Croatian People's Ombudsman

Activity report for 2011

Report on occurrence of discrimination in 2011

Zagreb, April 2012

Impressum

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Publisher: Office of the Ombudsman

Editor: Milena Gogić

Translation into English: Ana Irena Hudi

Cover and design: Krešimir Kraljević, Kudos studio d.o.o.

Print: Tiskara Grafing

Circulation: 400 copies

ISSN: 1847-4616

Printed and published with the support from the
United Nations Development Programme (UNDP) in Croatia

Introduction

Introduction

Ombudsman

Jurica Malčić

Born in August 1942 in Zagreb, graduated on the Faculty of Law, University of Zagreb.

From 1972 – 1991, he served different administrative and later on leading positions both in the administrative and executive bodies of the City of Zagreb.

Pursuant to the creation of the independent Republic of Croatia in 1990 he worked as the Advisor at the Office of the President of the Republic. He performed the duty of the Deputy Minister of Justice and Administration and the Secretary of the Croatian government.

From 1993 – 1994 was the member of the Government of the Republic of Croatia and Minister of Administration.

In 1994 was elected judge of the Constitutional Court of the Republic of Croatia and served this duty until 2002. During that period he performed twice the duty of the Vice President of the Constitutional Court (1998 and 2000).

He was elected Ombudsman for a term of eight years by the Croatian Parliament on 30 November 2004.

He published several works in the field of human rights, administration and local self government. Author and collaborator of research and legal projects in different fields.

Deputy Ombudsman

Dejan Palić, lawyer

- discrimination,
- reconstruction,
- displaced persons and refugees,
- restitution of property (returnees),
- settling housing issues,
- areas of special state concern,
- civil rights (citizenship, aliens and asylum seekers),
- construction and physical planning,
- access to information.

Željko Thür, lawyer

- judiciary,
- police,
- persons deprived of freedom,
- denationalization,
- land-registry,
- expropriation,
- housing issues,
- sell of apartments with tenancy rights,
- rent of premises
- agricultural land.

Branko Tinodi, lawyer

- pension insurance,
- war veteran's rights,
- health care,
- schooling and high education,
- social welfare,
- local self-government,
- public servants,
- environmental protection,
- NGOs,
- craft,
- taxes and finances.

Ombudsman's foreword

This is the first regular annual activity report presented before the new session of the Croatian Parliament. The Report pertains to 2011, the year in which the People's Ombudsman Act from 1992 was still in force, despite the fact that the competence and tasks of this institution were significantly changed and strengthened by the amendments to the Constitution in 2010.

Administration: 2011 also saw a growth in citizen complaints. Most of 1900 newly received complaints pertained to the work of administrative bodies and bodies vested with public authorities. Given the level of administrative centralisation, most of those complaints were about the work of central state bodies.

As expected, the number of complaints regarding the consequences of the war and dissolution of former Yugoslavia is continuously falling. A share of complaints regarding the right to reconstruction, housing care, pension and disability insurance and status rights, which amounted to 20% in 2010 (and earlier to 50-70%), dropped to about 10% in the year 2011.

Even though it has been significantly reduced, the number of such complaints, and particularly insight into those cases, point to violations of rights and a difficult position of a complainant, among which the most numerous are members of national minorities and returnees or refugees. The resolving of cases lasts for years and besides the objective difficulties (complexity and amendments to regulations, lack of financial means, availability problems and communication), many oversights in the work of competent services were noted, and discriminatory treatment was often noticed, which reflects in the failure to adhere to the principles of good and friendly governance.

Resolving cases outside legal and even reasonable terms is still a cause for many complaints filed by the citizens, also in other administrative fields to which we point to in the first part of the report. We also warned of a number of problems in terms of efficiency and quality of work of administrative bodies in performing other administrative functions, supervisory and inspection ones in particular. The reform of public administration is still at its outset. The important goals of depoliticization and professionalization of public administration have not been achieved to this day, so they still need to be at the top of the priority list.

Judiciary: Despite the fact that the People's Ombudsman Act from 1992 is still in force, pursuant to which this institution is not authorized to take actions towards judicial bodies, in a total number of complaints there is a large share of complaints about the work of courts and judges.

The citizen complaints, but also statistical data on the work of courts for 2011 on the number of unresolved, and particularly unresolved old cases (over three years), the number of rush notes and number of filed and well-founded requests for protection of right to trial within reasonable terms (according to which almost 5 milion Euro was paid to the complainants from the state budget) clearly indicate that the failure to act promptly, as well as excessive length of procedures, are still the most serious problems of the judiciary, and a cause of many violations of human rights.

In the last year's report, we welcomed and positively evaluated the legal adjustments which should have also created prerequisites and frameworks for enhancement of promptness as well as the measures and activities undertaken by the Supreme Court of the Republic of Croatia in order to accelerate the resolution of old cases.

However, at the same time, we have also warned of the persistence of the problem and its multiple sources, which will make resolving, and even mitigation of this problem last for years. We have also estimated that there is a need for caution, because the political will, as well as the systemic ability to fully apply and implement the laws and measures, which were also adopted under a kind of pressure caused by negotiations with the European Union, still must be proved.

The issue of strengthening the judiciary should therefore again be put high on the list of social priorities, to the position it had until the end of accession negotiations.

Besides the analysis of effects of current, the application of further measures for reducing a total influx of new cases (among other things, also those generated by the state itself) should be considered.

Legal and social security: Several years into financial crisis and economic recession have further deepened already big social differences, created at the time of transition and privatisation. Poverty has become reality for a growing number of citizens. Besides social cases, the unemployed and those who work but receive salaries irregularly, the poverty also poses a threat to retired people and employed people whose income is lower than their living costs, particularly utility services.

A dramatic increase in number of distress, which severely hit the poorest citizens, also witnesses thereof.

The Ombudsman, as a commissioner of the Croatian Parliament and to some extent a mediator between the citizens and state bodies, has warned of poor legal and social security situation in every annual report since 2006, as well as of the need to change the relations between the authorities and the citizens. Those changes are even more necessary now, at the time when the reforms for implementation of which everyone's support is needed, and even of those in most difficult position. The prerequisite for such a support is confidence in the government and social institutions, and it is currently, according to all available indicators, seriously jeopardised, which is also reflected by many protest actions but also occurrence of civil disobedience and self-help activities.

Free legal aid system poses a specific problem regarding social and legal security. We have also warned of poor solutions offered in the Free Legal Aid Act by which many people in need of such an aid are left unprotected, even before and after adoption of this Act. We pointed to excessively strict criteria and complicated procedure for getting legal aid, as well as to the fact that it fails to include to sufficient extent the providers of primary legal aid such as NGOs, legal clinics as well as administrative and judicial bodies before which the cases are taken.

Unfortunately, the amendments which followed after the Constitutional Court repealed some provisions did not enhance, but even weakened the system. Not only were the crucial viewpoints of the Constitutional Court and the criteria from the practice of European courts not respected, but also the already deficient provisions on primary legal aid (legal counselling) were replaced by even more restrictive provisions.

Zagreb, April 2012

Jurica Malčić

Statistical data for 2011

Report

Statistical data for 2011

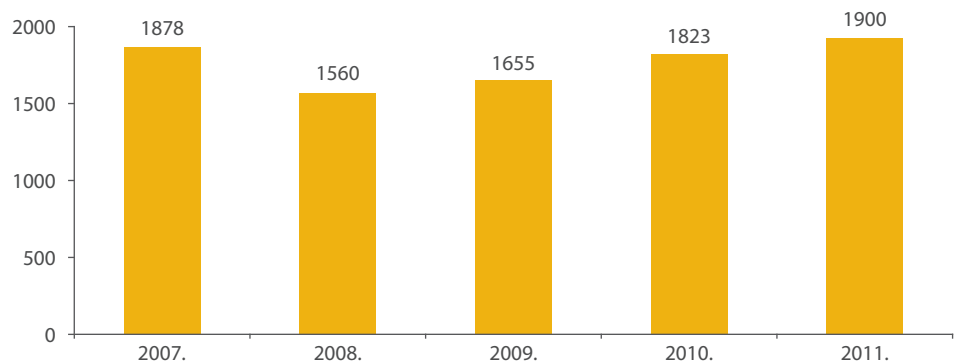
The number of complaints in 2011 does not significantly differ from the average of the past years. 1900 written complaints were received (which was about 80 complaints more than in the past year), and personal interview in the Ombudsman's Office was held with 616 citizens. Furthermore, a large number of enquiries were received by phone, fax, and electronic mail on a daily basis.

Some issues have been highlighted for years in Croatian People's Ombudsman reports, but as no progress has been noted in resolving those issues, they have been given special attention in this Report. First and foremost, it refers to the issues of politicisation of the administration and regulation of status/salaries of civil servants and government employees, the need of further free legal aid reform, resolving a complex issue of landlord and tenant relationship in their apartments, and noticed irregularities in actions taken by competent bodies which have been repeatedly occurring for years. The latter primarily refers to actions of resolving citizen status-related issues, in which the Ministry of the Interior issues decisions in which the requests for regulation of residence or gaining Croatian citizenship are rejected, without providing an adequate explanation.

Several remaining cases of temporarily taken property which cannot be used by their owners or alternatively they have to pay significant amounts to temporary users who invested in those real estate are specific issues. Those cases represent serious violation of human rights, and according to some announcements, some of them will be brought to the European Court of Human Rights. It happens too often that a case remains unsolved upon intervention or a report of the People's Ombudsman, and then unnecessary court and administrative procedures are started, while some cases are brought to the European Court of Human Rights.

