to information provided by the city's director of education and culture, the incident described in the complaint had already been discussed in the municipality, for example, by contacting the taxi service provider. The department of education and culture was also considering the need to specify in more detail the guidelines on school transportation. According to the director of education and culture, the complainant could directly contact the director to improve the transportation arrangements. There was no need for further investigation.

However, the Deputy-Ombudsman noted that the municipality must ensure the quality and appropriateness of the services it purchases. The education provider has the overall responsibility for ensuring that school transportation works well and is in the best interests of the child (526/4/16).

Taxation

A complainant had filed an application in 2011 for being taxed as a person with limited tax liability. The complainant had requested to be considered as a person with limited tax liability starting from the beginning of 2012. The complainant had not received any information about how the matter had been processed. In the complaint, the complainant demanded that their tax assessments for the years 2012, 2013 and 2014 be corrected. According to the local tax office, they had been unable to find the complainant's application despite their efforts. The tax office apologised for the matter.

According to the Individual Taxation Unit of the Tax Administration, the complainant's taxes had been assessed without information about the application for a tax-at-source card. The taxation process had been faulty, and the complainant had been taxed as a person with unlimited tax liability in Finland. Thus, the Tax Administration reported that the claims for correcting the complainant's tax assessments, as presented in the complaint, will be processed as claims for adjustment for 2012 and 2013. For the tax year 2014, the requirement of no longer having close ties with Finland will be taken into account in the complainant's taxation (1076/4/15).

A complaint criticised the processing of a request for claim for adjustment by the Board of Adjustment. The changes requested by the complainant were rejected. The unreasonable taxes, including surtaxes and tax penalties, imposed on the complainant's agricultural group holding caused the complainant anguish.

The Substitute for a Deputy-Ombudsman concluded that according to the Act on Assessment Procedure (*laki verotusmenettelystä*, 1558/1995) decisions taken by the Assessment Adjustment Board can be appealed against to a Court of Appeal. The appellant can demand that the enforcement of taxes be prohibited until the Court of Appeal has given its ruling on the tax appeal. The decision of the Court of Appeal can be appealed against to the Supreme Administrative Court, if the Court grants leave to appeal.

The reply also stated that the complainant can apply for a tax exemption in accordance with Chapter 7a of the Act on Tax Collection (*veronkantolaki*, 609/2005). The Tax Administration's website includes instructions on tax exemptions and a form for applying for an exemption (2833/2016).

Environment

A Centre for Economic Development, Transport and the Environment had taken supervisory measures concerning the southern harbour area in Kantvik. One reason for the measures were complaints received from a complainant. The centre's actions did not constitute unlawful conduct or negligence that would have required the Ombudsman to take measures. In its opinion, the centre considered the measures implemented to suppress dust from transportation vehicles to meet the requirements of the relevant permit.

According to the Deputy-Ombudsman, however, the statement was not a final and legally binding decision on whether the dust control measures taken in the port activities were in compliance with the permit and the law. If necessary, the parties seemed to be able to receive a final decision on this and other matters by taking legal action in accordance with the Environmental Protection Act, requiring the Centre for Economic Development, Transport and the Environment to issue a decision that can be appealed against. By appealing, any party dissatisfied with the decision may refer the legality of the decision to an administrative court for consideration (1713/4/15).

Transport

An unannounced market surveillance inspection had been carried out on a company's business premises. In its report, the Finnish Transport Safety Agency described the legal basis of and reasons for the inspection. It noted that a report drawn up by the company that had conducted the inspection had been given to the complainant at the end of the inspection, as usual. The complainant denied ever having received the report as stated by the Agency.

Due to the divergent views, the Deputy-Ombudsman considered it reasonable that the Agency should check how the company in charge of the inspection had notified the target of the inspection report and, if necessary, take the required action. The Finnish Transport Safety Agency reported that the report on the market surveillance inspection has since then been sent to the complainant by e-mail (4121/4/15).

3.7 Special theme for 2016: Right to effective legal remedies

The Office of the Parliamentary Ombudsman selected the right to effective legal remedies as a special theme for 2016. It stems from the provision in Article 13 of the European Human Rights Convention, under which everyone whose rights and freedoms are violated shall have an effective remedy before a national authority. Article 47 of the EU Charter of Fundamental Rights also requires that everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal. Under section 21 of the Constitution of Finland, everyone has the right to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice and have his or her case dealt with appropriately and without undue delay.

When assessing the effectiveness of legal remedies, the European Court of Human Rights has required that the remedy is also effective in practice. However, the effectiveness does not depend on the certainty of the final decision being favourable for the complainant. While the authority providing legal protection does not necessarily have to be a judicial authority, the authority's competence and the guarantees of legal protection offered by it have a bearing on the assessment of whether or not the remedy is effective. Even if a single legal remedy did not fully meet the requirements of the article, an aggregate of several remedies may do so. A legal remedy may be a preventive remedy, which prevents a violation of a right or its continuation, or a compensatory remedy, which can provide adequate redress for a violation that has already occurred (*Kudla v. Poland,* European Court of Human Rights 2000).

A complaint filed with the Parliamentary Ombudsman does not, at least on its own, constitute an effective legal remedy referred to in the Convention. For this reason, the emphasis in work related to this theme has been on ensuring that the authorities actively guide individuals in the use of the actual legal remedies to which they are entitled. While inspecting and visiting sites, in particular, the inspectors have verified how the site ensures that individuals are informed of the legal remedies available for them and that they have access to these remedies in practice. In particular, attention has been paid to the following questions:

- Is the individual issued with a statement of reasons referred to in the Administrative Procedure Act with the decision, including appeal instructions?
- If an actual appeal is not possible, are the individuals informed of other legal remedies (complaint, material appeal, administrative litigation)?
- Do the individuals have access to information concerning themselves? When requests for documents or information are denied, is a decision referred to in the Act on the Openness of Government Activities or a certificate of refusal referred to in the Personal Data Act issued?
- In what way is the possible representation of, or provision of assistance to, the individual ensured?
- Is the language legislation complied with in the provision of information and decision-making? Are translations and interpretation services into other languages provided for?

The effectiveness of a legal remedy includes the possibility of revising a decision or receiving redress for violations of rights. In the Parliamentary Ombudsman's legal practice, violations of fundamental and human rights should be prevented as a first priority. If this is not possible, they should be corrected. If this is also impossible, redress should be offered. Since 2008, the Supreme Court has found it possible to offer compensation for suffering caused by a violation of fundamental and human rights, even if there is no specific provision to this effect. The obligation imposed on public authorities to guarantee the observance of fundamental rights and liberties and human rights laid down in the Constitution can also be deemed to contain an obligation to make redress for violations of fundamental rights. For the Parliamentary Ombudsman's proposals for redress, see section 3.6.

Below, individual problems related to access to legal remedies are discussed concisely. Most of them have come up as observations made on visits and inspections. The observations have been categorised by administrative sector. Finally, some common problems associated with the implementation of publicity of documents are discussed.

Police

Inspections revealed that not all police prisons are aware of the possibility of appealing decisions on possession of property, use of payment methods and certain permissions to leave the prison. The forms needed for decision-making and the claim for a revised decision procedure were not available at all police prisons. The inspectors recommended that personnel training and the availability of forms should be improved (2225/2016).

Police prisons also did not always have written information on the supervisory authorities that could be handed to persons taken into custody. The Criminal Sanctions Agency has composed a list of key authorities that supervise prisons. It has been distributed to all prisons. The Deputy-Ombudsman finds that it would be justified for all police prisons to also have written information on the authorities that supervise prisons available that can be handed to persons deprived of their liberty if necessary (3791/2016).

Criminal sanctions field

During most inspections, it is necessary to draw the prison's attention to the availability of, or need to update, provisions that apply to prisoners, or the contact details of the authorities that supervise the prison. As a rule, prisons report that they will rectify the shortcomings and provide the staff with instructions on the issue.

A prison did not issue administrative decisions on the possession of property, and prisoners were not given appeal instructions. It appeared that the prison had never issued any decisions on denying the prisoners the possession of their property as required by law. The making of written decisions had also been neglected in other matters. After the inspection, the prison reported that it had started making decisions on matters that concern the possession of property and providing instructions for claiming a revised decision (4397/2016).

Remand prisoners should be allowed to prepare for their trials and have access to pre-trial investigation documents. A remand prisoner had been given access to the pre-trial investigation documents only for one night after the block had been closed. The prison promised to correct its action by giving all material required for a trial to prisoners for the requested period in the future, including in daytime (4397/2016).

Problems observed in the legal protection of prisoners are discussed more exhaustively in the chapter titled "Legal protection is not always implemented" of the main section.

Social welfare

Pursuant to the act on the status and rights of social welfare clients (*laki sosiaalihuollon asiakkaan asemasta ja oikeuksista*, 812/2000), provision of social welfare services should be based on a decision made by an authority or, in the case of private services, on a written agreement between the service user and the social welfare service provider. In a number of cases investigated as complaints, the authorities had neglected their duty to issue a service user with a decision that could be appealed and instructions for appealing. In one case, the service provider had cut down the time personal assistant services were provided for a person with severe disabilities without a decision made by a social worker (4433/4/15).

In another case, the Ombudsman stated that an authority could not impose less favourable terms on a valid decision on personal assistance provided for a service user by simply notifying him of this (5658/4/15). The Ombudsman similarly found that, in terms of the legal protection of the services user, it was not adequate that social welfare services sent out a general information leaflet on user fees and the possibility of applying for exemption from the fees as an attachment to the service user's care programme without the statutory instructions concerning a claim for a revised decision (3307/4/15).

The duty to make decisions is stressed in services for elderly when a municipality cannot allocate a place in a housing unit to an applicant, even if his or her need for the service has been established. While an oral application for a place in a sheltered housing unit with 24-hour assistance had been made on behalf of a complainant's mother in December 2013, the decision had not been made until 27 October 2015. The Deputy-Ombudsman noted that the possibility of having a question concerning the extent of a municipality's obligation to organise services assessed by a court plays a key role for the legal protection of the service user (5426/4/15).

Making an appealable decision is also particularly important where a service user's right to self-determination is restricted. On an inspection conducted at a child welfare institution it was found that, when making a decision on restrictive measures, the information system used by the institution could not produce a version of the document that showed correct information on hearing and informing the service users. The appeal instructions printed onto the decision were also inadequate. Guidance related to correct procedure was given to the institution during the inspection (707/2016).

On an inspection conducted in a unit that provides special care services for persons with intellectual disabilities, on the other hand, it was observed that some wards were not yet implementing the measures required under recent amendments to the act on special care for persons with intellectual disabilities (*laki kehitysvammaisten erityishuollosta*, 519/1977), including making decisions on restrictive measures. The Ombudsman decided to investigate this matter further on his own initiative (5485/2016).

Effective legal protection includes hearing cases appropriately and implementing decisions made by a court or a supervisory authority without undue delay. The Ombudsman issued a reprimand to a social services manager for unlawful conduct as a complainant's claim for a revised decision had been handled as a reminder, rather than taking it to the social services committee for processing (4096/4/15). The Ombudsman also issued a reprimand to the social welfare and healthcare services of a city for neglecting to implement a decision on housing services for a young person with disabilities (24/4/15).

Health care

On inspections, it has for several years been recommended to psychiatric hospitals that they should distribute to the patients and their families information on patients' rights, in plain language and both orally and in writing. A brochure produced by the National Supervisory Authority for Welfare and Health Valvira in 2013 that pro-

vides information on involuntary psychiatric treatment and the patient's rights makes this recommendation easier to follow (1049/2016).

One inspection brought to light the fact that patients were not given a copy of the decision by which they were committed to involuntary treatment unless they requested it specifically. This practice was found to be a violation of law (5042/2016). It was also stressed that patients in involuntary treatment must be clearly informed of their right to obtain an appealable decision on having their possessions taken away from them (1049/2016).

The Ombudsman decided to investigate on his own initiative the problems related to the representation of patients who have lost their ability for self-determination. He requested a report from the Ministry of Social Affairs and Health on how a patient's representation should be arranged when a patient committed to involuntary treatment is personally unable to use the means of appeal or otherwise act in his or her own interest and has neither a guardian or a friend or a family member who would take part in his or her treatment. According to information obtained on an inspection, organising a guardian for patients who have no family or friends is extremely difficult in these situations. In his request for a statement, the Ombudsman drew attention to the European Convention of Human Rights, under which everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. In its decision on the case *M.H. v. United Kingdom* (2013), the European Court of Human Rights ruled that special procedural safeguards are called for to protect access to a court for mental patients ordered to compulsory treatment who, on account of their mental disabilities, are not fully capable of acting for themselves (3708/2016).

Education

A complainant's child was reported to have been home-schooled and only attend school for one to three hours in the afternoons. In the complainant's opinion, it was unfair treatment to deny the child's right to attend school like other children. The Deputy-Ombudsman noted that special arrangements can be used for a pupil's instruction if this is justified for reasons related to his or her state of health. In this case, however, the education provider must make an appealable decision on the matter. A written decision on providing special support must also be made, which specifies the pupil's principal teaching group, any interpretation and assistant services the child is entitled to, any other required services and, if necessary, exceptional arrangements for the pupil's instruction. If the pupil's guardians and the school have conflicting views of the pupil's need for support, the legal remedy available to the guardians is to appeal the decision as laid down in the Basic Education Act. As no such decisions had been made, the Deputy-Ombudsman found this a rather serious error in terms of the child's best interest (2426/4/15).

Alien affairs

On an inspection visit to a detention centre for foreigners, it was discovered that the District Court did not process the decisions to hold foreigners in isolation made by the centre as required by law. Under the law, these cases must be heard immediately and, at the latest, within four days of the foreigner being taken into custody. The Ombudsman found this practice of overlooking safeguards of legal protection laid down in the law, which had continued for years, such a serious neglect that he ordered legal action to be initiated against the public servants who were responsible for this neglect (1178/2/15*).

Other authorities

On an inspection conducted in the Finnish Competition and Consumer Agency, the question emerged of when contact from an individual should be treated as an administrative complaint. The Deputy-Ombudsman drew the Agency's attention to the Administrative Procedure Act provision under which, in the case of unlawful conduct or neglect of duty by an authority, a party employed by an authority or some other party performing a public administrative function, anyone can file an administrative complaint with the authority supervising the activity (4966/2016).

The processing of complaint-type matters also emerged on the inspection of the Office of the Bankruptcy Ombudsman. In particular, the scope of the Office's discretion when processing cases was at issue. The Deputy-Ombudsman found that the practice of responding to communications that can be construed as complaints should start from the statutory mission of the Bankruptcy Ombudsman, and the manner in which the Bankruptcy Ombudsman should handle these contacts in order to fulfil this mission should be assessed. In the performance of this and other tasks, the Bankruptcy Ombudsman has a certain scope for discretion (3880/2016).

Problems associated with the publicity of documents and other access to information

Legal protection issues related to the publicity of documents cropped up repeatedly during the reporting year, similarly to previous years. The authorities do not always follow the procedure laid down in the Act on the Openness of Government Activities (Openness Act), even if the act has been valid since 1999. Under this act, information should be provided as soon as possible, however no later than within two and, in some cases, four weeks. If access to the information is denied, the customer should be provided with advice concerning how they can obtain an appealable decision in the matter and thus have the possibility of subjecting the authority's decisions to assessment by a court (for example, 4687/4/15, 4395/2016 and 5372/4/15).

The customer's right to access data on him or her held by an authority can be based on both the right of access to data in a personal data file under the Personal Data Act and the provision in section 12 of the Openness Act. The legal remedies laid down in these acts are different, however. Under the Personal Data Act, a person whose right of access has been denied can bring the matter to the attention of the Data Protection Ombudsman, whereas under the Openness Act, a refusal to grant access can be appealed to the Administrative Court. The preliminary work on the Openness Act and literature suggest that an authority must explain the different provisions regarding access rights to the customer to identify the provisions under which access is requested. In practice, however, complying with this guideline has proven difficult.