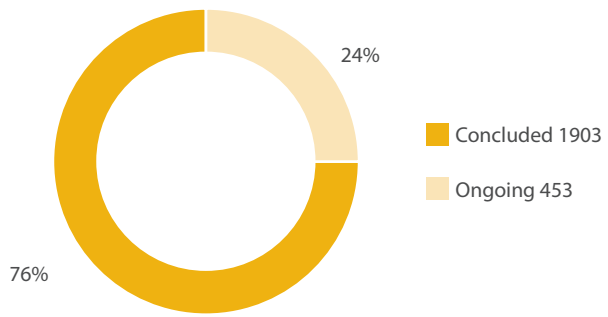
Some of our previous reports reported on starting court procedures and administrative disputes. This problem should not be considered an isolated issue, but rather one of the causes for inefficiency of the whole state apparatus and an example of unnecessary spending of budget funds.

Figure 1 Number of (written) complaints received in the period between 2007 and 2011:



Out of 2356 cases that were worked on in 2011 (in total, including the cases from previous years), 1903 cases were concluded (out of that number, 1498 cases/complaints were newly received in 2011).

Figure 2 Ratio between concluded cases and ongoing cases:

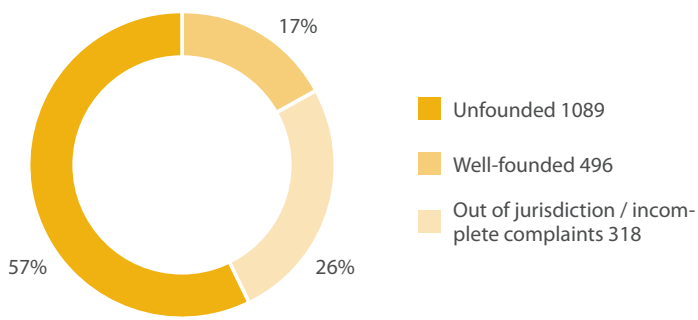


Duration of investigative procedures in the Office of the People's Ombudsman largely depends on duration of procedures before the competent bodies, and in some cases, those procedures last for over 10 years. Additional difficulty lies in the fact that the competent bodies fail to provide a prompt response to Ombudsman's requests for information, in some cases it lasted for over a year (despite the legal term of 30 days). In 173 cases it was necessary to send from one to five rush notes, after which the requested information was provided, and in 60 cases, the Ombudsman has not received the requested information even after sending several rush notes.

The bodies which in the first place fail to respond promptly to requests (according to old ministry titles) include: the Ministry of Environmental Protection, Physical Planning and Construction, the Ministry of Regional Development, Forestry and Water Management, the Ministry of Justice, the Ministry of Agriculture, Fisheries and Rural Development, the Ministry of Public Administration, and particular local and regional self-government units.

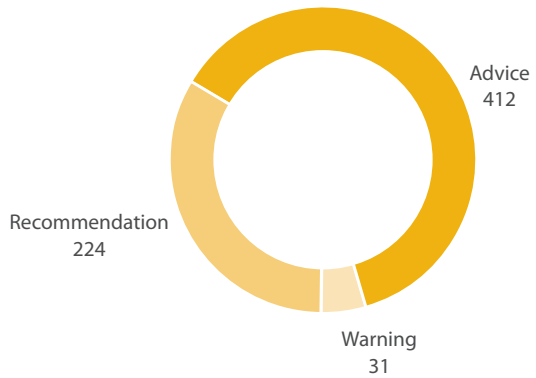
Just like in the past years, a large share of 1900 new complaints refers to judiciary: 397 (with 1503 other cases).

Figure 3 Ratio between well-founded, unfounded and premature/incomplete complaints out of a total of 1903 resolved cases:



A large number of complaints were judged as founded for the reason of unduly long procedures and not due to well-foundedness of the complainant's request. In 2011, an increase in the number of incomplete complaints was recorded. This change is partly interpreted by the growing number of Internet users who decide more easily to make a complaint (electronically), but they fail to submit additional requested documentation and drop the complaint more easily.

Figure 4 Undertaken measures (recommendations and warnings) and advice to the citizens in 1903 completed cases:



The following figure shows a trend of increase in number of cases, which is linked to amendments to regulations in the field of state administration system and labour and civil service relations.

Figure 5 Number of complaints in the field of labour and civil service relations (2007-2011):

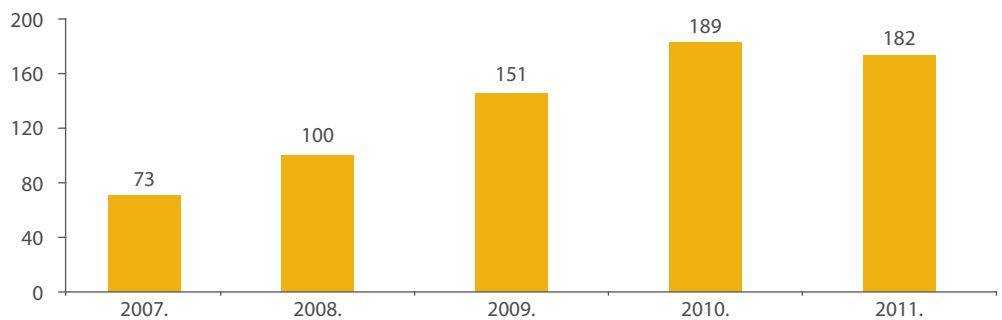


Figure 6 Comparative overview of complaints by administrative areas (2007-2011):

Area:	2007	2008	2009	2010	2011
Judiciary	276	299	334	386	397
Pension insurance	258	153	123	127	117
Right to reconstruction	208	116	84	94	50
Persons deprived of liberty	131	177	213	217	212
Construction / physical planning / noise / environment	129	81	79	63	67
Housing care	117	56	28	50	37
Status rights (citizenship, residence, alien rights, identity card and passport)	88	56	55	94	58
Denationalisation	39	32	24	17	14
Housing relations	41	33	28	21	22
Other property-right relations	44	41	33	28	21
Labour and civil service relations	88	114	45	33	44
Social welfare	73	100	151	189	182
Conduct of police officers	70	46	59	76	68
Health care	52	45	41	47	45
Family rights – Guardianship	49	51	49	72	67
War veteran rights and rights of their families	/	23	49	46	50
Preschool education, education, high education and science	44	37	39	27	40
Finance	/	/	/	32	31
Utility services	/	/	/	31	48
Finance – distress enforcement	/	/	13	20	18
Out of jurisdiction/ incomplete complaints	/	/	/	40	129
Other	61	48	65	91	318
Izbjeglice, prognanici i povratnici	147	74	155	37	186
Nenadležnost / nepotpune pritužbe	65	61	48	65	91
Ostalo	150	147	74	155	37
TOTAL	**1878**	**1560**	**1655**	**1823**	**1900**

Analysis of work according to various administrative areas

Housing Care – Reconstruction – Restitution of temporarily taken over property

Housing Care

Out of 37 received complaints in 2011, most of them were from the County of Sisak-Moslavina, the County of Lika-Senj, the County of Šibenik-Knin and the County of Vukovar-Sirmium.

We have noted that the citizens mostly complained about the excessive duration of housing care procedure in the areas of special state concern (mostly caused by lack of available dwelling units, primarily in the area of the County of Vukovar-Sirmium), about (non)conditionality of facilities, and about failure to process the requests for pecuniary compensation in accordance with the Conclusion of the Government of the Republic of Croatia from July 17, 2008.

By the Decision on housing care of holders of occupancy right outside the areas of special state concern (OG 29/11), the deadline for submission of requests was extended from March 9, 2011 to December 9, 2011, and by the amendment to the Decision (OG 139/11), the deadline was again extended to April 30, 2012. On certain conditions, a possibility of solving housing care issue outside the areas of special state concern was provided to the returnees, former holders of occupancy right, and their families. In the procedures related to requests for housing care outside the areas of special state concern, a problem of legal safety of returnees who do not own a house or an apartment, and who previously were occupancy right holders, was noticed. Some requests, handled in accordance with the Conclusion of the Government of the Republic of Croatia on housing care of returnees who do not own a house or an apartment and who lived in socially owned flats (former holders of occupancy right) in the parts of the Republic of Croatia which are not included in the areas of special state concern (OG 100/03, 179/04 and 79/05) were rejected in the first and second instance. Decisions in the second instance contain a legal remedy, in which is stated that an appeal is not permitted, and that a lawsuit may be filed in the Administrative Court of the Republic of Croatia. But, the Administrative Court issues judgements which rule that the requests for housing care cannot be decided in administrative procedure, that the appeal against the first instance decision is not permitted, and that it shall be rejected.

The question of legal safety of complainants should be raised, as it is unclear what legal remedies they have at their disposal in order to protect their rights if they are not allowed to lodge an appeal. Furthermore, a question should be raised on qualification of officials who provide wrong information to the parties regarding the use of legal remedies, which leads to unnecessary burdening of administrative bodies and the Administrative Court of the Republic of Croatia.

Reconstruction of houses damaged and destroyed in the war

In 2011, 50 complaints about the actions of competent bodies upon requests for reconstruction were received, which is 44 complaints less than in the past year. 15 cases from the past year were also handled.

Complaints mostly referred to delays in the second instance procedure, but the procedure was accelerated after the first or the second rush note addressed by the People's Ombudsman. A part of complaints referred to started, but unfinished house reconstruction works, in which some smaller but important reconstruction works were left unfinished. Some complainants complained about bad quality of construction works during reconstruction of facilities, but as in such cases, a complaint must be lodged within two years, the complaints were filed outside the deadline.

In the reporting period, many complaints were received again from the citizens who were not granted reconstruction works, claiming that the right for reconstruction was granted to persons who were not entitled to it, but they were not willing to report irregularities. A large number of complaints point to the need of organising better supervision over use of funds.