Everyone's right to access information on him or her is associated with a right to know who has processed the information. This right is implemented by keeping an access log. However, no general legislation on access to the log data exists so far. The right of access may be based on the provisions in the Openness Act, but in this case, it is required that the information has influenced or may have influenced the consideration of a case that is or was pending and that concerns the person who requests the information (Supreme Administrative Court, KHO 2014:69). The act on the electronic processing of client data in social and health care (*laki sosiaali- ja terveyshuollon asiakastietojen sähköisestä käsittelystä*, 159/2007) contains a special provision on the individual's right of access to log register data. However, the act does not contain provisions on the procedure to be followed when processing an access request or set periods. For example, whether or not the periods laid down in the Openness Act are directly applicable to requests to a log is open to interpretation (389/4/16).

3.8 Statements on fundamental rights

This section discusses certain statements on fundamental rights made in the course of the Ombudsman's oversight of legality. In previous years, this section has contained examples of the Ombudsman's decisions that concerned the rights enshrined in sections 6–22 of the Constitution, organised systematically by individual rights (for example, see section 3.7 of the summary of the Annual Report for 2014, which also contains a general description of what each fundamental right contains).

This year, the same section focuses on individual decisions containing a statement on fundamental rights that is of a new type or significant in principle in some way. More of these cases are described in section 3.6, which focuses on the Ombudsman's decisions that have led to proposals for redress.

Accessibility in a restaurant car

The Ombudsman found that, from the perspective of equal opportunities for participation secured for persons with disabilities in section 6 of the Constitution and Article 9 CRPD, it was unsatisfactory that persons with disabilities did not have the same concrete access to restaurant car services as other train passengers. Restaurant services were offered to them in a carriage with wheelchair space, rather than making the actual restaurant car accessible for wheelchairs.

The Ombudsman found it important that, in line with its obligation to promote fundamental rights laid down in section 22 of the Constitution, the Finnish Transport Safety Agency would use any means available for it to promote the accessibility of restaurant cars, for example by striving to exert influence to ensure that requirements concerning restaurant car accessibility will be included in the relevant PRM TSI provisions of the EU (651/4/15, see section 3.3.5).

A psychiatric patient's freedom of movement

The Ombudsman found that a psychiatric hospital should, when organising a patient's supervision, have ensured that the patient could at least occasionally bathe in the sauna or visit the cafeteria, library or gym and take outdoor exercise somewhere else than in the fenced-in yard of the ward. If a patient's personal liberty safeguarded under section 7 of the Constitution has already been restricted due to involuntary treatment, a very strict view should be taken of measures that deprive the patient of the last small remnants of his or her personal liberty (5290/4/15).

Restraining a prisoner during transport

The Deputy-Ombudsman considered a proposal that concerned extending the possibilities of restraining prisoners during transport highly problematic. Under this proposal, all prisoners travelling together could be restrained on certain conditions without individual consideration in the case of each prisoner.

Restraining comprises a violation of personal integrity safeguarded under section 7 of the Constitution. As personal integrity is a right which belongs to each individual, the Deputy-Ombudsman found that it thus cannot be interfered with without reasons specifically related to the individual in question. Another reason which, in his opinion, makes this provision on restricting fundamental rights inappropriate is the possibility of eliminating the need to restrain prisoners by

purchasing transport fleet with compartments, in which the prisoners can be kept separate during transport.

Not only did the proposal contain problems in relation to the Constitution but it also violated international recommendations concerning persons deprived of their liberty and the practices of international monitoring bodies (1658/2016).

Competence to conduct a security check

During an inspection of a police prison, it came to light that security checks conducted on women taken into custody have in some cases been carried out by a social worker posted to the police department under the supervision of a police officer.

A security check interferes with personal integrity safeguarded under section 7 of the Constitution. The Deputy-Ombudsman stated that in keeping with the principle of rule of law in section 2 of the Constitution, the exercise of public powers shall be based on an Act. This means that a person exercising public power must always have competence that can be derived from an act passed by the Parliament. The task of conducting security checks belongs to police officers under the Police Act, and this competence cannot be transferred to other employees by local arrangements (2375/2/15).

Restricting a psychiatric patient's contacts

A patient's contacts with his or her legal aid may not be restricted. This prohibition is unconditional. However, it is possible that the state of health of a psychiatric patient, for example a patient placed in seclusion, may temporarily make it impossible to trust him or her with a telephone or other means of communication. A situation of this type should, however, be highly exceptional and as short in duration as possible. The hospital needs to take into consideration the fact that restrictions on contacts which are not based on a specific legislative provision may violate the right to privacy safeguarded under section 10 of the Constitution and Article 8 ECHR (1086/4/15).

Protection of a patient's privacy when providing instruction

Obtaining the patient's informed consent is a precondition for taking photographs of the patient and using him or her for instruction purposes, as these actions interfere with the right to integrity and the right to privacy referred to in sections 7 and 10 of the Constitution respectively. Procedures to safeguard the patient's right to protect confidential patient information should also be followed when using a person for teaching purposes.

A patient's privacy had not been respected on a visit to a teaching hospital as the patient was asked to undress in the surgery in the presence of other people (3892/4/15).

Establishing the need for guardianship

Establishing the need for guardianship, a procedure that gives the Local Register Office the right to access sensitive personal data regardless of non-disclosure provisions, interferes with the very core of a person's fundamental rights. It means that, motivated by a report of an outsider, the Local Register Office initiates an investigation of matters covered by the right to privacy safeguarded under sections 7 and 10 of the Constitution, including the person's state of health, housing conditions and financial situation. From this ensues the requirement of processing the matter with particular care. It is accentuated by the fact that anyone can make a report leading to a guardianship investigation.

A Local Register Office acted in violation of the law when it started investigating the need for guardianship of a married couple based on an outsider's report that was obviously groundless (3746/4/15*).

Restricting journalists' freedom of expression at a media briefing

The freedom of expression guaranteed under section 12 of the Constitution includes the right to express, disseminate and receive information without prior prevention by anyone. At a media briefing organised by a ministry, which focused on a legislative project, the journalists had been told they could not take photographs or quote individual public servants.

The Ombudsman found that taking press photographs and quoting public servants are at the core of the freedom of expression. Any conditions or prohibitions related to taking photographs and quoting speakers restrict the freedom of expression, even if the journalists could otherwise freely use the information obtained at the event. The setting of conditions or prohibitions of this type to a certain degree always means that the journalists' freedom of expression is restricted in advance.

All essential provisions on exercising the freedom of expression must be laid down by an act, and no statute applies to the situation discussed here. From this viewpoint, organising any events where taking photographs and quoting speakers are restricted or prohibited would be impossible. This would not necessarily be a good thing from the perspective of the media's and, above all, the general public's access to information and the freedom of expression.

In the Ombudsman's opinion, the legal situation of these events is that the authority sets conditions which can be considered restrictions of the freedom of speech as such, but the journalists participating in the event give their consent to this. As the restrictions are subject to consent, no sanctions or negative consequences can follow from breaching them. If the agreed restrictions are breached, however, the authority may interrupt the event or decline to organise similar events in the future.

In the Ombudsman's opinion, media briefings can as a whole be considered a positive thing, also from the perspective of freedom of speech, regardless of any restrictions to the freedom of expression that may be associated with them. However, a precondition for this is exercising sound judgement as to when such restrictions should be imposed on an event, and what type of restrictions are used.

From the perspective of the freedom of expression and the principle of proportionality which is an element of good governance, any restrictions on taking photographs and quoting the speakers at media briefings should be as narrow as possible. The ministry should consider what types of restrictions are necessary at each individual event.

In other words, this is about finding a balance between placing as few restrictions as possible and thus safeguarding the media's, and thus the general public's, access to information on pending legislative project as extensively as possible on one hand, however without putting at risk the freedom of final decision-making to which the ministry made reference on the other hand.

One journalist had been denied access to the event because, in the ministry's opinion, he had acted inappropriately at certain prior interviews. The Ombudsman found that denying the journalist access to the event was a breach of the principles of fairness and proportionality that are part of good governance, as the denial was mainly justified by incidents that happened many years ago and were irrelevant to the current event (4663/4/15*).

Procedure for being included in the electoral roll of the Sámi Parliament

The possibility of requesting inclusion in the electoral roll of the Sámi Parliament is of high significance in terms of implementing the possibilities of participation and influence safeguarded in the Constitution. As proof of their importance, these rights are enshrined in the chapters on both the principles of government and the fundamental rights. Under section 2(2) of the Constitution, democracy entails the right of the individual to

participate in and influence the development of society and his or her living conditions. Under section 14(4) of the Constitution, the public authorities shall promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her.

On 12 and 13 November, the election board of the Sámi Parliament published a declaration according to which requests to be included in the electoral roll of the Sámi Parliament should be made at the latest on 31 December. As such, the declaration was published on time: under the relevant decree, it had to be published no later than the 15th of November. While the election board acted in compliance with the legal norms and within its discretionary powers, the Deputy-Ombudsman found that the participation rights could have been served better by reserving a considerably longer period for being included in the electoral roll. There appeared to be no obstacles preventing the election board, which had already been appointed in the summer of that year, from publishing the declaration earlier (1784/4/15).

Free treatment of injuries caused by accidents at school

Many municipalities have followed the practice of sending a bill for treating injuries caused by an accident at school to the patient. The patient must pay the bill and then apply to the municipality for reimbursement.

Under the Basic Education Act, an injury due to an accident which takes place at school shall be treated free of charge for the pupil. This provision is linked to section 16 of the Constitution, under which everyone has the right to basic education free of charge. In the Ombudsman's opinion, the consistent wordings used in the Basic Education Act and the Constitution constitute a strong argument in favour of giving to the treatment of accidents at school the same significance as to other free services in basic education. Treating an injury that a pupil has sustained at school, which should take place free of charge under the law, should not lead to a situation where the pupils or their guardians are first liable to pay the treatment costs themselves (2166/4/15).

Linguistic equality in agent's examinations

In the examination for real estate agents and letting agents organised by Finland Chamber of Commerce's examination board, all text books but one included in the examination requirements were in Finnish. Pursuant to the relevant decree, the examination board confirms the list of legislation, literature and other material on which the examination questions will be based.

The Ombudsman found that the language in which the candidates can prepare for this examination is significant from the perspective of the freedom to engage in commercial activity referred to in section 18 of the Constitution. The language question is also significant for candidates striving for a professional qualification from the perspective of equality and the prohibition of discrimination in section 6 of the Constitution. Indirectly, this is also about the linguistic rights referred to in section 17 of the Constitution regarding the possibility of Swedish-speaking customers to obtain professional real estate and letting agent services in their native language.

The Ombudsman concluded that the examination board's decision, by which it had selected mainly Finnish text books for the list of references for the agent's examination, discriminated against those who do not know Finnish or who wish to prepare for the agent's examination in Swedish from the perspective of the Constitution and the Non-Discrimination Act. Neither did this decision fulfil the requirement laid down in the Constitution of providing for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.

Regardless of the challenging aspects of this issue, the Ombudsman finds that efforts should be made to improve the equality of the candidates participating in the agent's examination compared to the current situation (146/2/15).

Linguistic rights in the resident selection process

The Ombudsman argues that rental housing companies owned by municipalities and non-profit companies implement the obligation to promote the right of everyone to housing imposed on the public authorities in section 19 of the Constitution, at least indirectly. On the basis of the legislation on this issue and his prior practice in the oversight of legality, the Ombudsman found that the aforementioned companies perform not only public duties referred to in section 109(1) of the Parliamentary Ombudsman Act but also public administrative tasks referred to in section 124 of the Constitution and section 25 of the Language Act when they offer government-subsidised rental homes for application to the public and select residents for them.

One of the consequences of this is that when advertising the housing units as open for application and otherwise during the application process, the provisions on linguistic rights in section 17 of the Constitution and the provisions of the Language Act should be complied with on the same grounds as in public authorities' activities (1930/2/13).

Shortcomings in care and attention that violate older persons' human dignity

As an older person needs increasing assistance it must, in compliance with section 19 of the Constitution, be ensured that his or her care and attention have been arranged appropriately. The older person's personal hygiene must be looked after adequately while respecting his or her right to autonomy. At a health centre hospital, it was found that an older person's hair was full of nits and head lice, and the efforts to remove them were unsuccessful. Finally, the person's hair was shaved off.

It is likely that this person already had head lice while in home care. The home care employees should have played a more active role in considering, together with the older person and the family members, the options for ensuring the person's personal hygiene, in which case it would also have been possible to detect the lice infestation earlier. The shortcomings in the older person's care and attention led to a situation in which, apparently, the only option was to shave the person's hair off. The Ombudsman found that this end result violated the older person's human dignity (4687/4/15).

Clarity and equality of the health care payment system

The Ombudsman noted that the current legislation may leave it unclear and subject to interpretation when certificates and statements issued by a doctor are not associated with the patient's treatment and thus payable. The health care payment system should be clear and comprehensible. This is about the obligation imposed on public authorities to guarantee for everyone adequate health services and promote the health of the population imposed on public authorities under section 19 of the Constitution. Consequently, the authorities have an obligation to define the fees so that they do not put services out of reach for those who need them. This is also about safeguarding equity between people.

Under section 80 of the Constitution, the principles governing the rights and obligations of private individuals shall be governed by Acts. The Ombudsman finds it essential that the law defines exclusively and accurately those health services for which a fee can be charged. The issue is also important because these fees, which health service users are obliged to pay, are enforceable without a court ruling or a decision. The Ombudsman reiterated his views of the need to pass more detailed legislation on this question to the Ministry of Social Affairs and Health (5589/4/15).

3.9
Complaints to the European Court of Human Rights against Finland in 2016

A total of 196 new applications were brought against Finland at the European Court of Human Rights (ECHR or the Court) in 2016 (177 in the previous year). A response from the Government was requested to 3 complaints (6). After the turn of the year, 85 (14) cases were still pending. Of them, 52 had been allocated to a judicial formation.

The ECHR's amended rules of procedure, which came into force from the beginning of 2014, impose more stringent preconditions for lodging applications. Applications must now be lodged using the form prepared by the ECHR Secretariat, and the requested information must be provided. The application must also contain copies of all documents relevant to the case. The Court will not examine a complaint that does not contain the requisite information or documents.

Finland has approved the bringing into force of Protocol No. 15 to the European Convention on Human Rights. This Protocol shortens the time for lodging applications with the ECHR from six to four months following the date of the final domestic decision. Finland has also approved the bringing into force of Protocol No. 16 of the European Convention on Human Rights. This Protocol allows the highest courts and tribunals of a State Party to request the Court to give advisory opinions on questions relating to the interpretation and application of the Convention. Neither of these Protocols was in force internationally at the end of the reporting year.

The decision on the admissibility of an application is made by the ECHR in a single-judge formation, in a Committee formation or in a Chamber formation (7 judges). The Court's decision may also confirm a settlement, and the case is then struck out of the ECHR's list. Final judgments are given either by a Committee, a Chamber or the Grand Chamber (17 judges). In its judgment, the ECHR resolves an alleged case of a human rights violation or confirms a friendly settlement.

A very high share, some 95%, of the applications lodged with the ECHR are declared inadmissible. In 2016, an application was declared inadmissible or struck out of the Court's list in 157 (256) cases that concerned Finland. In almost all of these cases, the decision was given by a single judge. Since Finland's accession to the ECHR, a total of 4,959 applications against Finland have been declared inadmissible.

In 2016, the number of ECHR decisions concerning Finland was record low. The Court only delivered two decisions (16 in the previous year) and one judgment (7 in 2015). In both decisions, the application was declared inadmissible as manifestly ill-founded. The cases concerned the removal of persons to Italy.

The ECHR also delivered 24 (33) decisions on requests for the application of interim measures, of which 1 (2) was granted.

By the end of 2016, Finland had received a total of 186 judgments from the Court, and 103 applications had been decided following a friendly settlement or a unilateral declaration by the Government. The total number of ECHR judgments confirming a violation of rights by Finland since the country's accession is strikingly large, at 139 (approximately 75 per cent of all judgments).

Whereas Sweden, Norway, Denmark and Iceland have been State Parties to the ECHR for considerably longer than Finland, the Court has only ruled against them in a total of 116 cases. In 2016, the other Nordic countries received 10 judgments, in five of which the Court found against the government.

3.9.1 MONITORING OF THE EXECUTION OF JUDGMENTS IN THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

The Committee of Ministers of the Council of Europe monitors the execution of ECHR judgments. The Committee's oversight focuses on three different aspects: the payment of compensation, individual measures, and general measures taken as a result of a judgment. The monitoring primarily takes place by diplomatic means. Where necessary, the Committee of Ministers can refer a question of execution to the ECHR for confirmation.

Within six months of the ECHR judgment becoming final, the states shall submit either an action report or an action plan comprising a report on any measures that have been taken and/or that are being planned. The reports are published on the Committee of Ministers' website.

No new monitoring cases became pending during the year under review. Monitoring of execution remained pending in 41 judgments concerning Finland.

3.9.2 JUDGMENTS AND DECISIONS DURING THE YEAR UNDER REVIEW

The only judgment issued against Finland during the year under review concerned a violation of freedom of expression as enshrined in Article 10 of the European Convention on Human Rights.

In the case *M.P. v. Finland* (15 December 2016), the mother of an approximately three-year-old child had been convicted of defamation and sentenced to a fine for having expressed to a social worker in a telephone conversation her concern that her child might have been sexually abused by the child's father. No evidence to support the suspicion of an offence had been found during a previous pre-trial investigation. The Court found that a fair balance had not been struck between the competing interests at stake. The seriousness of child abuse as a social problem requires that persons who act in good faith, in what they believe are the best interests of the child, should not be influenced by the fear of being prosecuted or sued when communicating their concerns to health care professionals or social services. Contrary to the view of national courts (with reference to the precedent KKO:2006:10), the Court found it relevant that the applicant had shared her concerns with a public official who was bound by confidentiality.

The ECHR delivered two decisions concerning Finland.

In the case *M.R. and Others* (16 June 2016), an Iraqi family had sought asylum in Italy and subsequently moved to Finland. In Finland, the mother divorced the children's father and applied for asylum for herself and her two minor children. In accordance with the Dublin Regulation, the family was ordered to be removed from the country and returned to Italy.

The ECHR noted that the Finnish authorities had duly informed the Italian authorities about the removal in advance and that the family's vulnerable situation and special needs would be taken into account in Italy. The ECHR considered the application manifestly ill-founded and declared it inadmissible. From a legal standpoint, the situation was similar in the case *M.A.-M. and Others* (27 October 2016), which was also declared inadmissible on the same grounds.

Compensation amounts

In the only judgment delivered during the year under review, the ECHR ruled against Finland. The Finnish government was ordered to pay the applicant approximately EUR 19,000 in compensation. In 2015, human rights violations led to a payment obligation of EUR 67,942.

Communicated new cases

During the year under review, no responses to applications were requested from the Government (6 in the previous year).

4 Covert intelligence gathering

4
Covert intelligence gathering

The oversight of covert intelligence gathering fell within the remit of Parliamentary Ombudsman *Petri Jääskeläinen*. The principal legal adviser responsible for the area was *Mikko Eteläpää*.

Covert intelligence gathering refers first of all to the covert coercive measures used in criminal investigations and to the corresponding covert methods of gathering intelligence that may be used to prevent or detect offences or avert danger. Such methods include, for example, telecommunications interception and traffic data monitoring, technical listening and surveillance as well as undercover operations and pseudo purchases. The use of these methods is kept secret from their targets and to some extent they may, based on a court decision, remain permanently undisclosed to the targets.

The police have the most extensive powers to use covert intelligence gathering, but Finnish Customs also has access to a wide range of covert methods of gathering intelligence with respect to customs-related offences. The powers of the Finnish Border Guard and the Defence Forces are clearly more limited.

This chapter also discusses a report on the witness protection programme submitted to the Parliamentary Ombudsman. The witness protection programme act (*laki todistajansuojeluohjelmasta* 88/2015) entered into force on 1 March 2015. According to the act, the Ministry of the Interior must annually report to the Parliamentary Ombudsman on decisions and measures taken under the act.

4.1 SPECIAL NATURE OF COVERT INTELLIGENCE GATHERING

Covert intelligence gathering involves secretly intervening in the core area of several fundamental rights, especially those concerning privacy, domestic peace, confidential communications and the protection of personal data. Its use may also affect the implementation of the right to a fair trial. For intelligence gathering to be effective, the target must remain unaware of the measures, at least in the early stages of an investigation. Thus, the parties at whom these measures are targeted have more limited opportunities to react to the use of these coercive measures than is the case with "ordinary" coercive measures, which in practice become evident immediately or very soon.

Due to the special nature of covert intelligence gathering, questions of legal protection are of accentuated importance from the perspective of those against whom the measures are employed and more generally the legitimacy of the entire legal system. The secrecy that is inevitably associated with covert intelligence gathering exposes the activity to doubts about its legality, whether or not there are grounds for that. Indeed, efforts have been made to ensure legal protection through special arrangements both before and after intelligence gathering. Their key components include the court warrant procedure, the authorities' internal oversight and the Ombudsman's oversight of legality.

4.2 OVERSIGHT OF COVERT INTELLIGENCE GATHERING

Courts

To ensure legal protection, it has been considered important that telecommunications interception and mainly also traffic data monitoring can only be carried out under a warrant issued by a court. These days, undercover operations during a criminal investigation also require authorisation from a court (Helsinki District Court). Depending on the target location, technical surveillance can in some cases also be carried out on the basis of the authority's own decision without court control. The same applies to the majority of other forms of covert intelligence gathering. The decision-making criteria laid down by law are partly rather loose and leave the party making the decision great discretionary power. For example, the "reason to suspect an offence" threshold that is a basic precondition for issuing a warrant for telecommunications interception is fairly low.

Requests concerning coercive measures must be dealt with in the presence of the person who has requested the measure or by using a video conference – written procedures are only allowed under limited circumstances when renewing an authorisation. When considering the prerequisites for using a coercive measure, a court is dependent on the information it receives from the criminal investigation authority, and the "opposing party" is not present at the hearing. The only exception is on-site interception in domestic premises: in these cases, the interests of the target of the coercive measure are overseen (naturally without his or her knowing) by a public attorney, usually an advocate or public legal aid.

According to law, a complaint may be lodged with a Court of Appeal against a District Court's decision concerning covert intelligence gathering, with no time limit. Thus, a suspect may even years later refer the legality of a decision to a Court of Appeal for assessment, and some people have done so. In such cases, courts of higher instances establish case law on covert intelligence gathering. The importance of the courts' role in ensuring a suspect's legal protection and in examining the grounds for the requested coercive measure has been highlighted, for example, in the Supreme Court's decisions KKO:2007:7 and KKO:2009:54.

The courts also play a key role with respect to the parties' right of access to information concerning covert intelligence gathering. As a rule, the target of covert intelligence gathering must be notified of the use of the method no later than one year after the use has ceased. Based on the grounds laid down by law, a court may grant permission to postpone the notification or an exemption from the notification obligation. However, it is important to ensure that the total exemption, in particular, is only granted when it is absolutely necessary. In a state governed by the rule of law, measures that interfere with fundamental rights and are kept completely secret can only be allowed to a very limited extent. The Supreme Court has considered the issue of parties' right to obtain information on undercover operations in its decision KKO:2011:27 concerning the Ulvila homicide case, which was widely covered in the media.

On 28 September 2016, the Supreme Administrative Court issued two decisions on public access to documents on covert intelligence gathering by the police (4077, 62/1/15 and 4078, 2216/1/15). The decisions concerned a request for information about regulations concerning the use of covert human intelligence sources by the police and the SALPA system. In its decisions, the Supreme Administrative Court was of the view that the information contained in the regulations regarding the use of covert human intelligence sources, the related safety and security measures and the organisation of the protection of intelligence gathering must be kept secret because, if disclosed in public, the details could pose the risk of the identities of human intelligence sources and the police officers involved in the operations becoming revealed.

Authorities' internal oversight

The oversight of the use of covert intelligence gathering involves first of all normal supervision by superior officials. Moreover, provisions separately emphasise the oversight of covert intelligence gathering.

Under the law, the use of covert intelligence gathering methods in the police is overseen by the National Police Board (apart from the Finnish Security Intelligence Service, Supo) and the heads of the police units using the methods. The responsibility for overseeing the covert intelligence gathering methods used by Supo was transferred to the Ministry of the Interior at the beginning of 2016. At the Finnish Border Guard, the special oversight duties fall within the responsibility of the Border Guard Headquarters and the administrative units operating under it. At Finnish Customs, covert intelligence gathering is overseen by supervisory personnel of Customs and the units employing the methods in their respective administrative branches. At the Finnish Defence Forces, records drawn up on the use of covert intelligence gathering must be sent to the Ministry of Defence.

In addition to various acts, a government decree has been adopted on criminal investigations, coercive measures and covert intelligence gathering (122/2014). The decree lays down provisions on, for example, drawing up records on the use of different methods and reports on covert intelligence gathering. The authorities have also issued internal orders on covert intelligence gathering.

The Ministry of the Interior, the Headquarters of the Finnish Border Guard (which is a department of the Ministry of the Interior), the Ministry of Finance (which governs Finnish Customs) and the Ministry of Defence report annually by the end of February to the Parliamentary Ombudsman on the use and oversight of covert intelligence gathering in their respective administrative branches.

The authorities reporting to the Parliamentary Ombudsman receive a substantial part of their information on the use of covert intelligence gathering from the SALPA case management system. The only exception is the Finnish Defence Forces, which do not – at least yet – use the SALPA system. SALPA is a reliable source of statistical data. However, it does not cover all methods of covert intelligence gathering, such as undercover operations, pseudo purchases and the use of covert human intelligence sources. The superior agencies also receive information on the activities through their own inspections and contacts with the heads of investigation.

The police have centralised all intelligence gathering from telecommunications operators to be conducted through the SALPA system maintained by the National Bureau of Investigation (NBI). The NBI's telecommunications unit oversees the quality of activities and provides guidance to the heads of investigation when necessary. Centralising the activities under the NBI has improved the quality of the functions.

In the police administration, several officials have been granted supervisory rights in SALPA for the oversight of legality. These officials work mainly in the legal units of police departments. Their task is to oversee activities in accordance with the unit's legality inspection plan and by conducting spot checks.

In addition to internal oversight at police departments, the National Police Board also oversees the units operating under it through the SALPA system and by conducting separate inspections.

The National Police Board has established a working group to monitor the use of covert coercive measures and covert intelligence gathering methods. The members of the group may include representatives from the National Police Board, the National Bureau of Investigation, the Finnish Security Intelligence Service and police departments. Moreover, representatives of the Ministry of the Interior, the Border Guard, the Defence Forces and Customs are also invited to participate as members of the group. The group is tasked with monitoring the authorities' activities, collaboration and training, discussing issues that have been identified in the activities and collaboration

or that are important for the oversight of legality and reporting them to the National Police Board, proposing ways to improve activities, and coordinating the preparation of reports submitted to the Parliamentary Ombudsman.

Parliamentary Ombudsman's oversight of legality

Overseeing covert intelligence gathering has been one of the special tasks of the Parliamentary Ombudsman since 1995. At the time, it was provided that the Ministry of the Interior would give the Ombudsman an annual report on telecommunications interception, traffic data monitoring and technical listening by the police as well as on technical surveillance in penal institutions. The National Board of Customs submitted a report on the use of the methods by Finnish Customs. The Ministry of Defence and the Finnish Border Guard prepared similar reports on the methods they had used. In 2001, the scope of the Ombudsman's special oversight was extended to also include undercover operations and in 2005 to cover pseudo purchases. Both measures were only available to the police.

It was not until the beginning of 2014 that the Ombudsman's special oversight duties were extend to cover all covert gathering of intelligence. In addition to the extended powers, the use of these methods has also significantly increased over the years.

The annual reports obtained from various authorities improve the Ombudsman's opportunities to follow the use of covert intelligence gathering on a general level. Where concrete individual cases are concerned, the Ombudsman's special oversight can, for limited resources alone, be at best of a random check nature. At present and in the future, the Ombudsman's oversight mainly complements the authorities' own internal oversight of legality and can largely be characterised as "oversight of oversight".

Complaints concerning covert intelligence gathering have been few, with no more than approximately ten complaints received a year. This is most likely due, at least in part, to the secret nature of the activities. However, it should be noted that covert intelligence gathering operations remain completely unknown to the target only in very rare and exceptional cases. On inspection visits and in other own-initiative activities, the Ombudsman has striven to identify problematic issues concerning legislation and the practical application of the methods. Cases have been examined, for example, on the basis of the reports received or inspections conducted. However, opportunities for this kind of own-initiative examination are limited.

4.3 LEGAL REFORMS

At the beginning of 2014, the Coercive Measures Act and the Police Act underwent a complete reform, including a significant expansion in the scope of regulation concerning covert intelligence gathering. In addition to the methods that were already regulated, *i.e.* telecommunications interception, traffic data monitoring, obtaining the location data of mobile stations, technical surveillance (listening, observation and tracking), undercover operations and pseudo purchases, under the new legislation covert intelligence gathering also includes, for example, the use of covert human intelligence sources and controlled deliveries as well as the new methods of obtaining location data to find a suspect or a convicted person, covert collection of intelligence and technical surveillance of a device. The provisions on the previously used methods were also complemented and specified in the reform.

For Finnish Customs and the Finnish Defence Forces, separate acts have recently been adopted on the prevention of crimes, regulating the use of covert intelligence gathering by the authorities in question.

With respect to the Defence Forces, the act on military discipline and crime prevention in the Defence Forces (*laki sotilaskurinpidosta ja rikos-*

torjunnasta puolustusvoimissa 255/2014) entered into force on 1 May 2014. Under the act, when the Defences Forces conduct a criminal investigation they may use certain, separately determined methods of covert intelligence gathering as referred to in the Coercive Measures Act, such as extended surveillance and technical observation and listening. In the prevention and detection of crimes, the Defence Forces similarly only have access to certain methods of covert intelligence gathering, although the range is wider than in criminal investigations. However, the Defence Forces cannot use, for example, telecommunications interception, traffic data monitoring, undercover operations or pseudo purchases. If these measures are needed, they are carried out by the police.

The act on the prevention of crime by Finnish Customs (*laki rikostorjunnasta Tullissa* 623/2015) entered into force on 1 June 2015. In the act, the powers of Customs were harmonised with those laid down in the new Criminal Investigation Act, Coercive Measures Act and Police Act. One significant change was that Customs was given powers to conduct undercover operations and pseudo purchases, even though the measures are in practice implemented by the police at Customs' request. Moreover, the use of covert human intelligence sources in the prevention of customs-related offences was harmonised with the provisions of the Police Act and the Coercive Measures Act.

A separate act on crime prevention by the Finnish Border Guard is also envisaged. The aim is to have the act enter into force at the beginning of 2018. The new act would include the crime prevention provisions currently included in the Border Guard Act. According to current knowledge, no major changes are planned to the powers of the Border Guard.

The future development of legislation on intelligence gathering by the security authorities is highly important for covert intelligence gathering. A working group established by the Ministry of Defence completed its report in January 2015, and the preparatory work has been continued by establishing three different legislative projects. This topic will be discussed in more detail later in this report.

4.4 REPORTS SUBMITTED TO THE PARLIAMENTARY OMBUDSMAN

The following presents certain information on the use and oversight of covert intelligence gathering obtained from the reports submitted by the Ministry of the Interior, the Headquarters of the Finnish Border Guard, the Ministry of Finance and the Ministry of Defence. Exact figures are partly confidential. For example, the covert intelligence gathering activities of the Finnish Security Intelligence Service are not included in the figures presented below.