Restitution of temporarily taken over property

In almost all reports made so far, the People's Ombudsman reported on problems faced by owners whose property was taken over to be managed by the Republic of Croatia. In a small number of remaining cases, we have still detected irregularities in actions taken by competent bodies, including administrative bodies, but also State Attorney's Office and courts, as evidenced by some of the cases ruled before the European Court of Human Rights.

There are some indications that the European Court of Human Rights will be addressed by some other complainants filing a lawsuit against the Republic of Croatia. The People's Ombudsman tried to intervene in those cases by pointing to violation of their rights, with partial success.

Reconstruction of infrastructure – areas of special state concern

Areas of special state concern were seriously devastated during the Homeland War, and the consequences are still visible. In those areas, the access to goods is made difficult due to unfinished construction of electrical energy, water and gas supply facilities, as well as the lack of modern communication network. The non-reconstructed pathways are particularly problematic as they bring into question the access to health care and educational services and other goods. Mined areas are still an obstruction to the development of agriculture.

The above mentioned facts confirm difficult living conditions in those areas, in comparison to other parts of Croatia, and it is necessary to adopt the relevant measures to resolve the above mentioned issues, so that approximately equal living conditions are ensured for all citizens of the Republic of Croatia.

Pension and disability insurance

In 2011, the Ombudsman worked on 117 new cases, and another 53 cases from the past years were worked on in the legal area of pension and disability insurance.

The cooperation with the Ombudsman in particular cases strengthened the quality of work of the Croatian Pension Insurance Institute (HZMO), which resulted in reduced number of unhappy beneficiaries and reduced number of complaints.

The complaints about the work of HZMO in 2011 mostly referred to: duration of procedure (the first and second instance) in inland insurance as well as in the procedure of granting the right on the basis of international agreements on social insurance, pension entitlement, delivery of data from the HZMO Register, delayed payment of pensions, exercising the right to proportional pension, defining pensionable service, and duration of medical expertise.

From received data and complaints, we can conclude that the problem of underdeveloped communication system or lack of efficient cooperation of the competent body HZMO with international insurance holder persists (particularly with competent insurance holders in the Republic of Serbia and Bosnia and Herzegovina).

In the interest of protection of the complainants' rights, the Croatian People's Ombudsman cooperated with foreign ombudsmen in 2011.

Croatian Homeland War veterans' rights

Status related issues

Complaints in this period referred to implementation of process of establishing the status of Croatian Homeland War veteran, establishing the status of Croatian disabled Homeland War veteran, right to payment of shares in Croatian War Veteran's Fund and data record-keeping on Croatian Homeland War veterans.

For several consecutive years, we have noted a progress in solving the problems of complainants who contacted the Ministry of Family Affairs, War Veterans and Intergenerational Solidarity and asked for special legal protection, or assistance in exercising and protection of rights. First and foremost, this refers to resolving requests in a timely manner but also prompt delivery of information on actions that had been taken, and provision of issued decisions which the Ombudsman requires after receiving complaints, in accordance with his competences.

Work and employment

The Ombudsman received complaints lodged by Croatian war veterans who complained about being denied the right of hiring priority, contrary to the provisions of Article 35 of the Rights of Croatian Homeland War Veterans and Members of Their Families Act (OG 174/04 to 55/11).

In accordance with the provisions of Article 35, paragraph 1 to paragraph 3 of the Rights of Croatian Homeland War Veterans and Members of Their Families Act, the employer has the obligation to give hiring priority, under the same conditions, to an unemployed person, if this person meets the requirements set in the job advertisement, provided that he or she has attached the proof of unemployment (besides other tender documentation) to his or her job application.

Persons deprived of liberty

During 2011, the Ombudsman worked on a total of 248 complaints filed by persons deprived of liberty, out of which 212 were filed in 2011. In 2011, the Ombudsman performed regular or control examination of

prisons in Sisak, Bjelovar, Zadar, Šibenik and Karlovac and penitentiaries in Glina and Lipovica. Likewise, by respecting the fact that persons with restricted freedom of movement or persons deprived of liberty are not exclusively included in the prison system, the Ombudsman examined the police stations in Police Directorate of Šibenik-Knin County, Police Directorate of Zadar County, and premises of Traffic Police Zagreb Station I, and Psychiatric hospital Ugljan.

Accommodation conditions

Just like in the past years, over-crowdedness is the most determining factor of the accommodation conditions within the prison system. In comparison with the data provided in last year's report of the People's Ombudsman, according to which prison system had almost 150% of occupancy level, this year's data show 135% occupancy level, which undoubtedly shows a positive development. A fall in prison occupancy is a result of enlargement of prison system capacities (from 3351 to 3771), but it is important to emphasize that this did not happen due to repurposing of existing facilities, but due to a newly opened facility of the Glina Penitentiary, with a capacity to accommodate 420 persons.

Consequently, the accommodation conditions are still among the greatest issues of the prison system and are still among the main reasons for complaints filed by persons deprived of liberty to the Ombudsman. Namely, despite the statistical fall in total occupancy of prison system, over-crowdedness of some prisons still exceeds 200% (for instance, prisons in Bjelovar, Osijek, Varaždin, Karlovac).

Despite the fact that the prison system cannot influence the crowdedness and the number of prisoners in prisons and penitentiaries, the Ombudsman believes that in current circumstances it is necessary to undertake all possible measures in order to minimise the effects of over-crowdedness. It is logical that in some cases it will require additional work for some officials. For instance, unlocking the rooms during the day will undoubtedly require further commitment of Security Department officers, who often perform tasks that fall outside their competence (such as provision of medical treatment), or they are burdened by overtime work as Security Departments have not been staffed in accordance with job classification. According to prison governors and Security Department officers, in prisons in which the rooms were left unlocked during some parts of the day, there was not a single incident, safety was not put into question, and the atmosphere among prisoners was much more positive.

The appropriate conditions for accommodation and serving the sentence for persons with disabilities have still not been ensured in Prison Hospital, as there is still no elevator. The decision U-III/64744/2009 from November 3, 2010 of the Constitutional Court should be reminded of as it orders the Government of the Republic of Croatia to ensure undisturbed mobility of inmates with special needs in Prison Hospital within a period that will not exceed three years.

Health care of persons deprived of liberty

In 2011, besides the accommodation conditions, the quality of health care provided within the prison system was the most common reason for complaints filed by persons deprived of liberty to the Ombudsman.

By taking into account the fact that in most penal institutions the Ombudsman could not obtain data on last inspection of health care provided to inmates (as such inspection has not been performed), and a large number of complaints (including oral complaints made by inmates during the visits), the Om-

budsman again highlights the need to urgently perform health care inspection in all prisons, penitentiaries and correctional institutions. In the process, the decision of the Constitutional Court in the case U-III/64744/2009 from November 3, 2010, by which, among other things, the Government of the Republic of Croatia has been ordered to establish and efficiently monitor the quality of health care in prison system as a whole, should be particularly taken into account. According to data available to the Ombudsman, such control has not been established to this day.

In 2011, the most common reasons for complaints filed by persons deprived of liberty about the quality of health care came from the field of: treatment of hepatitis C (non-treatment or delayed treatment); availability of dental appliances (denied requests for dental prostheses, the costs of which should be covered by the prison system in cases when inmates cannot cover the expenses of dental appliances); the way of implementing security measures of mandatory psychiatric treatment and mandatory addiction treatment, and availability of mental health care.

During inspection of prisons and penitentiaries, the persons deprived of liberty pointed to the issue of insufficient number of health care workers, which was directly reflected in the quality of provided health care services. In a part of penal institutions, the medical treatment (therapy) services are provided by judicial police officers (they are previously trained by the nurse or medical technician), while in others this occurs only exceptionally, during the weekend, when there are no health care workers available on call. The Ombudsman finds the provision of medical treatment (therapy) by judicial police officers unacceptable.

Upon examination of inmates' complaints and during visits to some prisons, it was established that the medical examination of inmates is carried out in the presence of judicial police officer (psychiatric assessments are carried out without his presence, at the request of the psychiatrist). The Ombudsman finds such a treatment unacceptable.

In 2011, the inmates also complained about the security measure of mandatory addiction treatment and asked for more psychiatric examinations. The Ombudsman believes that the prisoners sentenced to mandatory psychiatric treatment should not be referred to prisons without employed psychiatrists, in order to prevent the occurrence of the situation as in the judgement of the European Court of Human Rights, Tomašić versus Croatia case (§56, §57 and §58). Furthermore, besides the over-crowdedness of prisons, and chronic understaffing (also in the field of treatment), the prisoners sentenced to mandatory addiction treatment should not be referred to prisons without employed psychiatrists. At the same time, the Ombudsman proposes a stipulation of methods for implementation of security measures of mandatory psychiatric treatment and mandatory addiction treatment, so that the purpose of imposed criminal sanctions can be fulfilled.

Treatment of persons deprived of liberty

As previously emphasized, in conditions in which persons do not have their own bed, and prison directorates must repurpose all rooms into bedrooms (often at the expense of working premises, so that treatment officers are forced to perform interviews with inmates in the halls), it is hard to expect that individual programme of prison sentence, or fulfilment of purpose of prison sentence can be performed in a quality way. Lack of premises and insufficient number and type of experts render the implementation of different activities (occupational activities, different treatment programmes, leisure activities etc.) more difficult.

As a rule, treatment departments, according to current classification which was drafted by taking into consideration the optimal capacity of prisons and penitentiaries, are understaffed. Such a deficiency is even more evident when the existing over-crowdedness of prison system is taken into consideration.

Despite the fact that it is not possible to respect all provisions of the Act on Serving Prison Sentence (for instance, provisions on room sizes of 4 m2 and 10 m3 per one inmate) due to over-crowdedness of prison system, it is particularly worrisome that some rights of the inmates and their benefits are interpreted in a very restrictive way for inmates.