Use of covert intelligence gathering in 2016

Coercive telecommunications measures under the Coercive Measures Act

The police were granted 2,606 telecommunications interception and traffic data monitoring warrants for the purpose of investigating an offence (3,110 in 2015). However, in the statistical evaluation of covert coercive measures the most important indicator is perhaps the number of persons at whom coercive measures were targeted. In 2016, simultaneous telecommunications interception and traffic data monitoring activities carried out by the police under the Coercive Measures Act were targeted at 471 (551) suspects, of whom 27 were unidentified. The number of suspects whose identity is unknown has significantly decreased over the past few years. The use of mere traffic data monitoring was targeted at 1,241 (1,417) suspects.

Simultaneous telecommunications interception and traffic data monitoring activities carried out by Customs were targeted in 2016 at 77 (91)

persons, and the number of warrants issued was 191 (231). The use of mere traffic data monitoring was targeted 189 (180) persons, with 498 (376) warrants issued.

The most common grounds for simultaneous telecommunications interception and traffic data monitoring by the police were aggravated narcotics offences (68%) and offences against person (10%). Within the administrative branch of Customs, the most common grounds were aggravated tax frauds and aggravated narcotics offences.

The Finnish Border Guard used telecommunications interception and traffic data monitoring much less frequently than the police and Customs. One simple reason for this is that under the law the Border Guard can only use coercive telecommunications measures in the investigation of a few specific types of offences (mainly aggravated arrangement of illegal immigration and the related offence of human trafficking). In the Finnish Defence Forces, the use of covert intelligence gathering is even less frequent, and the activities have clearly focused on preventing and detecting offences or, in other words, the field of military intelligence instead of criminal investigations.

Telecommunications interception and traffic data monitoring under the Police Act

Traffic data monitoring under the Police Act was targeted at 64 (87) persons. The method was used most frequently to avert a danger to life or health and to investigate the cause of death.

Traffic data monitoring under the Act on the Prevention of Crime by Finnish Customs

In total, 13 (28) traffic data monitoring warrants were issued to prevent and detect customs offences, most often on the grounds of an aggravated doping offence.

Technical surveillance

In 2015, the police used technical observation under the Coercive Measures Act 38 times with respect to premises covered by domiciliary peace. The method was not used in prisons during the year. The police also used on-site interception in a prison eight times, technical observation 137 times, on-site interception 120 times and technical tracking 348 times. On-site interception in domestic premises was used three times. Data for the identification of a network address or a terminal end device were obtained 57 times. The most common reason for using these surveillance methods was an aggravated narcotics offence.

Under the Police Act, technical observation was used 44 times, on-site interception five times and technical tracking 67 times.

Customs used technical tracking under the Coercive Measures Act in 20 instances. On-site interception was used two times and technical observation 17 times.

Technical tracking under the act on the prevention of crime by Finnish Customs was used 24 times. No decisions were issued on on-site interception, and technical observation was used three times.

Extended surveillance

Extended surveillance means other than short-term surveillance of a person who is suspected of an offence or who, with reasonable cause, might be assumed to commit an offence. The National Police Board has interpreted this to mean several individual and repeated instances of surveillance (approximately five times) or one continuous instance of surveillance lasting approximately 24 hours.

According to the report submitted to the Parliamentary Ombudsman by the Ministry of the Interior, the police made in 2016 some 250 decisions on the use of extended surveillance. Customs took 58 similar decisions.

Special covert coercive measures

In 2016, the police registered a few new covert human intelligence sources. Their number now totals well over 100.

In 2016, a few new decisions were taken to use undercover operations and to continue the validity of previously issued decisions on undercover operations. Undercover operations have been used to detect serious offences, in particular aggravated narcotics offences. Pseudo purchases were also mainly used to detect and investigate serious narcotics offences. In 2016, more than ten decisions were made on pseudo purchases.

The application of controlled deliveries has been considered problematic. In 2016, the police made a few decisions on the use of the measure. Customs reported using controlled deliveries six times in 2016.

Rejected requests

There was no significant change in the number of rejected requests for the use of coercive telecommunications measures. In 2015, courts rejected eight requests for coercive telecommunications measures submitted by the police. None of the requests made by the Broder Guard and Customs were rejected.

Notification of the use of coercive measures

As a rule, the use of a covert intelligence gathering method must be notified to the target no later than one year after the gathering of intelligence has ceased. A court may under certain conditions authorise the notification to be postponed or decide that no notification needs to be given.

During the year under review, there were some cases in which the notification of the use of a covert intelligence gathering method was delayed. The reports submitted do not reveal exact numbers because a notification may have been issued but it has not been recorded in SALPA.

The number of authorisations for postponing the notification or for not giving one at all was very low. It seems that no authorisations for not giving a notification were issued in 2016.

Internal oversight of legality

In 2016, the National Police Board conducted legality inspections in all police units (two inspections at the National Bureau of Investigation). The unit responsible for the oversight of legality reviewed the legality inspection plans drawn up by different units for 2016 and, in connection with the oversight of the SALPA system, focused on the uniform use and oversight, organisation, processes and responsibilities of the covert intelligence gathering methods employed by police units. Separate inspections were carried out on notifications given to suspects about the use of intelligence gathering methods in 2014 and the protection of intelligence gathering.

Based on the findings of the National Police Board, the quality of the operative processes of organising, using and overseeing covert intelligence gathering is good. The shortcomings identified were mainly technical or concerned the insufficient recording of the preconditions for the use of the methods. According to the National Police Board, police units have mainly been successful in adapting to the changes in the preconditions for using covert intelligence gathering methods brought about by the legislative reform at the beginning of 2014 and the use of new methods; however, there are still certain problems with interpreting the legislation.

In previous years, the National Police Board has drawn the police units' attention to the requirement that SALPA requests and decisions must be justified in terms of general and special preconditions so that the legality of measures can be examined afterwards. According to the National Police Board, the quality and comprehensiveness of records had improved during the year under review, and shortcomings had to be addressed only in a few instances.

According to the National Police Board, the inspection activities of police units have become more harmonised and the related work processes more established. This is due, in part, to the active involvement of their legal units. At national level, the quality and contents of the inspections carried out by police units had by 2016 become established and more uniform, although they do include certain unit-specific characteristics.

In 2016, the Enforcement Department of Finnish Customs conducted inspection visits to all operative crime prevention units and to the national surveillance unit. The Enforcement Department inspected all cases that had involved coercive telecommunications measures, technical surveillance or extended surveillance. The inspections also covered all cases of protection of covert intelligence gathering and covert collection of intelligence, certain other issues concerning covert intelligence gathering and documents concerning controlled delivery. No serious shortcomings were detected.

At the Border Guard, oversight was conducted in all administrative units in 2016 by an official who was not involved in the operative use of covert coercive measures. According to the observations made by the Border Guard during its oversight activities, requests have generally been justified in sufficient detail; however, there have been some delays and shortcomings in the drawing up of records.

The Ministry of Defence did not identify any obvious unlawful conduct in its oversight of legality.

4.5 PARLIAMENTARY OMBUDSMAN'S OVERSIGHT OF LEGALITY

During the year under review, the Ombudsman issued a decision regarding a complaint on technical tracking that led to measures. The case involved a suspected attempt of aggravated extortion due to which the complainant's (suspect of the offence) car was subjected to technical tracking. The Parliamentary Ombudsman evaluated the sufficiency of the justifications provided in the decision issued by the detective inspector on the use of the coercive measure.

The Ombudsman took the view that the decision on technical tracking was inadequately reasoned because it only referred to tip-offs received by the police about the complainant having committed the suspected offence. The decision made no reference to the facts on which the suspicion of the offence was based. The preliminary work on the Coercive Measures Act (HE 222/2010 vp) states, among other things, that special attention should be given to the facts on which the suspicion of the person and the preconditions for the use of the coercive measure are based. In the Ombudsman's view, the decision in the case in question was not justified in the required manner (5584/4/15).

As noted above, the Ombudsman's own-initiative actions play a key role in the oversight of covert intelligence gathering.

In the past few years, coercive telecommunications measures have been one of the themes of inspections concerning the police and the judiciary. During the year under review, the inspections concerning covert coercive measures conducted at the Häme Police Department and the Central Finland Police Department focused on requests for coercive telecommunications measures and decisions concerning technical surveillance. For this purpose, a sample of related request and decision documents was examined. During the inspection of the Åland police authority, the inspectors examined all requests and decisions issued on covert coercive measures and intelligence gathering measures in 2014–2015.

Based on the material reviewed, the activities have mainly been lawful. One of the topics discussed was the rather frequent observation that some of the requests addressed to courts and decisions made by the police used an expression other than the preconditions referred to in the law, *i.e.* their use may be assumed to produce information needed to clarify an offence or they can be assumed to be of particularly important

significance for the clarification of an offence. Even if other expressions have the same meaning as those used in the law, it was concluded that it would be clearer and less ambiguous to use the expressions laid down by law. The Åland police consider it a problem that courses for officials with the power of arrest especially trained in covert collection of intelligence have only been organised in Finnish.

In some of the requests made to courts, it was somewhat unclear what were the concrete facts connecting the target of the coercive measure to the suspected offence, and the issue was not clarified in the court decisions authorising the measures. In addition to making reference to the written application, the justifications of certain decisions only referred to the oral account given by the applicant in the hearing without providing details of the content of the oral account. Although the matter concerns the actions of courts, it was considered possible for the person making the request to ask the court to record the oral requests that are not mentioned in the application. Even in such cases, it would naturally still be at the court's discretion to decide what elements of the request to record. As a rule, however, the written request should include all the facts that are used as grounds for the request.

As a result of the inspections, the Ombudsman only had to emphasise to the Häme Police Department the importance of justifying requests and decisions concerning covert coercive measures and covert intelligence measures. Appropriate justifications are particularly important when it comes to measures that are based on decisions taken by the police, because in such cases the decision is not made by an external and independent authority like in cases concerning measures authorised by a court.

4.6 EVALUATION

Potential problems with legislation

Notification obligation

As a rule, a written notification of the use of covert intelligence gathering methods must be given to the suspect without delay after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted, or at the latest within one year of the termination of the use of the method. The manner of giving the notification depends partly on the method used. The provisions on the notification obligation are currently more detailed than before, and the scope of the obligation has been extended.

Under certain conditions, a court may decide at the request of an official with the power of arrest that the notice to the suspect may be postponed at the most by two years at a time. The court may also decide that no notice is given at all, if this is necessary in order to ensure the security of the state or to protect life or health.

Thus, it is possible that the target will never know of the method used even though under the law giving a notification is the rule and not giving a notification is an exception to the rule. It is important to keep the number of cases that remain completely unknown to the target as few as possible.

When the amendments to the new Coercive Measures Act, Criminal Investigation Act and Police Act were discussed in 2013 and experts were heard during the committee reading, particularly the criminal investigation authorities expressed their concerns about the risk of an undercover officer or a covert human intelligence source being exposed and about their safety (LaVM 17/2013 vp – HE 14/2013 vp).

According to the National Police Board, the feedback received from heads of investigation indicates that the obligation to give a written notification has hampered the use of intelligence gath-

ering methods. The availability of covert human intelligence sources was identified as a problem already in 2014, and the use of on-site interception at prisons significantly decreased in 2015 because the coercive measure is no longer considered as effective as before in preventing serious offences. According to the National Police Board, the notification obligation has become an obstacle to the use of covert human intelligence sources. As a result, Finnish authorities confine themselves to using "passive covert human intelligence sources", which reduces the effectiveness of the method. In undercover operations, notifying the target of intelligence gathering may, at worst, mean that the police officer in question will in the future no longer be able to work undercover. According to the National Police Board, the notification obligation also significantly reduces international collaboration.

The National Bureau of Investigation has proposed that the provision concerning the notification of the use of covert human intelligence sources be either completely removed because it is unnecessary or be amended in accordance with international examples to make it more functional. According to the National Bureau of Investigation, the grounds for not notifying the target should be extended particularly when the methods are used in cases that involve international collaboration and when protecting the technical and tactical methods used by the police.

One of the aims of notifying the target of the use of intelligence gathering methods is to ensure a fair trial. The new Criminal Investigation Act was amended in the previous year to emphasise the right of a party to obtain information. Under the Act, when considering the right of a party to obtain information or the restriction of this right, consideration shall be given in the assessment to the party's right to a proper defence or otherwise to appropriately secure his or her right in the court proceedings.

Together with the potential risks associated with notifying the use of covert intelligence gathering methods in investigating an offence, the requirements concerning the right to obtain information and the right to fair trial form a complex issue involving many difficulties in balancing the different aspects.

Recording covert coercive measures and intelligence gathering methods

In practice, it proved difficult to comply with the 30-day time limit for drawing up a record, as laid down in the government decree on criminal investigation, coercive measures and covert intelligence gathering. During the year under review, the decree was amended by extending the time limit to 90 days.

In a statement issued as part of the decree drafting process, Parliamentary Ombudsman Jääskeläinen stated among other things that recording matters at the latest three months after they have taken place may reduce or compromise the accuracy and reliability of the records. Therefore, Jääskeläinen emphasised that the main rule in the decree should remain unchanged, meaning that the record must be prepared without undue delay, and that 90 days should not become the main rule.

Undercover operations

The problems identified in undercover operations before the new acts entered into force have been discussed in the Finnish version of the 2011 Annual Report, on pages 109–112. These problems are still relevant.

The point of departure of the law is that police officers performing undercover operations are not allowed to commit or instigate an offence. However, if a police officer commits a traffic violation, public order violation or other similar offence for which the punishment by law is a fixed penalty, he or she will be exempt from criminal liability if the action was necessary for achieving the purpose of the undercover activities or preventing the intelligence gathering from being revealed.

The law also includes provisions on a police officer participating in the activities of an organised criminal group while performing undercover operations. If, when participating in such activities, a police officer obtains premises, or transport or other such objects, transports persons, objects or substances, attends to financial matters or assists the criminal group in other comparable ways, he or she is not subject to criminal liability under the conditions laid down by law. The police officer is exempt from criminal liability in the above-mentioned situations if there are very good grounds to have assumed that the measure would have been performed also without his or her contribution, the action of the police officer does not endanger or harm the life, health or freedom of any person or cause a significant danger or damage to property, and the assistance significantly promotes the achievement of the purpose of the covert activity.

These provisions are open to interpretation and leave certain questions unanswered. Based on the provisions, a police officer performing undercover operations has very limited room to operate. Together with the ambiguity of the provisions, this has raised questions among the police, for example, about the legal protection of police officers. It is also unclear how the exemption from criminal liability, as referred to in the law, would be implemented in practice.

Courts play a very limited role in commencing undercover operations, as their powers are limited to deciding whether the formal preconditions for undercover operations are met. Courts cannot take a stand on the plans concerning undercover operations or their practical implementation.

General problems in oversight

Resources must be invested in internal oversight

The Ombudsman's oversight of the legality of covert intelligence gathering focuses on overseeing the internal oversight of authorities. In this context, one of the areas emphasised in 2014 during visits to the legal units of all police departments was the units' own oversight of the covert intelligence gathering methods used by the police departments.

The authorities using covert intelligence gathering have in recent years invested resources and efforts in internal oversight. This applies to criminal investigation authorities as well as courts. With respect to the efficiency of internal oversight, it is of concern that the National Police Board has observed differences in the quantitative comprehensiveness of inspections conducted to oversee the police departments' use of covert intelligence gathering. According to the National Police Board, the variation depends at least partly on the quantity and prioritisation of other tasks.

A key prerequisite for internal oversight is that those who conduct it are familiar with the field and have access to all documents. This applies not only to police departments but also to the National Police Board. Even the police estimate that the standard of oversight at police departments varies greatly, and the same most evidently applies to the expertise of those who conduct oversight. Based on the findings in the oversight of legality, internal oversight at the Finnish Security Intelligence Service and the National Bureau of Investigation is of good quality.