Use of legal instruments

Pursuant to Article 17 of the Enforcement of the Prison Sentence Act, an inmate may file to the executing judge a request for judicial protection from procedures or decisions illegally denying or limiting him or her in any right. Pursuant to Article 6 of the Regulation of House Rules in Prisons for Serving Sentence on Remand, the persons detained in prison system before serving prison sentence (detainees, inmates in remand) can file a complaint to the governor, and they can file a verbal or written complaint to the president of the court which ordered a remand against a decision, measure or action of the governor or other prison officer. The persons deprived of liberty, who believe that their rights have been violated or threatened, have a possibility to file a complaint to the People's Ombudsman, or (upon fulfilment of all formal requirements) file a constitutional complaint.

Undoubtedly, the mechanisms foreseen by Articles 15 and 17 of the Enforcement of the Prison Sentence Act should be the most relevant in protection of rights of persons deprived of liberty. However, it can be concluded from written complaints to the People's Ombudsman, verbal complaints during Ombudsman's visits to prisons and penitentiaries and data of the Central Office of Prison system directorate that the legal protection system does not work in practice.

Police stations

During 2011, the Ombudsman examined the police station premises of Zadarska County Police Administration (Police Station Zadar II, Police Station Biograd na Moru, Police Station Benkovac, Police Station Obrovac and Police Station Gračac), Šibenik-Knin County Police Administration (Police Station Šibenik, Police Station Knin, Police Station Drniš and Police Station Vodice), and I Traffic Police Station Zagreb without prior notice. As during the visits to police stations there was not a single arrested or detained person temporarily placed in the premises for persons deprived of liberty, only an examination of documentation was performed in particular police stations (by random choice method). The examination of documentation did not reveal any irregularity. Considering the above mentioned facts, the performed examinations were in the first place preventive, with the aim to point to certain shortcomings of accommodation conditions and deviations from the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). A report containing recommendations on elimination of established shortcomings was submitted to the General Police Directorate, on the occasion of which the General Police Directorate informed the Ombudsman on undertaken activities regarding the provided recommendations.

Institutions for mentally disabled persons

In 2011, the Ombudsman examined Ugljan Psychiatric Hospital. The purpose of this examination was to establish the conditions in which the patients (or users under special division of social care) are placed, and to establish the degree to which their constitutional and legal rights are respected. During examination of the hospital, the Ombudsman talked to particular patients in examined departments. None of the patients complained about the problems in relation to other patients, and no complaints were received regarding medical treatment. Upon completion of the examination, the remarks and suggestions for elimination of issues in order to strengthen the protection of mentally disabled persons' rights were verbally presented to the employees of Ugljan Psychiatric Hospital. For instance, it was noted that most patients wore the same hospital clothes (according to House rules, all patients must wear it during hospital admission). Therefore recommendations for changing this practice and for allowing patients to wear their own clothes, or for a review of possibilities to purchase varied clothes in line with financial capacities were made again. Namely, individualisation of patients' clothing should be a part of therapeutic process, as wearing hospital pyjamas all day long does not contribute to strengthening personal identity and self-esteem of patients (§109 in the CPT report on the visit to the Republic of Croatia from 2007).

National preventive mechanism (NPM)

The Croatian Parliament adopted the Law on the National Preventive Mechanism for Suppression of Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment on January 28, 2011, bearing in mind Articles 3 and 17 of the Optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Pursuant to the Law, the tasks of the National Preventive Mechanism shall be performed by the People's Ombudsman, while two representatives of NGO and two representatives of academia shall obligatorily participate in performance of tasks. The Law stipulates that other independent experts may also be included in the work of the NPM if necessary. Given the lack of funding in 2011, the NPM did not start working to the full extent.

Conduct of police officers

In 2011, 45 complaints about conduct of police officers were submitted to the Ombudsman, which is at the same level as in 2010 (47 complaints).

In most cases, the prompt work regarding the speed of implemented procedures and submitted replies of the denounced body was evident. However, despite implemented investigation procedures, the notices or reports were often drafted for form's sake, while in some cases the claims presented in a complaint were not fully clarified. Most complaints to the Ombudsman were filed due to unprofessional conduct towards citizens, or due to use of coercive measures. The causes for such a conduct of the denounced body should, among other factors, also be identified in established working methods and shortcomings of normative framework regulating the procedure of citizen complaint investigations, on which the Ombudsman had already reported in his previous reports to the Croatian Parliament. Given the above considerations, the Ombudsman believes it is justifiable to emphasize that the complaint investigation

procedure has not been enhanced at all to this day, since adopting the former Police Act in 2000 (OG, 129/00 and 41/08; which ceased to be valid on the basis of the Police Act from March 2011 – OG 34/11).

Besides shortcomings of normative framework regarding complaint investigation procedure, in his previous annual reports, the Ombudsman emphasized the need for legal regulation of competence, role, tasks and independence in the work of the Internal Control Department, and the need to establish citizen supervision over the work of the police.

Despite the fact that adopting the Police Act in 2011 did not result in elimination of the aforementioned deficiencies, the Ombudsman evaluates particular provisions as a positive development. Undoubtedly, stipulation of participation of a representative of the public in complaint investigation procedures, which emphasized the need of fast adoption of the regulation on working methods and actions upon receipt of citizen petitions and complaints (from Article 5 of the valid Act), was evaluated as a positive development. However, this regulation, despite the obligation set forth in Article 124 of the new Act (pursuant to which the Government of the Republic of Croatia and the minister should adopt implementing regulations within 6 months from entry into force of the Act, which means by October 20, 2011), has not been adopted to this day, and according to data available to the Ombudsman, no representative of the public has been appointed to the commission to work on complaints.

Bearing in mind the importance of the Internal Control Department, particularly regarding professionalization, legality and ethics of police conduct, and above mentioned deficiencies in complaint investigation system, the Ombudsman has, in his annual reports, repeatedly pointed to the need of factual and normative strengthening of the Department, and the need of legal definition of its competence and independence. However, this has not been done by the currently valid Act.

Construction

Complaints in the area of construction mostly referred to the conduct of construction inspection in case of illegal construction. Namely, 37 out of 67 complaints in 2011 in the area of construction were filed because of illegal construction. Additionally, 70 cases of violation of citizen rights as a consequence of illegal construction were monitored, for which investigation procedure before the Ombudsman was started about ten years ago.

The reason for which the number of "old" cases is twice as big as the number of "new" cases of illegal construction lies in the fact that the Inspection Affairs Directorate in the Ministry of Environmental Protection, Physical Planning and Construction does not respond promptly to requests made by the Ombudsman. In some cases it is a six-month delay, while in others it can take much longer. As actions taken by construction inspection may last for several years, the procedure upon receipt of such complaints takes equally long. Upon issuing the administrative act which establishes the fact of illegal construction, almost no other actions leading towards a final execution of inspection measure pronounced for illegal construction are undertaken. Therefore, inspection decisions ordering to remove illegal constructions in the last reporting period are in fact declaratory, rather than authoritative acts with immediate effect.

As illegal construction is not approved by public authority act, and as it not subject to a regular procedure of reconciliation with existing public and private interests on a given location, such construction often cause violation of rights of others. The complaints filed to the Ombudsman prove the frequency

of violations of rights of others. Complainants, whose rights are as a rule violated, jeopardised or limited, are left unprotected as their status of a party in building inspection control procedure is not recognised. Non-recognition of the status of a party in the procedure means that those persons cannot protect their rights, not only in inspection procedure, but also by use of legal instruments before the body of higher instance, and they cannot request the establishment of status quo or removal. Given that the procedure of execution of inspection decisions by which the measure of removal or the measure of establishment of status quo is not implemented for years, the citizens whose rights have been violated often live in poor housing conditions for too long.

An interested person must have a possibility to protect their rights also during inspection procedure, at least through recognition of right to file a request for execution of inspection measure, in case when this measure has not been executed in a way and within deadline set forth in inspection decision. The Act on Administrative Disputes (OG 20/2010) also point to the obligation to respect the rights of an interested person.

After entry into force of the Act on Dealing with Illegally Constructed Buildings, a large number of citizens addressed the Ombudsman in order to be advised on the fact that the prohibition of legal transaction of illegally constructed buildings came into force. The prohibition of legal transaction for such real property has been defined in a way that a concluded purchase and sale agreement regarding illegally constructed building does not produce any legal effect, and it cannot be entered into land or any other public registries. For this reason, in early stages after entry into force of this Act, the legal transaction of such buildings was stopped. The consequence of such a system was that the sale of illegally constructed buildings continued as a sale of land without a building on it.

On August 10, 2011 the amendments to the Act on Physical Planning and Construction (APPC) came into force, according to which the legality of a building in land registries is established on the basis of land registry entry that the act indicating the use of a building has been attached thereto. Namely, upon entry into force of the aforementioned amendments to APPC, the owners of buildings for which no entry on the act indicating the use of a building has been made were put into a situation to obligatory start the procedure in order to prove the fact of legality of the building entered into land registry.

Housing

In 2011, 22 citizens addressed the Ombudsman, asking for advice or more detailed explanation regarding specific circumstances of a particular case. Those complaints referred to termination reasons specified by the Lease Act, complaints by which a protection was requested in order to entitle the tenant to conclude an agreement on indefinite period of tenancy, and complaints about (non)-recognition of right for long-term tenant to purchase the apartment at an affordable, and not at a market price.

In the area of housing it should again be emphasized that the issue of rights of the protected tenants to the use of private apartments, and the rights of the apartment owners remained unsolved. Those cases refer to termination of apartment lease agreement in case that the owner wants to inhabitate the apartment himself, or to move in his children, parents or persons he is obliged to support (Articles 21 and 40, paragraph 1 of the Act on Apartment Lease).