At the Finnish Customs, Border Guard and Defence Forces, internal oversight has functioned very well according to the authorities' own assessment. In these authorities, oversight is easier because the volume of operations is much smaller than in the police.

The Ombudsman conducts retrospective oversight of a fairly general nature. The Ombudsman is remote from the actual activities and can-

not begin directing the authorities' actions or otherwise be a key setter of limits, who would redress the weaknesses in legislation. Annual or other reports submitted to the Ombudsman are important but do not solve the problems related to oversight and legal protection.

The oversight of covert coercive measures is partly founded on trust in the fact that the person conducting the oversight activities receives all the information he or she wants. Due to the nature of the activities, precise documentation is a fundamental prerequisite for successful oversight.

Real-time active recording of events and measures also helps operators to evaluate and develop their own activities, to ensure the legality of their operations and to build trust in their activities. Keeping records is also an absolute precondition for the Ombudsman's retrospective oversight of legality.

At the time of its introduction, the SALPA system was a step forward in the oversight of covert coercive measures in terms of recording the use of covert intelligence gathering methods. The system also guides its users to follow correct and lawful operating models. However, the SALPA system – like other information systems used by the police – is gradually reaching its limits, and the VITJA reform project was intended to solve the problem. Because the project could not be implemented as planned, the SALPA system has required updating. It is important to ensure that the legality and oversight of activities are not compromised due to information system issues.

In the oversight of legality, the Ombudsman has continuously emphasised the importance of providing justifications for requests and decisions. The grounds and justifications should be recorded, for example, to enable the control of decisions. If a court does not require the applicant to provide sufficient justifications or if the court neglects to provide sufficient justifications, there is a risk that warrants are issued for cases other than those intended by the legislator.

4.7 DRAFTING OF INTELLIGENCE LEGISLATION

The Ministry of Defence published in January 2015 the report "Guidelines for developing Finnish intelligence legislation" drawn up by a working group on intelligence legislation. The report outlines guidelines for the possible enactment of intelligence legislation.

The report generated a fairly extensive public debate on the need for such legislation. According to those in favour of adopting intelligence legislation, intelligence activities and the related legislation are necessary to ensure that the authorities responsible for national security have the necessary capacities and that their activities are effective. Those who are critical of the legislation say that the proposed measures will not achieve the objectives set but will entail a serious interference with privacy and the confidentiality of communications.

Based on the report, the Ministry of the Interior and the Ministry of Defence have prepared legislation on civil and military intelligence. The Ministry of Justice has examined and prepared the amendment of section 10 of the Constitution, which protects the secrecy of confidential communications.

In 2016, Parliamentary Ombudsman Jääskeläinen was heard several times regarding the intelligence legislation project.

In February, the Parliamentary Ombudsman was heard by a working group of the Ministry of Justice and a working group on civil intelligence and in April by a working group on military intelligence. In June, the Ombudsman was heard regarding the external oversight of the legality of the use of intelligence methods. The Ombudsman noted that the task requires such intensive oversight that the supreme overseer of legality is not equipped to assume the responsibility due to its nature and the resources it requires. It would be better to assign the duty to a designated special ombudsman who would, in turn, be subject to the Parliamentary Ombudsman's oversight of legality.

In November, the Parliamentary Ombudsman was heard by a working group of the Ministry of the Interior regarding a draft government proposal for civil intelligence legislation and a working group of the Ministry of Defence regarding a draft proposal for military intelligence legislation.

In October 2016, the working group of the Ministry of Justice completed its report on amending the provisions of the Constitution on protecting the secrecy of confidential communications. The working group proposed amending section 10 of the Constitution so that limitations on the secrecy of communications can be laid down by law, in addition to the current grounds, also when they are necessary to prevent crimes or to obtain information on military activities or other such activities that endanger national security. The Ombudsman issued a statement on the report on 22 December 2016 (EOAK/5048/2016).

In October 2016, the Ministry of Justice appointed a working group to prepare legislation to organise the oversight of the intelligence activities of civil and military authorities. The Secretary-General of Parliament established in December 2016 an internal working group at the Parliamentary Office to prepare a parliamentary oversight mechanism for intelligence activities.

4.8 WITNESS PROTECTION

The witness protection programme act (*laki todistajansuojeluohjelmasta* 88/2015) entered into force on 1 March 2015. The act constitutes a major reform in terms of fundamental rights and the rights of the individual. It safeguards the right to life, personal liberty and integrity and the right to the sanctity of the home, as enshrined in the Constitution.

A person may be admitted to a witness protection programme in order to receive protection if there is a serious threat against the life or health of the person or someone in their family because the person is being heard in a criminal matter or for some other reason and the threat cannot be efficiently eliminated through other measures. Together with the protected person, the police will draw up in writing a personal protection plan that includes the key measures to be implemented as part of the programme. They may include, for example, relocating the protected person to another region, arranging a new home for the person, installing security devices in the home and providing advice on personal safety and security.

If necessary for the implementation of the witness protection programme, the police may make and create false, misleading or disguised register entries and documents to support the protected person's new identity. The police may also monitor the person's home and its surroundings. Protected persons may also receive financial support to ensure their income security and independent living.

The National Bureau of Investigation (NBI) is responsible for the implementation of the witness protection programme together with other authorities. The director of the NBI makes the decisions about beginning and terminating witness protection programmes and certain related measures. The Ministry of the Interior submits annual reports to the Parliamentary Ombudsman on decisions and measures taken under the act.

The year 2015 was the first year of implementing the new act. According to the Ministry of the Interior, the act proved its value immediately after it had entered into force. The number of people under witness protection correlates well with the estimate given in the preparatory documents of the act. According to the estimate, a few persons are likely to be in the programme each year.

In the Ministry of the Interior's view, the witness protection act also worked well in its first year of implementation in the sense that none of the witness protection programmes were terminated due to reasons referred to in the law, *i.e.* because the protected person has with their own behaviour shown disregard for their own safety or significantly neglected their obligation to dis-

close information. In 2015, one witness protection programme was terminated at the protected person's request.

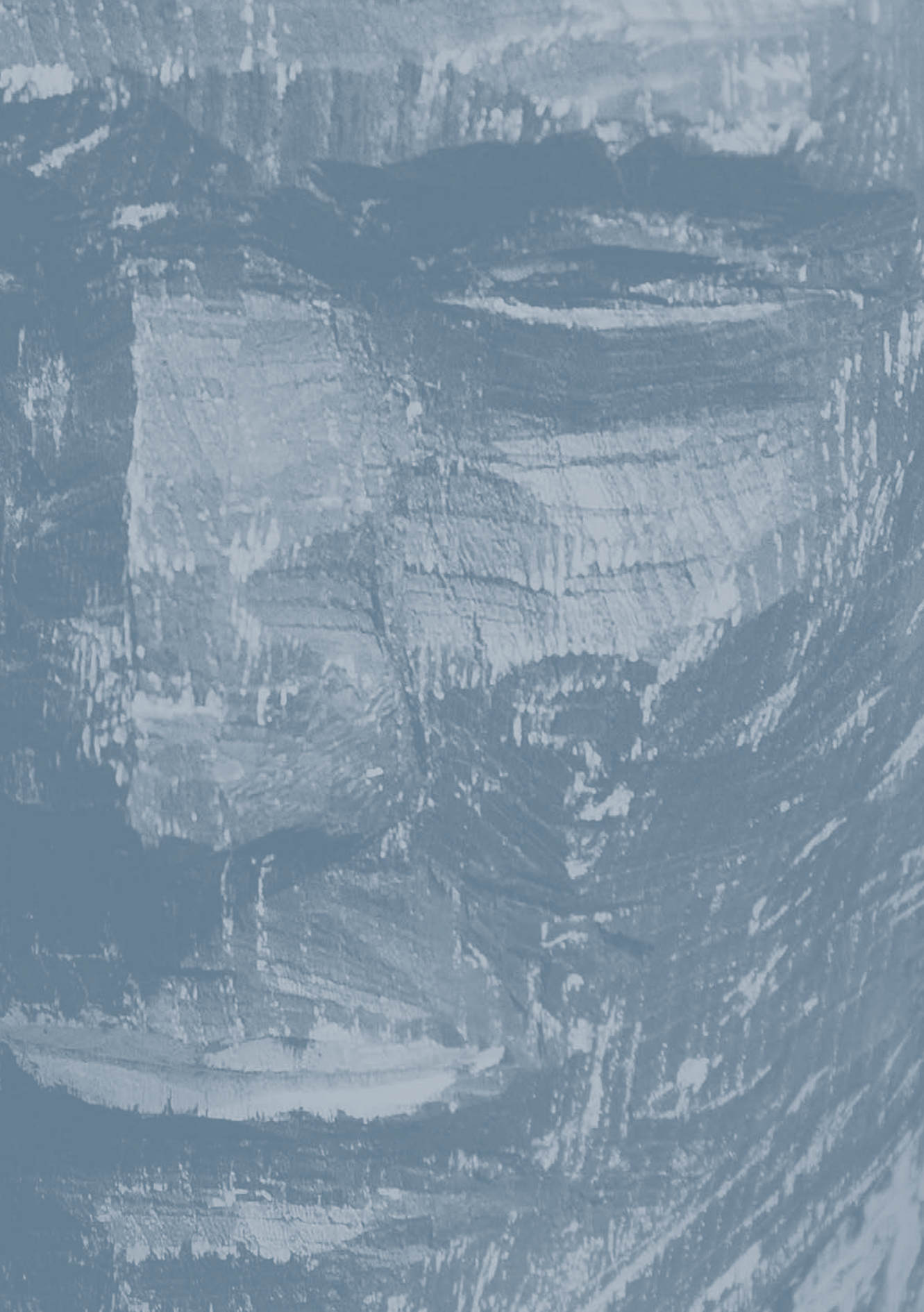
The year 2016 was the first full calendar year of implementing the act. In its report, the Ministry of the Interior concludes that no shortcomings have been identified in the NBI's activities. The NBI's activities have also not required any measures from the National Police Board that oversees the legality of the NBI's actions. The NBI's methods in witness protection comply with international operating models.

The Ministry of the Interior notes that the NBI stated already in its 2015 report on witness protection that the evaluation stage preceding the actual witness protection programme is problematic because authorities do not yet have access to the powers they do under the programme. According to the Ministry, the National Police Board should examine the problems pointed out by the NBI in more detail during 2017.

When the witness protection act was being drafted, the NBI noted in an opinion submitted to the Ministry of the Interior that it should be possible to terminate a witness protection programme when it has ceased to be relevant. According to the NBI, at least the word "clearly" (in "clearly unnecessary") should be removed from section 3(1) of the witness protection act, which includes provisions on the termination of a witness protection programme.

According to the NBI, the possible provision of personal assistance to protected persons increases the number of people who know about witness protection programmes and related measures. This can be a problem because due to the nature of witness protection and the related measures the number of people who know about them should be kept to a minimum.

5 European Union law issues



5
European Union law issues

5.1
NOTIFICATION OF REQUESTS FOR A PRELIMINARY RULING SUBMITTED TO THE COURT OF JUSTICE OF THE EUROPEAN UNION

In her review contained in the Parliamentary Ombudsman's Annual Report for 2014, the Deputy-Ombudsman Sakslin noted it was worth considering whether it is justifiable for the Ombudsman to have a role in evaluating the relevance of fundamental human rights questions pending at the EU Court of Justice in the light of the practice of overseeing legality and the Finnish fundamental rights tradition.

In its report on the Ombudsman's Annual Report, the Constitutional Law Committee noted that it agrees with this assessment of the Court of Justice's role in shaping the European idea of fundamental rights and considered it important that the monitoring of fundamental rights issues pending at the Court and Finland's participation in their processing will be made more efficient. The committee also found it desirable that, as far as possible, the Parliamentary Ombudsman should participate in assessing cases pending at the Court of Justice from the perspective of fundamental rights.

The Deputy-Ombudsman requested that the Ministry for Foreign Affairs forward to the Office of the Parliamentary Ombudsman for information copies of all requests for a preliminary ruling that have a fundamental rights dimension. On the basis of these requests, the significance of the questions put to the Court of Justice and any responses received may be assessed, for the purpose of issuing potential statements, in terms of the fundamental rights systems in Finland and the EU, and evaluated in the light of the knowledge of fundamental rights the Ombudsman has accumulated in his role as the overseer of legality.

The Ministry for Foreign Affairs has forwarded to the Office those requests for a preliminary ruling that are relevant to fundamental rights. No statements on these applications were issued in the reporting year.

5.2
SOME DECISIONS RELATED TO OVERSIGHT OF LEGALITY WITH A UNION LAW DIMENSION

The Parliamentary Ombudsman does not frequently make reference to the EU Charter of Fundamental Rights in his decisions related to oversight of legality. Of the decisions issued in the reporting year containing views that are significant from the perspective of the Charter or founding treaties, the following can be cited.

Inaccessibility of restaurant cars

The Ombudsman investigated a complaint that concerned the accessibility of restaurant cars used by the VR Group (DuettoPlus cars). According to the complainant, persons with disabilities were placed in a less advantaged position compared to other customers as restaurant services were offered to them in a carriage with wheelchair space, rather than making the actual restaurant car accessible for wheelchairs.

In the context of structural issues concerning the accessibility of railway cars, the Commission decision (PRM TSI) was valid when the rolling stock referred to in the complaint was approved for use contained no particular standards for restaurant cars.

In the context of this matter, it was pointed out that because of the prohibition on competition restrictions, Finland could not set national requirements concerning space for wheelchair users in restaurant cars or, in practice, require that wheelchair access should always be provided to the restaurant car, as the PRM TSI, which obliges Finland directly, did not contain standards to this effect.

The Ombudsman noted that reasons related to the prohibition of restrictions on competition under Union law could not necessarily and in all situations be given priority over the rights enshrined in the European Charter of Fundamental Rights. On the other hand, it was obvious that there were conflicts between EU regulation on rail transport, the European Charter of Fundamental Rights and general national regulation on equality, or at least the interpretations that were possible in the light of them, that could not be resolved by the Ombudsman.

In these cases the national authorities, or primarily the Finnish Transport Safety Agency but also the Ministry of Transport and Communications had to, under their obligation to promote fundamental rights pursuant to the Constitution, use all available measures to resolve this conflict to the extent that it was possible (651/4/15, see p. 69 for the details of this decision).

Car tax on hired and leased cars

Deputy-Ombudsman Sakslin evaluated the efficiency of legislative drafting in a matter that concerned the treatment of hired and leased cars in car taxation. The key question in the Court of Justice's judgement in case C-91/10/VAV 29.9.2010 was whether the Union law precludes a national legislative provision under which a person using in the Netherlands a car leased in another Member State was required to pay the full amount of tax based on its first use on the national road network in the Netherlands and could subsequently be refunded after the rental or leasing period ended.

In its order, the Court of Justice found that Articles 49 EC to 55 EC must be interpreted as meaning that they preclude national legislation, such as that at issue in the main proceedings, pursuant to which a person residing or established in one Member State who uses, in that Member State, a motor vehicle registered and hired in another Member State must, upon the first use of that vehicle on the road network of the first Member State, pay in full a tax the balance of which, calculated according to the duration of use of the vehicle on the network, is reimbursed, without interest, after that use has ended.

In Finland, the Court of Justice's *VAV* ruling had been interpreted to mean that, when assessing non-discrimination, the Court of Justice would have seen as the crucial point whether or not interest is due on the refund of full payment of car tax computed relative to the period for which that vehicle was used.

The Deputy-Ombudsman found that the Court of Justice had paid crucial attention to the fact that, in cases where the car is hired for a limited time period, only a tax amount that corresponds with the period of use can be collected. The statement of reasons in the Court of Justice's judgement expressly states that the requirement to tie up capital amounting to the full amount of the car tax in these cases may in essence prevent the free provision of services.

In the light of the Court of Justice's case law, at least since the VAV order was issued in September 2010, it has been obvious that the parts of Finland's national legislation relevant to what is intended in this order do not meet the requirements related to the freedom to provide services laid down in Union law. The Deputy-Ombudsman informed the Ministry of Finance of her view that it should have, as soon as the *VAV* judgement was issued, taken action to amend national legislation to ensure that it is consistent with the interpretation of the Union law confirmed by the Court of Justice (1298/4/15).

Recognising a qualification completed in another EU Member State

When assessing a complainant's studies, the National Supervisory Authority for Welfare and Health Valvira had stated that the European Union's recognition procedure could not be applied. In the Ombudsman's opinion, this conclusion appeared to be correct as such. What the Ombudsman found problematic, however, was the lack of any indication in the documents showing that Valvira would have considered the case in the light of the general principles of Union law.

The established case law of the Court of Justice of the European Union indicates that when a qualification completed in another EU/EEA Member State cannot be recognised within the framework of the general recognition mechanism, the matter should be considered further in terms of the EU citizen's basic freedoms (free movement of labour and freedom of establishment, Articles 45 and 49 TFEU). The case law is based on the judgement in case *Vlassopoulou* issued before the recognition mechanism came into force (C-340/89).

The case law derived from case *Vlassopoulou* precludes rejecting an application exclusively on the grounds that a qualification cannot be recognised under the recognition mechanism. In addition, the national authorities "must take into consideration all the diplomas, certificates and other evidence of formal qualifications of the person concerned and his relevant experience, by comparing the specialised knowledge and abilities so certified and that experience with the knowledge and qualifications required by the national rules" (*e.g.* case C-298/14 *Broulliard*).

However, the Ombudsman drew Valvira's attention to taking into account the aforementioned case law when assessing the preconditions for recognising qualifications completed in EU/EEA Member States (2164/4/15)

Drafting of a hunting decree

A complaint filed with the Ombudsman concerned the conduct of public servants at the Ministry of Agriculture and Forestry when drafting a decree to be issued by the Ministry that restricts the hunting of male eiders. The drafting of this decree was based on a reasoned opinion issued by the European Commission to Finland in April 2015 on the hunting of male eiders in summer.

Deputy-Ombudsman Sakslin noted that the natural science issues raised in the complaint could not be assessed as part of the Ombudsman's oversight of legality. Neither could the Ombudsman assess if the restrictions contained in hunting legislation were adequate to meet the obligations to protect the eider that are binding to Finland. Whether or not Finland's actions are adequate in the light of the Union law and what the correct interpretation of the Union law is must ultimately be decided by the Court of Justice of the European Union.

This matter has been pending in the Commission. The Commission's oversight of legality was not purely legal in nature. Due to the different nature of the Commission's supervisory procedure and the Ombudsman's oversight of legality, it was also in the Ombudsman's interest to monitor the progress in this matter. However, the Deputy-Ombudsman found that this matter and the Ministry of Agriculture and Forestry's actions relevant to it did not give her cause for further action at this stage (4900/4/15).

6 Annexes

Constitutional Provisions pertaining to Parliamentary Ombudsman of Finland

11 June 1999 (731/1999), entry into force 1 March 2000

Section 27
Eligilibity and qualifications for the office of Representative

Everyone with the right to vote and who is not under guardianship can be a candidate in parliamentary elections.

A person holdin military office cannot, however, be elected as a Representative.

The Chancellor of Justice of the Government, the Parliamentary Ombudsman, a Justice of the Supreme Court or the Supreme Administrative Court, and the Prosecutor-General cannot serve as representatives. If a Representative is elected President of the Republic or appointed or elected to one of the aforesaid offices, he or she shall cease to be a Representative from the date of appointment or election. The office of a Representative shall cease also if the Representative forfeits his or her eligibility.

Section 38
Parliamentary Ombudsman

The Parliament appoints for a term of four years a Parliamentary Ombudsman and two Deputy Ombudsmen, who shall have outstanding knowledge of law. A Deputy Ombudsman may have a substitute as provided in more detail by an Act. The provisions on the Ombudsman apply, in so far as appropriate, to a Deputy Ombudsman and to a Deputy Ombudsman's a substitute. (802/2007, entry into force 1.10.2007)

The Parliament, after having obtained the opinion of the Constitutional Law Committee, may, for extremely weighty reasons, dismiss the Ombudsman before the end of his or her term by a decision supported by at least two thirds of the votes cast.

Section 48
Right of attendance of Ministers, the Ombudsman and the Chancellor of Justice

Minister has the right to attend and to participate in debates in plenary sessions of the Parliament even if the Minister is not a Representative. A Minister may not be a member of a Committee of the Parliament. When performing the duties of the President of the Republic under section 59, a Minister may not participate in parliamentary work.

The Parliamentary Ombudsman and the Chancellor of Justice of the Government may attend and participate in debates in plenary sessions of the Parliament when their reports or other matters taken up on their initiative are being considered.

Section 109
Duties of the Parliamentary Ombudsman

The Ombudsman shall ensure that the courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights.

The Ombudsman submits an annual report to the Parliament on his or her work, including observations on the state of the administration of justice and on any shortcomings in legislation.

Section 110
The right of the Chancellor of Justice and the Ombudsman to bring charges and the division of responsibilities between them

A decision to bring charges against a judge for unlawful conduct in office is made by the Chancellor of Justice or the Ombudsman. The Chancellor of Justice and the Ombudsman may prosecute or order that charges be brought also in other matters falling within the purview of their supervision of legality.

Provisions on the division of responsibilities between the Chancellor of Justice and the Ombudsman may be laid down by an Act, without, however, restricting the competence of either of them in the supervision of legality.

Section 111
The right of the Chancellor of Justice and Ombudsman to receive information

The Chancellor of Justice and the Ombudsman have the right to receive from public authorities or others performing public duties the information needed for their supervision of legality.

The Chancellor of Justice shall be present at meetings of the Government and when matters are presented to the President of the Republic in a presidential meeting of the Government. The Ombudsman has the right to attend these meetings and presentations.

Section 112
Supervision of the lawfulness of the official acts of the Government and the President of the Republic

If the Chancellor of Justice becomes aware that the lawfulness of a decision or measure taken by the Government, a Minister or the President of the Republic gives rise to a comment, the Chancellor shall present the comment, with reasons, on the aforesaid decision or measure. If the comment is ignored, the Chancellor of Justice shall have the comment entered in the minutes of the Government and, where necessary, undertake other measures. The Ombudsman has the corresponding right to make a comment and to undertake measures.

If a decision made by the President is unlawful, the Government shall, after having obtained a statement from the Chancellor of Justice, notify the President that the decision cannot be implemented, and propose to the President that the decision be amended or revoked.

Section 113
Criminal liability of the President of the Republic

If the Chancellor of Justice, the Ombudsman or the Government deem that the President of the Republic is guilty of treason or high treason, or a crime against humanity, the matter shall be communicated to the Parliament. In this event, if the Parliament, by three fourths of the votes cast, decides that charges are to be brought, the Prosecutor-General shall prosecute the President in the High Court of Impeachment and the President shall abstain from office for the duration of the proceedings. In other cases, no charges shall be brought for the official acts of the President.

Section 114
Prosecution of Ministers

A charge against a Member of the Government for unlawful conduct in office is heard by the High Court of Impeachment, as provided in more detail by an Act.

The decision to bring a charge is made by the Parliament, after having obtained an opinion from the Constitutional Law Committee concerning the unlawfulness of the actions of the Minister. Before the Parliament decides to bring charges or not it shall allow the Minister an opportunity to give an explanation. When considering a matter of this kind the Committee shall have a quorum when all of its members are present.

A Member of the Government is prosecuted by the Prosecutor-General.

Section 115
Initiation of a matter concerning the legal responsibility of a Minister

An inquiry into the lawfulness of the official acts of a Minister may be initiated in the Constitutional Law Committee on the basis of:

1) A notification submitted to the Constitutional Law Committee by the Chancellor of Justice or the Ombudsman;
2) A petition signed by at least ten Representatives; or
3) A request for an inquiry addressed to the Constitutional Law Committee by another Committee of the Parliament.

The Constitutional Law Committee may open an inquiry into the lawfulness of the official acts of a Minister also on its own initiative.

Section 117
Legal responsibility of the Chancellor of Justice and the Ombudsman

The provisions in sections 114 and 115 concerning a member of the Government apply to an inquiry into the lawfulness of the official acts of the Chancellor of Justice and the Ombudsman, the bringing of charges against them for unlawful conduct in office and the procedure for the hearing of such charges.

Parliamentary Ombudsman Act

14 March 2002 (197/2002)

CHAPTER 1
Oversight of legality

Section 1
Subjects of the Parliamentary Ombudsman's oversight

(1) For the purposes of this Act, subjects of oversight shall, in accordance with Section 109 (1) of the Constitution of Finland, be defined as courts of law, other authorities, officials, employees of public bodies and also other parties performing public tasks.

(2) In addition, as provided for in Sections 112 and 113 of the Constitution, the Ombudsman shall oversee the legality of the decisions and actions of the Government, the Ministers and the President of the Republic. The provisions set forth below in relation to subjects of oversight apply in so far as appropriate also to the Government, the Ministers and the President of the Republic.

Section 2
Complaint

(1) A complaint in a matter within the Ombudsman's remit may be filed by anyone who thinks a subject has acted unlawfully or neglected a duty in the performance of their task.

(2) The complaint shall be filed in writing. It shall contain the name and contact particulars of the complainant, as well as the necessary information on the matter to which the complaint relates.

Section 3
Investigation of a complaint (20.5.2011/535)

(1) The Ombudsman shall investigate a complaint if the matter to which it relates falls within his or her remit and if there is reason to suspect that the subject has acted unlawfully or neglected a duty or if the Ombudsman for another reason takes the view that doing so is warranted.

(2) Arising from a complaint made to him or her, the Ombudsman shall take the measures that he or she deems necessary from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. Information shall be procured in the matter as deemed necessary by the Ombudsman.

(3) The Ombudsman shall not investigate a complaint relating to a matter more than two years old, unless there is a special reason for doing so.

(4) The Ombudsman must without delay notify the complainant if no measures are to be taken in a matter by virtue of paragraph 3 or because it is not within the Ombudsman's remit, it is pending before a competent authority, it is appealable through regular appeal procedures, or for another reason. The Ombudsman can at the same time inform the complainant of the legal remedies available in the matter and give other necessary guidance.

(5) The Ombudsman can transfer handling of a complaint to a competent authority if the nature of the matter so warrants. The complainant must be notified of the transfer. The authority must inform the Ombudsman of its decision or other measures in the matter within the deadline set by the Ombudsman. Separate provisions shall apply to a transfer of a complaint between the Parliamentary Ombudsman and the Chancellor of Justice of the Government.

Section 4
Own initiative

The Ombudsman may also, on his or her own initiative, take up a matter within his or her remit.

Section 5
Inspections (28.6.2013/495)

(1) The Ombudsman shall carry out the on-site inspections of public offices and institutions necessary to monitor matters within his or her remit. Specifically, the Ombudsman shall carry out inspections in prisons and other closed institutions to oversee the treatment of inmates, as well as in the various units of the Defence Forces and Finland's military crisis management organisation to monitor the treatment of conscripts, other persons doing their military service and crisis management personnel.

(2) In the context of an inspection, the Ombudsman and officials in the Office of the Ombudsman assigned to this task by the Ombudsman have the right of access to all premises and information systems of the inspection subjeft, as well as the right to have confidential discussions with the personnel of the office or institution, persons serving there and its inmates.

Section 6
Executive assistance

The Ombudsman has the right to executive assistance free of charge from the authorities as he or she deems necessary, as well as the right to obtain the required copies or printouts of the documents and files of the authorities and other subjects.

Section 7
Right of the Ombudsman to information

The right of the Ombudsman to receive information necessary for his or her oversight of legality is regulated by Section 111 (1) of the Constitution.

Section 8
Ordering a police inquiry or a pre-trial investigation (22.7.2011/811)

The Ombudsman may order that a police inquiry, as referred to in the Police Act (872/2011), or a pre-trial investigation, as referred to in the Pre-trial Investigations Act (805/2011), be carried out in order to clarify a matter under investigation by the Ombudsman.

Section 9
Hearing a subject

If there is reason to believe that the matter may give rise to criticism as to the conduct of the subject, the Ombudsman shall reserve the subject an opportunity to be heard in the matter before it is decided.

Section 10
Reprimand and opinion

(1) If, in a matter within his or her remit, the Ombudsman concludes that a subject has acted unlawfully or neglected a duty, but considers that a criminal charge or disciplinary proceedings are nonetheless unwarranted in this case, the Ombudsman may issue a reprimand to the subject for future guidance.

(2) If necessary, the Ombudsman may express to the subject his or her opinion concerning what constitutes proper observance of the law, or draw the attention of the subject to the requirements of good administration or to considerations of promoting fundamental and human rights.

(3) If a decision made by the Parliamentary Ombudsman referred to in Subsection 1 contains an imputation of criminal guilt, the party having been issued with a reprimand has the right to have the decision concerning criminal guilt heard by a court of law. The demand for a court hearing shall be submitted to the Parliamentary Ombudsman in writing within 30 days of the date on which the party was notified of the reprimand. If notification of the reprimand is served in a letter sent by post, the party shall be deemed to have been notified of the reprimand on the seventh day following the dispatch of the letter unless otherwise proven. The party having been issued with a reprimand shall be informed without delay of the time and place of the court hearing, and of the fact that a decision may be given in the matter

in their absence. Otherwise the provisions on court proceedings in criminal matters shall be complied with in the hearing of the matter where applicable. (22.8.2014/674)

Section 11
Recommendation

(1) In a matter within the Ombudsman's remit, he or she may issue a recommendation to the competent authority that an error be redressed or a shortcoming rectified.

(2) In the performance of his or her duties, the Ombudsman may draw the attention of the Government or another body responsible for legislative drafting to defects in legislation or official regulations, as well as make recommendations concerning the development of these and the elimination of the defects.

CHAPTER 1 a
National Preventive Mechanism (NPM) (28.6.2013/495)

Section 11 a
National Preventive Mechanism (28.6.2013/495)

The Ombudsman shall act as the National Preventive Mechanism referred to in Article 3 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (International Treaty Series 93/2014).

Section 11 b
Inspection duty (28.6.2013/495)

(1) When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman inspects places where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (place of detention).

(2) In order to carry out such inspections, the Ombudsman and an official in the Office of the Ombudsman assigned to this task by the Ombudsman have the right of access to all premises and information systems of the place of detention, as well as the right to have confidential discussions with persons having been deprived of their liberty, with the personnel of the place of detention and with any other persons who may supply relevant information.

Section 11 c
Access to information (28.6.2013/495)

Notwithstanding the secrecy provisions, when carrying out their duties in capacity of the National Preventive Mechanism the Ombudsman and an official in the Office of the Ombudsman assigned to this task by the Ombudsman have the right to receive from authorities and parties maintaining the places of detention information about the number of persons deprived of their liberty, the number and locations of the facilities, the treatment of persons deprived of their liberty and the conditions in which they are kept, as well as any other information necessary in order to carry out the duties of the National Preventive Mechanism.

Section 11 d
Disclosure of information (28.6.2013/495)

In addition to the provisions contained in the Act on the Openness of Government Activities (621/1999) the Ombudsman may, notwithstanding the secrecy provisions, disclose information about persons having been deprived of their liberty, their treatment and the conditions in which they are kept to a Subcommittee referred to in Article 2 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Section 11 e
Issuing of recommendations (28.6.2013/495)

When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman may issue the subjects of supervision recommendations intended to improve the treatment of persons having been deprived of their liberty and the conditions in which they are kept and to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Section 11 f
Other applicable provisions (28.6.2013/495)

In addition, the provisions contained in Sections 6 and 8–11 herein on the Ombudsman's action in the oversight of legality shall apply to the Ombudsman's activities in his or her capacity as the National Preventive Mechanism.