Thirteen years have elapsed since the Constitutional Court repealed the provision of Article 21, para-

graph 2 and Article 40, paragraph 2 of the Act on Apartment Lease (Decision from March 31, 1998), and the prerequisites for termination of apartment lease agreement are still not regulated. The inviolability of the dwelling is a fundamental human right of personal freedoms and rights. Therefore, the Activity Reports of Croatian People's Ombudsman for 2007, 2008, 2009 and 2010 warned of the fact that the prerequisites for terminating apartment lease agreement have not been appropriately regulated. The Constitutional Court warned of incompleteness of the Act on Apartment Lease in June 2007. In circumstances in which the prerequisites for termination of apartment lease agreement with protected lease are not regulated, the Constitutional Court can only postpone the enforcement of judgements made by competent courts on ejection (removal) of tenants until a decision on a constitutional complaint has been reached. However, a meritorious decision making on a constitutional complaint is not possible, as the decision by which the above mentioned provisions of the Act on Apartment Lease were repealed in 1998 has not been enforced.

The owners also complain about controlled rent (protected rent), or file an objection regarding (un)fair balance between lessor's interests in relation to covering of losses generated by apartment maintenance and general interest of ensuring the apartment for protected tenants. The sum of protected rent does not allow to the lessor to fulfil his obligation to perform costly maintenance works. For that reason, the apartment owners believe that, by stipulating protected rent (controlled rent) without a possibility of rent increase in proportion to the value and/or apartment renovation costs, an excessive and disproportional burden has been imposed to them.

Despite the fact that using restrictions is justified and proportionate to the objectives aimed at the general interest (protection of tenants, socially sensitive issue), the rent amount below maintenance costs did not contribute to fair distribution of social and material burden included in housing legislation reform. The protection mechanism, or a lack of the legal way of compensation of losses, has not been ensured (for instance, subsidy of maintenance costs or rental subsidy).

Health protection

In 2011, the Ombudsman received 67 complaints about health protection. Most complaints in this area were filed because of violation of right to health protection in terms of quality, content and type of health care service that has been provided.

A part of complaints was filed by doctors of medicine and doctors of dental medicine who, before signing concession agreement, performed medical services in their own premises as contracted health care professionals in a private medical practice. Given that the Ministry of Health and Social Welfare has already granted them the right to work in a private medical practice, they believe that they should not file another request for working in a private practice on the basis of a concession, in other words, they raise the issue of their status in case of termination or upon expiry of concession agreement. The Act on Amendments to the Health Care Act (OG 22/11) solved this issue by the Article 2, which stipulates that the minister of health care and social welfare (today the minister of health) shall issue the ordinance which will stipulate terms and conditions and the procedure for approval of continuation of work of health care professional in a private medical practice in case of concession termination. The Article 4 of this Act stipulates that this ordinance must be adopted within three months. At the time of writing this Report, the ordinance has still not been adopted. We would hereby draw the attention to the fact that

uncertainty over the status of health care professionals in a private medical practice in case of termination of concession particularly affects those who invested significant amounts in designing the premises and purchasing the equipment, and that it obstructs further investment into clinics, which is finally reflected in the quality of health care service provided to the patients.

In this report, just as we did in the previous one, we believe it is necessary to warn that the Croatian Parliament still has not amended the provision of the Article 35 of the Act on the Protection of Patients' Rights, which was repealed by the Constitutional Court in March 2008. It is a central provision on legal instrument available to the patient for protection of his rights. According to repealed provision, the legal instrument for protection of rights stipulated by the Act on the Protection of Patients' Rights was verbal or written complaint to the authorised person. The authorised person was obliged to inform the patient within eight days on undertaken measures, so that the patient could, in case he was not satisfied, file the complaint to the Commission for Protection of Patient Rights within the next fifteen days.

The Ombudsman recommends an urgent amendment to the Act of the Protection of Patients' Rights through a provision on efficient legal instrument for protection of rights stipulated by this Act.

On the basis of complaints received in the reporting period, as well as in the past years, we noted that in particular cases the Ministry of Health and Social Welfare failed to decide on citizen requests in the administrative procedure, even after several judgements of the Administrative Court of the Republic of Croatia, which oblige it to do so.

The fact that by now the Administrative Court of the Republic of Croatia has not acted as a court of full jurisdiction poses additional problem to claiming citizen rights in a situation when a public authority fails to decide on their requests. In a concrete case, it just ordered in its judgements to the Ministry of Health and Social Welfare to decide on citizen request within stipulated deadline.

The public authorities which fail to respect the judgements of the Administrative Court regarding the deadline within which a new administrative act must be issued, or which fail to adhere to legal interpretation which has been expressed by the court in the judgement, are not imposed any sanction. In such cases, there is factually no judicial review of legality of particular acts of administrative authorities and bodies vested with public authorities, guaranteed by Article 19, paragraph 2 of the Constitution of the Republic of Croatia. The complaints filed by citizens point to potential misuse and arbitrariness of public authorities, and reflect their helplessness when faced with the system which, despite a number of legal instruments, cannot guarantee them protection of their rights.

Health insurance

In the area of health insurance, out of a total of 22 received complaints in 2011, five complaints pointed to the problems regarding health insurance of aliens, or inability to pay contributions for mandatory health insurance of aliens (citizens of Bosnia and Herzegovina and the Republic of Montenegro) who were granted a temporary or permanent residence in the Republic of Croatia.

Seven complaints referred to possible shortcomings in the work of the Croatian Health Insurance Institute (HZZO) and irregular application of regulations, due to which the complainants - Croatian citizens - could not exercise the right to supplemental health insurance policy covered by the state.

In remaining complaints, for which it was established that they were unfounded during investigation procedure, the complainants pointed to the shortcomings in the work of HZZO regarding the rights on the basis of workplace injury, health care insurance of unemployed persons and the payment of contribution for health care insurance of farmers.

Citizen status rights

Citizenship

Just as in two previous reports of the People's Ombudsman, a significant number of complaints regarding granting Croatian citizenship referred to decisions of the Ministry of the Interior by which the requests were rejected due to disrespect of the legal order of the Republic of Croatia. The Ministry of the Interior based their decisions on the assessment submitted by Security Intelligence Agency (SOA), without more detailed data on a concrete case.

The practice of the Administrative Court of the Republic of Croatia has shown that the decisions issued by the Ministry of the Interior, which use classified information obtained by the Security Intelligence Agency on disrespect of the legal order of the state, represent a violation of provisions of the General Administrative Procedure Act, given that for each decision made in administrative procedure, a rationale must be provided. A decision must also contain the reasons, which, given the established facts, point to the decision contained in the enacting terms.

Through its decisions from 2009 (Number: U-I-406/1994, U-I-907/1994, U-I-418/1995) the Constitutional Court of the Republic Croatia expressed its view, among other things, that general legal designation on reasons for protection of national security, legal order and other reasons for protection of public order, without a more detailed legal definition of those legal standards, in case that the explanation has not been provided in a decision, result in significant restrictions of fundamental elements of the right to appeal or other legal protection instrument. Most complainants in this field were born, or spent most of their lives on the territory of the Republic of Croatia, and have not regulated their status to this day. Prior to applying for Croatian citizenship, those persons underwent a process of repeated approval of temporary and permanent residence, by which they underwent a security check, which did not reveal any problem.

Residence of aliens

This reporting period saw an increase in a number of temporary residence approvals for humanitarian reasons, which is connected to increasingly difficult economic and social living conditions that faced the persons with approved temporary residence in the Republic of Croatia. Most of them were granted temporary residence for the purpose of family reunification, however, due to more severe requirements that must be met for granting this kind of residence, the possibility of regulation of residence was identified in approval of residence for humanitarian reasons.

In last two annual reports, the Ombudsman pointed to the fact that a significant number of persons reported on inability to meet the requirements stipulated by the Regulation of the Republic of Croatia

on the method of calculation and amount of means of subsistence for aliens in the Republic of Croatia. Article 230, paragraph 2 of the aforementioned Act has stipulated that the Government of the Republic of Croatia shall, by a regulation, stipulate a method of calculation and amount of means of subsistence related to temporary and permanent residence approvals. Therefore, through entry into force of the Aliens Act, the opportunity was created that in the course of drafting the regulation, special attention is given to persons who undoubtedly have strong ties with the Republic of Croatia, but live in difficult social and material conditions. It is evident from received complaints that the requirements stipulated by currently valid Regulation are an insurmountable obstacle for a large number of persons in regulation of their status for temporary residence for the reason of family reunification, or in receiving permanent resident status.

Pursuant to the Act on Health Care of Aliens in the Republic of Croatia, the persons who were granted a temporary residence shall pay a monthly contribution for health insurance. Inability to cover this amount due to poor financial situation contribute to accumulation of tax debt, which for those persons, and often also for their families, represent a significant amount of money. Inability to cover this cost has also obstructed their receiving temporary resident status for the purpose of family reunification and for humanitarian reasons.

The length of procedure for approval of permanent residence to foreigners was also one of the reasons for which the citizens complained to the Ombudsman. The persons who apply for permanent residence are the persons who have regulated their temporary residence in the Republic of Croatia, and in this respect, the competent body is in most cases informed of all relevant data necessary to issue a positive or negative decision on permanent stay. However, particular complaints point to the fact that some procedures for approval of permanent stay take much longer than the deadline stipulated by the law, sometimes it lasts for several years.

The Article 83 of former Aliens Act stipulated that permanent stay shall be granted to any alien who, along with other conditions, and has the knowledge of the Croatian language and Latin script, as well as Croatian culture and Croatian social system. The testing of the knowledge of Croatian language and Latin script might have been conducted by higher education institutions which organise Croatian language courses based on the permit issued by the ministry competent for higher education, which required significant funds from the applicants for permanent stay.

However, competent police directorates could not provide an indirect testing of Croatian language and Latin script by fulfilling of the above mentioned questionnaire as it has not been prepared.

Civil status

In this reporting period no complaints were received in this administrative area, but it is necessary to point to the Croatian Parliament that no measures have been undertaken for years in order to resolve the problem of Croatian citizens who changed their surname after marriage, by which the surname has more than two words. Those citizens have problems in legal transactions because of different last names in their identification documents, and the reason for that lies in the fact that the Law on Personal Names does not provide adequate legal solution.

Given that a large number of persons experienced this problem, the Ombudsman presented the initia-

tive to the Croatian Parliament for an amendment to the Law on Personal Names in 2007. He proposed that through amendments, the exceptions to the provision of Article 2, paragraph 4 of the Law on Personal Names are envisaged, which means the cases in which the personal name and surname used by the person in legal transactions may contain more than two words respectively.

The then Central State Administrative Office supported the Ombudsman's initiative, and obliged itself to prepare a draft of the amendment to the Law, which has not been done to the day of submitting this report.

Civil service and employment relations

Labour relations in economy and crafts

The Ombudsman received 39 complaints in which complainants pointed to the violation of labour relation right by the employer in the field of economy and crafts.

Complaints referred to: wrongful termination of employment contract, non-prolongation of temporary contract, non-payment of salaries, severance pay, jubilee awards, salary compensation during temporary inability to work (sick leave), and to "mobbing" (abuse at work).

The Ombudsman forwarded the complaints which referred to potential violation of sanction related provisions of the Labour Act to the State Inspectorate as the competent authority.

Regarding complaints which pertained to potential illicit (illegal) termination of employment contract, by taking into account preclusive deadlines for protection of rights in the area of labour relations, stipulated by the provisions of Article 129 of the Labour Act (OG 149/09 and 61/11, hereinafter: LA), the Ombudsman warned the complainants, immediately upon reception of complaints, of legal consequences of missing the deadline for protection of rights.

Regarding complaints filed by complainant whose employers failed to pay them a payable, owed salary, or who did not pay them a severance, or jubilee award, the complainant was advised to seek claims arising from employment before the court (Article 135 of the LA), and warned on the fact that those claims shall be barred by the statute of limitations three years after it had arisen.

In 8 cases, complainants complained about exposure to "mobbing" by seeking the Ombudsman's assistance and advice. The institute of mobbing, i.e. abuse at work, has been legally regulated by provisions of Article 133 of the Criminal Code (OG 125/11, as of November 7, 2011), which defines it as a criminal offence for which a two-year prison sentence has been envisaged.

Employment relations in public service

A total of 45 complaints which pointed to potential violations of labour relations in public service (preschool institutions, primary and secondary education institutions, health care institutions) pertained to recruitment irregularities, illicit termination of employment contract, and to "mobbing".

Rights during unemployment

In a total of 19 complaints pertaining to the rights during unemployment, in 9 cases the complainants expressed their dissatisfaction about the repeal of rights for prolonged jobseeker's benefit during unemployment, while in other 10 cases, they expressed their dissatisfaction with the decision of Croatian Bureau of Employment by which the complaints were informed that they no longer have the right to jobseeker's benefit, as well as dissatisfaction regarding potential irregularities in retraining programmes and adult education, and potential irregularities regarding mediation in recruitment in public works.

Rights of civil servants

Complaints in the area of civil service rights in 2011 pertained to the procedure of admission to the civil service, transfers in the civil service and termination of service.

Regarding the procedure of admission to the civil service, the complainants pointed to violations of right due to denial of protection of candidate's rights against the information on formal incorrectness of submitted applications, as well as to doubts about the application of civil service legislation and exclusion of application of the General Administrative Procedure Act (OG 47/09, hereinafter: the GAPA).

Civil servants pointed to violations of rights in terms of being transferred to positions of lower job complexity, due to apparent service needs, despite the fact that service needs were not defined and explained in the decisions. As a reason for transfer, in lieu of service needs, it was stated that the civil servants did not perform their tasks in a high-quality way, despite the fact that no procedures were conducted regarding this, and civil servants received top grades in evaluations. For those reasons, the Committee for Civil Service, after receipt of complaints, cancelled the decisions on transfers, in some cases repeatedly. In the procedure of issuing decisions, after cancellation of the previous ones, the views of the Committee for Civil Service, pronounced in decisions on cancellation, have not been respected.

Also, complaints on termination of civil service pertained to issuing those decisions, after the previous ones were cancelled before the Administrative Court of the Republic of Croatia, but also to failure to execute the judgements of the Court by which the decisions on termination of service were cancelled, within the legally prescribed deadline.

Managerial (top) civil servants and depoliticisation of public administration

Amendments to civil service related legislation, and numerous doubts in its application, influence the violation of rights of civil servants and their unequal position. In his Report for 2010, the Ombudsman pointed to the fact that, by appointing managerial (top) civil servants after abolishing key officials' posts, real depoliticisation of public administration still has not been fully achieved. The differences between competition procedure for appointment of managerial civil servants and admission of other civil servants speak in favour of this claim.

Managerial civil servants have been still, as well as the officials, appointed by the Government of the Republic of Croatia upon the Minister's proposal, and the selection test consists of an interview with the chief official of the central governmental administrative body. Other civil servants are invited for a test on general and specific regulations in line with tasks for particular position, practical work and interview before multi-member commission.

At the same time, as the law on salaries of civil servants according to the Civil Servants Act from 2005 still has not been adopted, full implementation of this Act for all civil servants still has not been ensured.

Rights of local civil servants and employees

2011 saw an increase in number of complaints filed by local civil servants from administrative bodies in local and regional self-government units, in which they reported illegal employee structure changes in administrative bodies after changes of political option in local elections and due to different political views or political party affiliation of incumbent employees.

The decisions by which the structure of administrative bodies was changed in those cases did not contain the provisions on legal succession of former and new structure, in accordance with provisions of the Articles 103 to 108 of the Act on Civil Servants and Employees in Local and Regional Self-Government, and it did not derive from those changes. By doing so, the application of stipulated rules for legal placement of incumbent civil servants according to performed tasks and the results of their work and evaluation was evaded. The employees were placed at the discretion of the chief executive, while at the same time the employees who should have been placed, in line with the legal succession of organizational changes and tasks they previously performed, were put at disposal. Given that such conduct was, as a rule, not conditioned by expertise but rather political criteria, those employees were not placed during the period in which they were put at disposal, and their service was terminated upon expiry of this period.

After new decisions on the structure of administrative bodies (or amendments to the existing ones) had been adopted, the chief executives also dismissed incumbent heads. Just because of the fact that a new decision and a new ordinance have been adopted, vacancies for new heads of administrative bodies in local units have been announced, despite the fact that no administrative bodies had been abolished, the incumbent heads did not consider themselves dismissed by force of law, and they met all stipulated requirements.

Therefore, contrary to provisions of Articles 103 to 108 of the Act on Civil Servants and Employees in Local and Regional Self-Government, other civil servants were unlawfully appointed for temporary performance of duties of the head before the recruitment process was finalised. Incumbent heads of administrative bodies and other incumbent employees whose tasks are still performed in the same or another administrative body have been put at disposal. Upon expiry of this period, their service will be terminated despite the fact that the conditions for such an action, stipulated by law, have not been fulfilled.

Dismissal of heads of administrative body

While working on complaints about violation of procedures of dismissing the heads of administrative body of local and regional self-government units, pursuant to provision of the Article 53a of the Law on Local and Regional Self-Government, the Ombudsman established numerous grounds for doubt and uneven application in practice, which leads to violation of rights of dismissed heads.

Dismissal of head by chief executive, without prior completion of procedure stipulated for serious breach of official duty, without establishing facts on accountability for violations he was charged with regarding failure to execute general acts, or causing serious damages, before the competent civil service court, is contrary to the law.

In the practice of some local and regional units, the chief executives dismiss the heads of administrative bodies of local units, in accordance with the provision of the Article 53a of the Law on Local and Regional Self-Government, despite the fact that the circumstances and reasons for dismissal envisaged by this provision of the Law (on failure to execute general acts, causing serious damage etc.) had not been established in a way and according to the procedure of accountability for serious breach of official duty. In the process, particular chief executive officials of local self-government units act in different ways.

Civil service legislation and application of the GAPA

Frequent and inconsistent changes of legislation regulating civil service in two separate acts for civil servants and local civil servants and employees to whom the rules for the same type of procedures have for no reason been stipulated in a different way, influence its wrong application and violation of rights of civil servants and employees, about which the People's Ombudsman has also previously warned.

The procedure of admission to civil and local service is unnecessarily complex and long, and does not ensure sufficient protection of fundamental rights of participants to the process, including the protection stipulated by the GAPA and guaranteed by the Constitution of the Republic of Croatia.

Stipulation that the procedure of admission to civil and local service before the decision has been issued shall not be subject to the GAPA is legally unacceptable. The administrative procedure and application of the GAPA shall not be excluded by a special law, but its application shall be explicitly stipulated, or an indirect conclusion on the application of the GAPA shall be made according to characteristics of the administrative matter, unless the application of other general regulation has been stipulated. The body which decides on the administrative matter and which issues a decision as the administrative act must adhere to the provisions of the GAPA besides the act regulating the matter, which means both rules on competence for conducting the procedure and rules on implementing the whole procedure and issuing a decision must be respected.

The right of local civil servants to appeal

In the procedure of appointing and dismissing of heads of administrative bodies who still have the status of civil servants, rather than officials, it is not allowed to file an appeal, but an administrative dispute can be started before the competent administrative court.