Section 11 g
Independent Experts (28.6.2013/495)

(1) When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman may rely on expert assistance. The Ombudsman may appoint as an expert a person who has given his or her consent to accepting this task and who has particular expertise relevant to the inspection duties of the National Preventive Mechanism. The expert may take part in conducting inspections referred to in Section 11 b, in which case the provisions in the aforementioned section and Section 11 c shall apply to their competence.

(2) When the expert is carrying out his or her duties referred to in this Chapter, the provisions on criminal liability for acts in office shall apply. Provisions on liability for damages are contained in the Tort Liability Act (412/1974).

Section 11 h
Prohibition of imposing sanctions (28.6.2013/495)

No punishment or other sanctions may be imposed on persons having provided information to the National Preventive Mechanism for having communicated this information.

CHAPTER 2
Report to the Parliament and declaration of interests

Section 12
Report

(1) The Ombudsman shall submit to the Parliament an annual report on his or her activities and the state of administration of justice, public administration and the performance of public tasks, as well as on defects observed in legislation, with special attention to implementation of fundamental and human rights.

(2) The Ombudsman may also submit a special report to the Parliament on a matter he or she deems to be of importance.

(3) In connection with the submission of reports, the Ombudsman may make recommendations to the Parliament concerning the elimination of defects in legislation. If a defect relates to a matter under deliberation in the Parliament, the Ombudsman may also otherwise communicate his or her observations to the relevant body within the Parliament.

Section 13
Declaration of interests (24.8.2007/804)

(1) A person elected to the position of Ombudsman, Deputy-Ombudsman or as a substitute for a Deputy-Ombudsman shall without delay submit to the Parliament a declaration of business activities and assets and duties and other interests which may be of relevance in the evaluation of his or her activity as Ombudsman, Deputy-Ombudsman or substitute for a Deputy-Ombudsman.

(2) During their term in office, the Ombudsman the Deputy-Ombudsmen and the substitute for a Deputy-Ombudsman shall without delay declare any changes to the information referred to in paragraph (1) above.

CHAPTER 3
General provisions on the Ombudsman, the Deputy-Ombudsmen and the Director of the Human Rights Centre (20.5.2011/535)

Section 14
Competence of the Ombudsman and the Deputy-Ombudsmen

(1) The Ombudsman has sole competence to make decisions in all matters falling within his or her remit under the law. Having heard the opinions of the Deputy-Ombudsmen, the Ombudsman shall also decide on the allocation of duties among the Ombudsman and the Deputy-Ombudsmen.

(2) The Deputy-Ombudsmen have the same competence as the Ombudsman to consider and decide on those oversight-of-legality matters that the Ombudsman has allocated to them or that they have taken up on their own initiative.

(3) If a Deputy-Ombudsman deems that in a matter under his or her consideration there is reason to issue a reprimand for a decision or action of the Government, a Minister or the President of the Republic, or to bring a charge against the President or a Justice of the Supreme Court or the Supreme Administrative Court, he or she shall refer the matter to the Ombudsman for a decision.

Section 15
Decision-making by the Ombudsman

The Ombudsman or a Deputy-Ombudsman shall make their decisions on the basis of drafts prepared by referendary officials, unless they specifically decide otherwise in a given case.

Section 16
Substitution (24.8.2007/804)

(1) If the Ombudsman dies in office or resigns, and the Parliament has not elected a successor, his or her duties shall be performed by the senior Deputy-Ombudsman.

(2) The senior Deputy-Ombudsman shall perform the duties of the Ombudsman also when the latter is recused or otherwise prevented from attending to his or her duties, as provided for in greater detail in the Rules of Procedure of the Office of the Parliamentary Ombudsman.

(3) Having received the opinion of the Constitutional Law Committee on the matter, the Parliamentary Ombudsman shall choose a substitute for a Deputy-Ombudsman for a term in office of not more than four years.

(4) When a Deputy-Ombudsman is recused or otherwise prevented from attending to his or her duties, these shall be performed by the Ombudsman or the other Deputy-Ombudsman as provided for in greater detail in the Rules of Procedure of the Office, unless the Ombudsman, as provided for in Section 19 a, paragraph 1, invites a substitute for a Deputy-Ombudsman to perform the Deputy-Ombudsman's tasks. When a substitute is performing the tasks of a Deputy-Ombudsman, the provisions of paragraphs (1) and (2) above concerning a Deputy-Ombudsman shall not apply to him or her.

Section 17
Other duties and leave of absence

(1) During their term of service, the Ombudsman and the Deputy-Ombudsmen shall not hold other public offices. In addition, they shall not have public or private duties that may compromise the credibility of their impartiality as overseers of legality or otherwise hamper the appropriate performance of their duties as Ombudsman or Deputy-Ombudsman.

(2) If the person elected as Ombudsman, Deputy-Ombudsman or Director of the Human Rights Centre holds a state office, he or she shall

be granted leave of absence from it for the duration of their term of service as as Ombudsman, Deputy-Ombudsman or Director of the Human Rights Centre (20.5.2011/535).

Section 18
Remuneration

(1) The Ombudsman and the Deputy-Ombudsmen shall be remunerated for their service. The Ombudsman's remuneration shall be determined on the same basis as the salary of the Chancellor of Justice of the Government and that of the Deputy-Ombudsmen on the same basis as the salary of the Deputy Chancellor of Justice.

(2) If a person elected as Ombudsman or Deputy-Ombudsman is in a public or private employment relationship, he or she shall forgo the remuneration from that employment relationship for the duration of their term. For the duration of their term, they shall also forgo any other perquisites of an employment relationship or other office to which they have been elected or appointed and which could compromise the credibility of their impartiality as overseers of legality.

Section 19
Annual vacation

The Ombudsman and the Deputy-Ombudsmen are each entitled to annual vacation time of a month and a half.

Section 19 a
Substitute for a Deputy-Ombudsman (24.8.2007/804)

(1) A substitute for a Deputy-Ombudsman can perform the duties of a Deputy-Ombudsman if the latter is prevented from attending to them or if a Deputy-Ombudsman's post has not been filled. The Ombudsman shall decide on inviting a substitute to perform the tasks of a Deputy-Ombudsman. (20.5.2011/535)

(2) The provisions of this and other Acts concerning a Deputy-Ombudsman shall apply *mutatis mutandis* also to a substitute for a Deputy-Ombudsman while he or she is performing the tasks of a Deputy-Ombudsman, unless separately otherwise regulated.

CHAPTER 3 a
Human Rights Centre (20.5.2011/535)

Section 19 b
Purpose of the Human Rights Centre (20.5.2011/535)

For the promotion of fundamental and human rights there shall be a Human Rights Centre under the auspices of the Office of the Parliamentary Ombudsman.

Section 19 c
The Director of the Human Rights Centre (20.5.2011/535)

(1) The Human Rights Centre shall have a Director, who must have good familiarity with fundamental and human rights. Having received the Constitutional Law Committee's opinion on the matter, the Parliamentary Ombudsman shall appoint the Director for a four-year term.

(2) The Director shall be tasked with heading and representing the Human Rights Centre as well as resolving those matters within the remit of the Human Rights Centre that are not assigned under the provisions of this Act to the Human Rights Delegation.

Section 19 d
Tasks of the Human Rights Centre (20.5.2011/535)

(1) The tasks of the Human Rights Centre are:
1) to promote information, education, training and research concerning fundamental and human rights as well as co-operation relating to them;
2) to draft reports on implementation of fundamental and human rights;
3) to present initiatives and issue statements in order to promote and implement fundamental and human rights;

4) to participate in European and international cooperation associated with promoting and safeguarding fundamental and human rights;
5) to take care of other comparable tasks associated with promoting and implementing fundamental and human rights.

(2) The Human Rights Centre does not handle complaints.

(3) In order to perform its tasks, the Human Rights Centre shall have the right to receive the necessary information and reports free of charge from the authorities.

Section 19 e
Human Rights Delegation (20.5.2011/535)

(1) The Human Rights Centre shall have a Human Rights Delegation, which the Parliamentary Ombudsman, having heard the view of the Director of the Human Rights Centre, shall appoint for a four-year term. The Director of the Human Rights Centre shall chair the Human Rights Delegation. In addition, the Delegation shall have not fewer than 20 and no more than 40 members. The Delegation shall comprise representatives of civil society, research in the field of fundamental and human rights as well as other actors participating in the promotion and safeguarding of fundamental and human rights. The Delegation shall choose a deputy chair from among its own number. If a member of the Delegation resigns or dies mid-term, the Ombudsman shall appoint a replacement for him or her for the remainder of the term.

(2) The Office Commission of the Eduskunta shall confirm the remuneration of the members of the Delegation.

(3) The tasks of the Delegation are:
1) to deal with matters of fundamental and human rights that are far-reaching and important in principle;
2) to approve annually the Human Rights Centre's operational plan and the Centre's annual report;
3) to act as a national cooperative body for actors in the sector of fundamental and human rights.

(4) A quarum of the Delegation shall be present when the chair or the deputy chair as well as at least half of the members are in attendance. The opinion that the majority has supported shall constitute the decision of the Delegation. In the event of a tie, the chair shall have the casting vote.

(5) To organise its activities, the Delegation may have a work committee and sections. The Delegation may adopt rules of procedure.

CHAPTER 3 b
Other tasks (10.4.2015/374)

Section 19 f (10.4.2015/374)
Promotion, protection and monitoring of the implementation of the Convention on the Rights of Persons with Disabilities

The tasks under Article 33(2) of the Convention on the Rights of Persons with Disabilities concluded in New York in 13 December 2006 shall be performed by the Parliamentary Ombudsman, the Human Rights Centre and its Human Rights Delegation.

CHAPTER 4
Office of the Parliamentary Ombudsman and the detailed provisions

Section 20 (20.5.2011/535)
Office of the Parliamentary Ombudsman and detailed provisions

For the preliminary processing of cases for decision by the Ombudsman and the performance of the other duties of the Ombudsman as well as for the discharge of tasks assigned to the Human Rights Centre, there shall be an office headed by the Parliamentary Ombudsman.

Section 21
Staff Regulations of the Parliamentary Ombudsman and the Rules of Procedure of the Office (20.5.2011/535)

(1) The positions in the Office of the Parliamentary Ombudsman and the special qualifications for those positions shall be set forth in the Staff Regulations of the Parliamentary Ombudsman.

(2) The Rules of Procedure of the Office of the Parliamentary Ombudsman shall contain more detailed provisions on the allocation of tasks among the Ombudsman and the Deputy-Ombudsmen. Also determined in the Rules of Procedure shall be substitution arrangements for the Ombudsman, the Deputy-Ombudsmen and the Director of the Human Rights Centre as well as the duties of the office staff and the cooperation procedures to be observed in the Office.

(3) The Ombudsman shall confirm the Rules of Procedure of the Office having heard the views of the Deputy-Ombudsmen and the Director of the Human Rights Centre.

CHAPTER 5
Entry into force and transitional provision

Section 22
Entry into force

This Act enters into force on 1 April 2002.

Section 23
Transitional provision

The persons performing the duties of Ombudsman and Deputy-Ombudsman shall declare their interests, as referred to in Section 13, within one month of the entry into force of this Act.

Entry into force and application of the amending acts:

24.8.2007/804:
This Act entered into force on 1 October 2007.

20.5.2011/535
This Act entered into force on 1 January 2012 (Section 3 and Section 19 a, subsection 1 on 1 June 2011).

22.7.2011/811
This Act entered into force on 1 January 2014.

28.6.2013/495
This Act entered into force on 7 November 2014 (Section 5 on 1 July 2013).

22.8.2014/674
This Act entered into force on 1 January 2015.

10.4.2015/374
This Act entered into force on 10 June 2016.

Division of labour between the Ombudsman and the Deputy-Ombudsmen

Ombudsman Mr. Petri Jääskeläinen
decides on matters concerning:

- the highest organs of state
- questions involving important principles
- courts
- health care
- legal guardianship
- language legislation
- asylum and immigration
- the rights of persons with disabilities
- oversight of covert intelligence gathering
- the coordination of the tasks of the National Preventive Mechanism against Torture and reports relating to its work

Deputy-Ombudsman Mr. Jussi Pajuoja
decides on matters concerning:

- the police
- public prosecutor
- social insurance
- labour administration
- unemployment security
- education, science and culture
- data protecton, data management and telecommunications
- the prison service and execution of sentences

Deputy-Ombudsman Ms. Maija Sakslin
decides on matters concerning:

- municipal affairs
- children's rights and early childhood education and care
- social welfare
- Sámi affairs
- agriculture and forestry
- customs
- distraint, bankruptcy and dept arrangements
- taxation
- environmental administration
- Defence Forces, Border Guard and non-military national service
- church affairs
- traffic and communications

Statistical data on the Ombudsman's work in 2016

MATTERS UNDER CONSIDERATION

Oversight-of-legality cases under consideration			6,329
Cases initiated in 2016		5,062	
– complaints to the Ombudsman	4,856		
– complaints transferred from the Chancellor of Justice	66		
– taken up on the Ombudsman's own initiative	60		
– submissions and attendances at hearings	80		
Cases held over from 2015		1,216	
Cases held over from 2014		28	
Cases held over from 2013		12	
Cases held over from 2012		8	
Cases held over from 2011		4	
Cases resolved			4,992
Complaints		4,839	
Taken up on the Ombudsman's own initiative		71	
Submissions and attendances at hearings		82	
Cases held over to the following year			1,337
From 2016		1,281	
From 2015		30	
From 2014		14	
From 2013		7	
From 2012		5	
Other matters under consideration			818
Inspections		115	
Administrative matters in the Office		662	
International matters		41	

OVERSIGHT OF PUBLIC AUTHORITIES

Complaint cases	4,839
Social welfare	749
Police	659
Health	534
Administration of law	319
Social insurance	316
Criminal sanctions field	291
Administrative branch of the Ministry of Education and Culture	187
Administrative branch of the Ministry of Economic Affairs and Employment	185
Local government	167
Administrative branch of the Ministry of Transport and Communications	140
Enforcement (distraint)	135
Administrative branch of the Ministry of Environment	132
Highest organs of government	122
Aliens affairs and citizenship	99
Taxation	86
Administrative branch of the Ministry of Agriculture and Forestry	79
Prosecutors	68
Customs	67
Guardianship	62
Administrative branch of the Ministry of Justice	62
Administrative branch of the Ministry of Defence	35
Administrative branch of the Ministry of Finance	28
Subjects of oversight in the private sector	23
Administrative branch of the Ministry of the Interior	19
Administrative branch of the Ministry for Foreign Affairs	5
Other administrative branches	270

OVERSIGHT OF PUBLIC AUTHORITIES

Taken up on the Ombudsman's own initiative		**71**
Police	11	
Social welfare	8	
Enforcement (distraint)	8	
Health	7	
Criminal sanctions	6	
Administrative branch of the Ministry of Defence	6	
Administrative branch of the Ministry of Economic Affairs and Employment	4	
Administrative branch of the Ministry of Transport and Communications	3	
Customs	3	
Social insurance	3	
Administrative branch of the Ministry of Agriculture and Forestry	2	
Administration of law	2	
Highest organs of government	1	
Administrative branch of the Ministry of Justice	1	
Administrative branch of the Ministry of Finance	1	
Local government	1	
Administrative branch of the Ministry of Environment	1	
Taxation	1	
Other administrative branches	2	
Total number of decisions		**4,910**

MEASURES TAKEN BY THE OMBUDSMAN

Complaints			**4,839**
Decisions leading to measures on the part of the Ombudsman			588
– prosecution		–	
– reprimands		30	
– opinions		439	
– as a rebuke	244		
– for future guidance	195		
– recommendations		37	
– to redress an error or rectify a shortcoming	2		
– to develop legislation or regulations	11		
– to provide compensation for a violation	19		
– to rech an agreed settlement	5		
– matters redressed in the course of investigation		12	
– other measure		70	
– to rech an agreed settlement	–		
No action taken, because			2,527
– no incorrect procedure found		302	
– no grounds		2,225	
– to suspect illegal or incorrect procedure	1,515		
– for the Ombudsman's measures	710		
Complaint not investigated, because			1,724
– matter not within Ombudsman's remit		183	
– still pending before a competent authority or possibility of appeal still open		574	
– unspecified		295	
– transferred to Chancellor of Justice		14	
– transferred to Prosecutor-General		2	
– transferred to other authority		126	
– older than two years		112	
– inadmissible on other grounds		69	
– no answer		32	
– answer without measures		317	