The protection of civil service rights of heads in court procedure before the administrative court, without the right to appeal, is as a rule a long and unattainable form of protection. The heads of administrative bodies face an unequal position, particularly in comparison to civil servants who, in the appellate procedure before the Committee for Civil Service, as an independent body, have a possibility to protect their rights in a faster and more efficient way.

The Ombudsman, due to unequal protection of rights of heads, but also other local civil servants, points to the need for introduction of second instance procedure before an independent body, as stipulated for civil servants.

Supervision over the implementation of the GAPA

For the sake of protection of citizen rights, the Ombudsman has been continuously warning about the obligation of regular supervision over the implementation of the GAPA and reporting on resolving administrative matters in administrative procedure. Supervision over the implementation of the GAPA, pursuant to the provisions of Articles 165 and 167, is conducted by the Central State Administrative Office (now the Ministry of Public Administration) and other ministries which, according to their scope of work, monitor resolving administrative matters, while inspection control over the implementation of the GAPA is conducted by the Administrative inspection.

The data on resolving administrative matters in public authorities are not registered in a stipulated and appropriate way, and their collection and processing for the purpose of reporting to the Government of the Republic of Croatia, despite the warnings made by the People's Ombudsman, have so far failed to represent the objective state of affairs in resolving administrative matters, but they also failed to show real results of work of public authorities for the benefit of the citizens.

Supervision over general acts – local and regional self-government

The Ombudsman has previously warned that regular supervision over general acts, stipulated by the provisions of the Act on Local and Regional Self-Government (OG 33/01 to 125/08), is not implemented in a way which would ensure state control over legality of work of local self-government units.

A satisfactory legal framework, according to which the acts would be submitted to the bodies which would perform the control over legality, has not been ensured for supervision of general acts, which are increasingly unauthorisedly adopted by chief executives of local and regional self-government units. The supervision of those acts is mostly conducted upon the initiative of particular citizen in cases when their rights had been violated, and then the supervision procedure is as a rule completed without undertaking any measures.

Social welfare and family-legal protection

In 2011, 118 complaints in those administrative areas were received, while 53 complaints from the past years were worked on.

In his previous annual reports, the People's Ombudsman pointed to the need of harmonization of legislation with comments and conclusions of the European Committee of Social Rights regarding low amount of permanent allowance, particularly for single persons. The amount of the subsistence allowance has been increased by the new Social Welfare Act by 20% (for working-age person who lives alone, the allowance now amounts to 600 HRK – which is about 80 EUR, while for a person without working capacity who lives alone, the allowance now amounts to 900 HRK – which is about 120 EUR).

In the course of drafting the new Social Welfare Act, it was proposed that the social welfare system should be decentralised in functional and fiscal terms, with prior close cooperation with the representatives of local and regional self-government units. However, decentralisation has been postponed despite the fact that the social welfare system is too centralised.

The People's Ombudsman warned the Ministry of Health and Social Welfare, as well as counties and large cities, about the problems of homeless people, particularly about difficulties regarding the regulation of their residence, which is why they cannot be entitled to health care and social security rights. Despite the fact that the new Social Welfare Act defines the notion of a homeless person and the rights in the social welfare system, social inclusion of these people into the local community has not been satisfactory.

The system of social dwelling is still underdeveloped, uneven in regional terms and dependent upon fiscal possibilities of local self-government units.

In several cases, the Ombudsman warned the Ministry of Health and Social Welfare, as the control body, of irregularities in actions taken by local self-government units regarding recognition of rights to housing benefits and other rights stipulated by their general acts, and recommended that counties warn the municipalities and cities of their duty to harmonize their general acts with the new Social Welfare Act.

In the Republic of Croatia, there has been negligible progress in deinstitutionalisation of mentally impaired persons placed in institutions. Namely, according to the data from the Ministry of Health and Social Welfare, by December 31, 2010, there were 4,264 mentally impaired persons in state and private institutions. But, instead of gradual decrease of number of mentally impaired persons placed in the institutions, in 2010 this number increased. Elderly people who cannot be provided accommodation in county care homes must go to private care homes, where care home fees are much higher.

Maternity and parental allowance and child allowance

It is evident from received complaints that the parents complain about the expert evaluation of children with developmental disabilities, as multidisciplinary approach, appropriately regulated in the social welfare system, is not adopted in the health care system.

In terms of application of the Child Allowance Act, the Ombudsman warned that the parent – foreigner, granted temporary stay in the Republic of Croatia, is not entitled to child allowance after death of the other parent (Croatian citizen), despite the fact that the children are Croatian citizens and live on the territory of the Republic of Croatia.

Upon receiving a complaint filed by a mother who is on maternity leave, the Ombudsman recommended to the Ministry of Family, War Veterans' Affairs and Intergenerational Solidarity to review the proposal in order to potentially initiate the procedure of amending current regulation which would enable that the allowances for all new mothers, or parents using parental leave, are not reduced because of included crisis tax. It was also noted that parents experienced problems in exercising the right to single-payment benefit for a new born child pursuant to decisions of the local self-government units. Despite the fact that terms and conditions and criteria for granting this right are stipulated by general regulations, some local self-government units fail to recognize this right by issuing a conclusion, rather than administrative act (decision), and they do not issue decisions on termination of rights but inform the citizens thereof through written notifications. Such an illegal action prevents the parents from using legal remedies.

Family-legal rights and guardianship

In the last year report, we pointed to a need for harmonization of the Family Law (Guardianship) and other regulations with the UN Convention on the Rights of Persons with Disabilities (Article 12). Amendments to the Family Law have not been implemented, but they have been included in the Social Welfare Development Strategy.

Therefore, it is also emphasized in this Report that the Republic of Croatia should follow the example of practice of the EU countries, which in their systems strive for the protection of human rights to the greatest extent, by respecting the otherness of persons and their dignity, by encouraging them to take part in normal community life. Standards set by the UN Convention on the Rights of Persons with Disabilities, European Convention for the Protection of Human Rights and Fundamental Freedoms and Council of Europe Recommendation No. R(99)4 (adopted by the Committee of Ministers of the Council of Europe in 1999) require that the procedure of deprivation of legal capacity is clear and defined by the rules, including a detailed medical expert evidence delivered by an expert witness on the influence that a diagnosed medical condition or mental impairment of a person has on their functions. Application of the institute of full deprivation of legal capacity ought to be limited to rare and extremely justified cases (principle 3, item 1 of the Recommendation). Appropriate protection measures should secure respect for human rights of persons subject to the procedure of deprivation of legal capacity.

The Ombudsman finds it necessary to implement a reform of the institute of guardianship without further delay, and particularly to abandon the current institute of full deprivation of legal capacity, which should be applied exceptionally, in rare and extremely justified cases, and to transfer the competences of social welfare centres regarding the area of guardianship to the courts, as it is considered a limitation of human rights.

School education and science

In 2011, the Ombudsman received 31 complaints in the area of preschool education, primary and secondary education and higher education, which is at the same level of the number of complaints from last reporting period.

A part of complaints pertaining to preschool education was addressed against the kindergarten fees in the City of Zagreb. As the mayor cancelled the implementation of the decision made by the representative body, during the procedure, pursuant to Article 42 of the Act on Local and Regional Self-Government, the amount of participation of parents in the kindergarten fee was unclear.

In other petitions pertaining to preschool education, the citizens mostly asked for Ombudsman's assistance in enrolment of their children to preschool programmes because of poor financial or health circumstances in the family. A small number of complaints in this area pertained to primary and secondary education, and, unlike last year, only one complaint pertained to state graduation exam.

Complaints from the area of higher education mostly pertained to study related costs or tuition fees. As we examined individual complaints, the relevant data revealed that fee amounts vary significantly in different higher education institutions in the Republic of Croatia, and that different criteria apply for payment and amount of fees. We also noticed that many higher education institutions increased enrolment quotas, which certainly does not contribute to the quality of education.

Pursuant to the Act on Scientific Activity and Higher Education, the higher education institutions in the Republic of Croatia are financially autonomous. Article 86, paragraphs 4 and 5 stipulates that the costs of full-time as well as part-time studies shall be financed in accordance with university's general act. In practice, the universities leave the definition of tuition fee amount to the discretion of their adjoining institutions. For instance, the University of Zagreb determined entrance exam results and academic performance as common criteria according to which the student's participation in covering the costs of studies shall be determined. Other criteria and conditions are left to the discretion of the adjoining institutions, provided that they obtain the approval of the University Senate.

We would hereby like to remind that the Ombudsman warned about this issue in his report for 2009, when he addressed a recommendation to the Ministry of Science, Education and Sports to regulate, according to its competence, the issue of costs of study and participation of students in covering those costs.

Appointment of Cultural Councils

In 2011, the People's Ombudsman reviewed two complaints about irregularities in work of the Ministry of Culture, and upon completion of investigation procedure, it was established that both of them were founded.

Complaints referred to appointment of persons who participate in managing legal persons for performance of cultural activities within the field of the Council competence, allocation of funds is made possible for "one's own sake and for the sake of one's own projects", while other artists are at the same time put in a less favourable position.

The Ombudsman has proposed urgent undertaking of measures for elimination of current practice of appointing the Cultural Councils members in a way that is contrary to explicit legal provisions as well as elimination of its consequences, and the amendments to existing regulation if necessary.

Property confiscated during the Yugoslav communist rule

In 2011, 14 complaints from this area were received, and there were a total of 36 such complaints together with the complaints received in previous years.

Most complaints from this administrative area referred to excessive duration of procedures. Return procedure and determining compensation for confiscated property is rather complex and requires extensive checking of detailed documentation. The competent court officer is required to be familiar with provisions based on which the property was confiscated from their rightful owners seven decades ago (confiscation, nationalisation), and to have a good knowledge of regulations brought by the Republic of Croatia after its independence which may in any way refer to confiscated property. Therefore it often happens that procedures last for up to 11 years in first instance, and the claimants (elderly people as a rule), or the persons authorised for receiving compensation, do not live long enough to see a decision with final force and effect.