MEASURES TAKEN BY THE OMBUDSMAN

Taken up on the Ombudsman's own initiative		**71**
Decisions leading to measures on the part of the Ombudsman		41
– prosecution	1	
– reprimands	2	
– opinions	24	
– as a rebuke	11	
– for future guidance	13	
– recommendations	5	
– to redress an error or rectify a shortcoming	–	
– to develop legislation or regulations	4	
– to provide compensation for a violation	1	
– to rech an agreed settlement	–	
– matters redressed in the course of investigation	–	
– other measure	9	
No action taken, because		27
– no incorrect procedure found	8	
– no grounds	19	
– to suspect illegal or incorrect procedure	14	
– for the Ombudsman's measures	5	
Own initiative not investigated, because		3
– transferred to other authority	–	
– inadmissible on other grounds	2	
– still pending before a competent authority or possibility of appeal still open	1	

INCOMING CASES BY AUTHORITY

Ten biggest categories of cases

Social welfare	685
Police	654
Health	546
Social insurance	354
Criminal sanctions field	330
Administration of law	320
Administrative branch of the Ministry of Education and Culture	200
Local government	166
Administrative branch of the Ministry of Economic Affairs and Employment	162
Administrative branch of the Ministry of Transport and Communications	144

Inspections

* = inspection without advance notice

Courts

- 9.6. Helsinki administrative court (alien affairs)

Prosecution service

- 19.5. Prosecutor's Office of Salpausselkä, Lahti Service Office
- 8.11. Prosecutor's Office of Inland Finland, Tampere Headquarter
- 30.11. Office of the Prosecutor General, Helsinki

Police administration

- 26.1. Järvenpää police station, polis prison*
- 26.1. Hyvinkää police station, polis prison*
- 3.2. Porvoo police station, polis prison*
- 3.2. Vantaa main police station, polis prison*
- 10.3. Ministry of the Interior, Police Department
- 21.4. Espoo Central Police Station, police prison*
- 19.5. Häme Police Department, Lahti
- 19.5. Häme Police Department, tele-coercive measures, Lahti
- 19.5. Lahti Central Police Station, police prison*
- 6.6. Vaasa Central Police Station, police prison*
- 6.6. Pietarsaari police station, polis prison*
- 6.6. Kokkola police station, polis prison*
- 7.6. Ylivieska police station, polis prison*
- 7.6. Raahe police station, polis prison*
- 7.6. Oulu Central Police Station, police prison*
- 17.6. Porvoo police station, polis prison*
- 12.9. Åland Police Authority, Mariehamn
- 12.9. Åland Police Authority, police prison*, Mariehamn
- 12.9. Åland Police Authority, covert coercive measures
- 27.10. National Police Board, presentation of the ICT project VITJA
- 8.11. The Central Finland Police Department, Tampere
- 8.11. The Central Finland Police Department, covert intelligence gathering
- 8.11. Tampere Central Police Station, police prison
- 17.11. National Bureau of Investigation (NBI), covert coercive measures and covert intelligence gathering
- 18.11. Vantaa Central Police Station, police prison, Tikkurila
- 14.12. The National Police Board, Helsinki

Defence Forces and Border Guard

- 16.2. Finnish Defence Forces, the storage of explosives, Koivujärvi storage facility for explosives
- 16.2. Finnish Defence Forces, the storage of explosives, Haapajärvi storage facility for explosives
- 2.6. Nyland Brigade
- 8.6. Navy Command Finland, Turku
- 8.6. Coastal Fleet, Pansio Base, Turku
- 27.10. Karelia Brigade, Vekaranjärvi
- 27.10. Karelia Brigade, Detention facilities for persons deprived of their liberty*
- 10.11. Coastal Brigade, Upinniemi
- 15.11. Satakunta Air Command, Pirkkala
- 15.11. Satakunta Air Command, Detention facilities for persons deprived of their liberty*

Criminal sanctions

- 18.2. Criminal Sanctions Region of Southern Finland, supervision patrol activities, Vantaa
- 8.3. Helsinki Community Sanctions Office
- 20.4. Käyrä prison*, Aura
- 21.-22.4. Turku Prison
- 27.4. Jokela Prison*
- 17.5. Riihimäki Prison
- 8.6. Suomenlinna Prison*
- 21.9. Ylitornio Prison
- 22.9. Oulu Prison
- 23.9. Kestilä Prison
- 23.9. Pelso Prison
- 2.-3.11. Mikkeli Prison
- 8.12. Kylmäkoski prison

Debt and distraint

- 12.10. The Financial Supervisory Authority (FIN-FSA), Helsinki
- 25.10. The Office of Bankruptcy Ombudsman, Helsinki
- 9.12. The Finnish Competition and Consumer Authority (FCCA)

Aliens affairs

- 11.2. Karhusaari group home* (group home for asylum seekers aged under 16 run by Helsinki Deaconess Institute), Helsinki
- 18.2. Keuruu Supported Housing Unit* (unit for minors seeking asylum, run by the Finnish Red Cross)
- 19.2. Säynätsalo Supported Housing Unit* (private unit for minors seeking asylum), Jyväskylä
- 22.3. Sokkakuja Reception Centre*, Vantaa (run by Luona Oy)
- 22.3. Nihtisilta Reception Centre*, Espoo (run by Luona Oy)
- 11.5. City of Helsinki, Helsinki Reception Centre, Kaarlenkatu unit
- 15.6. Viitasaari Reception Centre* (run by The Finnish Red Cross)
- 15.6. Tarina Reception Centre*, Siilinjärvi (run by Kuopion Settlementti Puijola)
- 19.1. Harjulinna Reception Centre*, Siuntio (supported housing unit for minors seeking asylum, run by the Finnish Red Cross)
- 21.1. Turku Reception Centre, group home* (run by the Finnish Red Cross), Turku
- 22.1. Heikkilä Supported Housing Unit* (private unit for minors seeking asylum), Turku
- 21.12. City of Helsinki, Metsälä Reception Centre, Detention Unit, Helsinki

Social welfare

- 25.1. Pienkoti Aura, Jyväskylä (private child welfare unit)
- 28.1. City of Espoo, Sepänkylä Supported Housing Unit* (rehabilitative housing services of mental health and substance abuse services), Espoo
- 28.1. Neppers Supported Housing Unit run by the City of Espoo*, Espoo
- 4.2. City of Vantaa, child welfare services
- 18.2. City of Jyväskylä, child welfare services
- 18.2. Hovila youth home* (child welfare unit), Jyväskylä
- 2.3. City of Helsinki, Linnunlaulu day-care centre*, Helsinki
- 11.3. Alppikatu housing service unit* (run by the Finnish Salvation Army Foundation, provides housing services for the homeless), Helsinki
- 11.3. Helsingin Vieraskoti ry, housing service unit* (housing services for homeless people and people with substance abuse problems), Helsinki
- 13.4. Veikkari special children's home and school, Paimio
- 20.4. Tampere University Hospital (Tays), Support Centre for Disabled Care, Unit for Psychosocial Rehabilitation, Pitkäniemi Hospital, Nokia

- 12.5. Satakunta Hospital District, Antinkartano rehabilitation centre (rehabilitation and research centre for intellectual disability services), Ulvila
- 12.5. Satakunta Hospital District, Antinkartano rehabilitation centre (rehabilitation and research centre for intellectual disability services), care home Mänty (rehabilitation unit for individuals who have become disabled as adults), Ulvila
- 26.5. Carea – Kymenlaakso Social and Health Services, social service units Maununniitty and Kuntorinne, Kuusankoski
- 26.5. Carea – Kymenlaakso Social and Health Services, social service unit Tuulikello, Kuusankoski
  7.6. City of Helsinki, Mörssärinaukio group home* (housing services for people with intellectual disabilities and autism)
- 25.10. Savon Vammaisasuntosäätiö foundation (SAVAS), Louhumäki service home* (assisted living for people with intellectual disabilities and people with autism), Kuopio
- 25.10. Savon Vammaisasuntosäätiö foundation (SAVAS), Savolanniemi service home* (assisted living for people with intellectual disabilities and people with autism), Kuopio
- 1.11. City of Helsinki, Linnunlaulu day-care centre*
- 17.11. Care home Esperi Hoivakoti* (private housing services for the elderly), Kerava
- 17.11. City of Kerava, Hopeahovi service centre * (housing services for the elderly)
- 1.12. Municipality of Loppi, Harjukoti* (institutional care for the elderly)
- 1.12. Municipality of Loppi, Salmela care home* (24-hour housing service for the elderly)
- 8.12. Kainuu Social Welfare and Health Care Joint Authority, Kuusanmäki Service Center, unit for special respite care (ward 22) and unit for institutional care (ward 24)

Health care

- 10.3. Health care services for prisoners, Helsinki
- 19.4. Pirkanmaa Hospital District, Vammala Hospital, acute psychiatric ward 3
- 19.4. City of Tampere, Hatanpää Hospital, psychogeriatric wards
- 19.4. First Aid Unit Acuta at Tampere University Hospital (Tays)
- 20.4. Tays Pitkäniemi Hospital, neuropsychiatry and geriatric psychiatry wards 1, 3 and 4 and operative outpatient clinic, Nokia
- 21.4. Espoo city, Sobering-up station at the Kilo police station*
- 21.4. Turku University Hospital (Tyks), Turku Region Joint Emergency Services, isolation facilities*
- 22.4. Health care services for prisoners, outpatient clinic in Turku prison
- 23.11. South Karelia Central Hospital, psychiatric wards PS 1 (closed mental health and substance abuse ward) and PS 3 (closed mental health ward)*
- 8.12. Health care services for prisoners, outpatient clinic in Kylmäkoski prison

Education

- 26.1. Municipality of Myrskylä, early childhood education and care
- 3.2. City of Helsinki, Department of Early Education and Care
- 9.2. Sotunki Distance Learning Centre (upper secondary school), Vantaa
- 16.2. Finnish National Agency for Education, Early Childhood Education and Care
- 6.4. Upper secondary school Lohjan yhteislyseon lukio, practice test for the electronic matriculation examination
- 22.11. The Finnish Matriculation Examination, Helsinki

Other inspections

- 20.4. Information gathering visit: Mielenterveysomaiset Pirkanmaa – FinFami ry (Family Association Promoting Mental Health in Pirkanmaa), Tampere
- 2.11. Local Register Office of Uusimaa, Helsinki unit

Other inspection-related meetings

- 11.2. Cooperation meeting with the Social Insurance Institution of Finland (Kela) on requests for statement
- 10.3. Cooperation meeting with representatives of the National Supervisory Authority for Welfare and Health (Valvira) and AVI Northern Finland on visits concerning prisoners' health care and the Finnish Defence Forces
- 18.5. Cooperation meeting with Kriminaalihuollon tukisäätiö, a nationwide non-governmental non-profit aftercare organisation (activities of the Ombudsman Office for Offenders), Helsinki
- 24.5. Discussion event on the transfer of the task of granting basic social assistance to Kela, Kela main office
- 16.11. Criminal Sanctions Agency, Central Administration Unit (discussion event)

Staff of the Office of the Parliamentary Ombudsman

Parliamentary Ombudsman
Mr Petri Jääskeläinen, LL.D., LL.M. with court training

Deputy-Ombudsmen
Mr Jussi Pajuoja, LL.D.
Ms Maija Sakslin, LL.Lic.

Secretary General
Ms Päivi Romanov, LL.M. with court training

Principal Legal Advisers
Mr Mikko Eteläpää, LL.M. with court training
Mr Juha Haapamäki, LL.M. with court training
Mr Erkki Hännikäinen, LL.M.
Mr Jorma Kuopus, LL.D., LL.M. with court training (till 31.7.)
Ms Kirsti Kurki-Suonio, LL.D. (on leave)
Ms Ulla-Maija Lindström, LL.M.
Ms Riitta Länsisyrjä, LL.M. with court training
Mr Juha Niemelä, LL.M. with court training
Mr Jari Pirjola, LL.D., M.A. (on leave since 1.8.)
Mr Pasi Pölönen, LL.D., LL.M. with court training
Ms Anu Rita, LL.M. with court training
Mr Tapio Räty, LL.M.
Mr Mikko Sarja, LL.Lic., LL.M. with court training
Mr Håkan Stoor, LL.Lic., LL.M. with court training
Ms Kaija Tanttinen-Laakkonen, LL.M.

Senior Legal Advisers
Ms Tuula Aantaa, LL.M. with court training (part-time since 1.12.)
Ms Terhi Arjola-Sarja, LL.M. with court training
Mr Kristian Holman, LL.M., M.Sc. (Admin.)
Ms Minna Ketola, LL.M. with court training (since 15.3.)
Mr Juha-Pekka Konttinen, LL.M.
Mr Kari Muukkonen, LL.M. with court training
Ms Piatta Skottman-Kivelä, LL.M. with court training
Ms Iisa Suhonen, LL.M. with court training
Ms Mirja Tamminen, LL.M. with court training
Mr Jouni Toivola, LL.M.
Mr Matti Vartia, LL.M. with court training
Ms Minna Verronen, LL.M. with court training
Ms Pirkko Äijälä-Roudasmaa, LL.M. with court training

Legal Advisers
Ms Castrén Elina, LL.M. with court training (since 1.8.)
Ms Mia Spolander, LL.D., LL.M. with court training (till 30.6.)

On-duty lawyers
Ms Jaana Romakkaniemi, LL.M. with court training
Ms Pia Wirta, LL.M. with court training

Information Officer
Ms Citha Dahl, M.A. (since 19.9.)
Ms Kaija Tuomisto, M.Soc.Sc. (till 31.5.)

Information Management Specialist
Mr Janne Madetoja, M.Sc. (Admin.)

Investigating Officers
Mr Reima Laakso
Mr Peter Fagerholm

Notaries
Ms Taru Koskiniemi, LL.B.
Ms Kaisu Lehtikangas, M.Soc.Sc.
Ms Helena Rahko, LL.B.
Ms Eeva-Maria Tuominen, M.Sc.(Admin.), LL.B.

Administrative secretary
Ms Eija Einola

Filing Clerk
Ms Helena Kataja

Assistant Filing Clerk
Ms Anu Forsell

Departmental Secretaries
Ms Päivi Ahola
Ms Mervi Stern

Office Secretaries
Ms Johanna Hellgren
Mr Mikko Kaukolinna
Ms Krissu Keinänen
Ms Nina Moisio, M.Soc.Sc., M.A.
Ms Tiina Mäkinen
Ms Arja Raahenmaa (part-time till 31.1.)
Ms Taina Raatikainen, B.Soc.Sc. (till 30.9.)
Ms Virpi Salminen
Ms Riikka Saulamaa (till 30.9.)

Trainee
Mr Erik Niemi (26.5.–31.7.)

Staff of the Human Rights Centre

Director
Ms Sirpa Rautio, LL.M. with court training

Experts
Mr Mikko Joronen, M.Pol.Sc. (since 17.10.)
Ms Kristiina Kouros, LL.M.
Ms Leena Leikas, LL.M. with court training (on leave)

Assistant Experts
Ms Elina Hakala, M.Soc.Sc.
Ms Hanna Rönty, M.A. (till 31.8.)

Trainees
Ms Emilia Hannuksela, M.A. (since 12.12.)
Ms Annika Hinkkanen, B.A. (8.8.–30.11.)
Mr Otto Hyötyniemi (1.11.–31.12.)

PARLIAMENTARY OMBUDSMAN OF FINLAND

FI - 00102 Parliament of Finland
TELEPHONE +358 9 4321
TELEFAX +358 9 432 2268
ombudsman@parliament.fi
www.ombudsman.fi/english