The fact that the persons authorised for receiving compensation are denied of the right to return of "their" agricultural land should be emphasized. Administrative body competent for management of state-

owned agricultural land, in accordance with the management programme of this property, in fact does not ensure sufficient land area for return, but rather plans more land for long-term lease and sale, as a part of funds available for mentioned types of management belongs to the budget of municipalities and towns. Also, large areas are returned to former agricultural-industrial complexes, and eventually there is practically no land left to be returned to natural persons, despite the fact that most of them are elderly people living in agricultural households to whom it would be most helpful. They are however forced into accepting compensation in money or bonds, much to their dissatisfaction as the compensation is paid in bonds in 20 year period, and determined compensation is much lower than the market value of the land.

Managing state-owned agricultural land

In 2011, four new complaints referred to the application of this Act in procedures of lease or sale of state-owned agricultural land, while another complaint from the past year was also worked on.

In all complaints, the complainants as participants or tenderers in public tender for lease or sale of agricultural land complain about irregular application of criteria stipulated by the Act on Agricultural Land, and irregular establishing of the status of "current beneficiary", which has a significant impact on orderly selection of most advantageous offer. They also emphasize the conflict of interest of members of the commission deciding on selection of most advantageous offer, as they are often tenderers themselves for particular cadastral plots or tables included in the tender.

Expropriation

In 2011, two new complaints in this area were received, pertaining to expropriation procedures, or some actions undertaken in the expropriation process, while three complaints from the past years were also worked on. In most cases, the complainants disagreed with the amount of compensation proposed in administrative procedure, and they complained that their appeal against the first instance decision in the Ministry of Justice, competent for the matter, was not resolved within a reasonable time, despite several rush notes.

Complaints mostly referred to excessively long delays, both in legal and reasonable terms, in second instance decision. Complainants often turned to the Ministry of Justice to no avail, and then they turned to the Ombudsman, because as a rule procedures take long before the administrative body, but also later, in court procedures for establishing the compensation amount.

Distress

In comparison to last year, in 2011 a significantly greater number of citizen written petitions and telephone calls in the area of finance, economy and crafts were received, while most of them referred to the distress' actions taken over financial means, salaries and pensions. They described difficult economic and social position and related problems, and asked for opinions, interpretations, advice and explanation of particular regulation, as well as for assistance in resolving difficult economic and social position caused by unemployment, shutting of public utilities (disconnection of energy and water supplies) by the service providers due to unpaid bills.

It is undeniable that particular difficulties were encountered while executing distraint procedures over citizen's financial means, which may be justified by a new system stipulated in Financial Distress Procedure Act (OG 91/10; entered into force as of January 1, 2011), and by the fact that by January 1, 2012 both former and new Acts were partially used, which also caused problems to the experts. The question may be raised whether the bodies responsible for the implementation of this Act put enough efforts into informing the citizens of their rights and obligations, as well as consequences which may arise from the application of those Acts.

Likewise, it is obvious that there is a lack of financial discipline, both in case of natural persons – providers of public services, which did not care much about payment of their claims, and citizens themselves who have not covered their obligations, in some cases for several years. For instance, Croatian Radio-television issues TV license bills and claims the fees for several previous years, even for 2005, and there are similar examples in cases of other public service providers.

Complaints against the work of judiciary

In 2011, a total of 425 complaints were handled, out of which 397 were newly received, therefore a slight increase in comparison to 2010 (386) was noted.

Complaints handled in 2011 mostly pertained to meritorious outcome of court procedures, when, due to unfavourable outcome of the court procedure, the parties expressed their dissatisfaction and made comments. In comparison to the past years, there was a fall in number of complaints about the excessive duration of procedures, as a growing number of citizens address their requests for protection of the right to court procedure within a reasonable deadline directly to the courts.

The Ombudsman forwarded the citizen complaints about excessive duration of procedures, conduct of judges or other court official towards the party during the procedure, or during other official activities, to the Ministry of Justice, as a competent body for performing the tasks of judicial administration, for further investigation, provided that they contained the information necessary for starting an investigation.

In 2011, the Ombudsman, besides complaints about the work of courts, received citizen complaints about the work of State Attorney Office, public notaries and lawyers.

Right to access to information

In 2011, several citizen complaints about exercising their right to access to information were received, which shows that the current normative solution has not reached its purpose.

This right is guaranteed by the Constitution of the Republic of Croatia, which in Article 38 proclaims the right to access to information as fundamental freedom and right of the citizen, while restrictions of this right can only be "proportionate to the nature of the need for such restriction in each individual case and necessary in a free and democratic society, as stipulated by law". However, the practice has shown that the Act on the Right of Access to Information is unimplementable, as an efficient

supervision of first instance decisions, by which the request to access to information was denied, is not possible in case that the requested information is classified according to the law and/or general act adopted on the basis of the law stipulating the secrecy of information (Article 8, paragraph 1 of the Act on the Right of Access to Information).

After an appeal has been lodged, the public authorities, according to Article 17 of the Act on the Right of Access to Information, must make it possible for the second instance body (the Agency for Protection of Personal Data) to have an insight into the information dealt with in the procedure if this information is referred to in Article 8, paragraph 2 of the Act on the Right of Access to Information, or if it refers to data protected by the law regulating the area of personal data protection, however, this will not happen in case of information classified according to the law and/or general act.

The intention of the Right to Access to Information Act, in accordance with the guarantee provided by the Constitution, is making the access to information of public interest possible, however, the practical examples show that the regulation stipulated in such a way actually obstructs exercising this right in practice.

International cooperation

The Croatian People's Ombudsman had the opportunity to address the UN Human Rights Council, the highest UN body for human rights, for the first time. As the national human rights institution with status A, the Ombudsman submitted two contributions on the 16th Session of the Council, held in March 2011 in Geneva: Comments on the UN Special Rapporteur's report on housing in the Republic of Croatia, and Final Observations on the Universal Periodic Review (UPR) on human rights during the concluding discussion and adoption of the Report on the Republic of Croatia.

In total, Croatia got 116 recommendations. In his press release, the Ombudsman requested that the UPR evaluations and recommendations should be translated and made available to the citizens. He invited competent ministries to collaborate with independent institutions for protection of human rights and civil society organisations in drafting the action plan for implementation of recommendations.

The participation in the Annual Assembly of the Coordinating Committee of National Institutions (Geneva, May 2011), the body which today gathers about one hundred accredited national institutions for protection and promotion of human rights, out of which 67 have the status A, according to the criteria of Paris principles should also be mentioned. The largest number of the Coordinating Committee members to this day actively participated in the work of all mechanisms established for the protection of human rights within the UN system. However, the NHRI's gained the most recognition for their efforts in the process of the Universal Periodic Review on human rights in their respective countries, among which was the institution of People's Ombudsman whose views and recommendations were entirely included in the UPR Report on the Republic of Croatia.

On September 21-22, 2011, the Council of Europe and the Defensor del pueblo of the Kingdom of Spain organised a round table on possibilities of strengthening the role of ombudsman institutions in order to reduce the number of petitions filed to the European Court of Human Rights, which has been overburdened to the extent that its efficiency, authority and even purpose come into question. Therefore, a more significant contribution in three areas is expected from "natural allies" (NHRIs): in provision of objective information to possible plaintiffs about the competence, case law and criteria for accepting the complaint by the Court in order to reduce a large number of unacceptable petitions; in monitoring implementation of court judgements in order to reduce frequent occurrence of same type of cases; in promotion and education on human rights in order to act preventively in terms of addressing the Court.

During 2011, the People's Ombudsman maintained frequent contacts with the European Union Delegation regarding meeting the benchmarks for closing the Chapter 23 – since one of those benchmarks was the strengthening capacities of the institution of People's Ombudsman.

Mr. Jurica Malčić, Croatian People's Ombudsman, participated in the 8th Seminar of the European Ombudsmen held in Copenhagen on October 20-22, 2011. The key topic of this meeting was the importance of good relations between the Parliament and the Ombudsman, and the benefits of such a relation which may lead to a double benefit: it can boost both the efficiency of Ombudsman's institution and the efficiency of parliamentary control over the executive power.

Report on occurrence of discrimination in 2011

Discrimination

Report on occurrence of discrimination in 2011

1. Review of statistical data

In 2011, the Ombudsman's Office opened 147 new files pertaining to discrimination. From the above-mentioned cases, 103 of them were resolved during the year. Apart from that, the cases from previous years were also worked on (4 cases from 2009 and 38 cases from 2010), so a total of resolved discrimination complaints amounted to 143 in 2011.

Table 1 Manner of resolving cases in 2011

MANNER OF SOLVING	Year in which the case was opened			
	2009	2010	2011	Total
Upon completion of investigation procedure, it was determined that discrimination did not occur	2	16	25	43
The party received the reply to his/her initial inquiry	0	2	4	6
Recommendation or warning was sent	1	3	4	8
Joint action in the court proceedings as intervenor	-	-	2	2
Case processed as regular cases falling within the Ombudsman's competence	0	3	8	11
Court decision reached	0	0	3	3
Free assessment (Art. 12 of the ADA)	0	1	9	10
The party was informed on rights, obligations and possibilities of court and other protection	0	5	8	13
The party dismissed the request	0	0	4	4
Court proceedings underway (Art. 17 of the ADA)	0	1	3	4
Filed initiative for amendment of act or subordinate legislation	1	0	0	1
Sent to special ombudspersons	0	3	21	24
Prohibition against retroactive application of the law	0	1	1	2
Out of the Ombudsman's competence	0	0	5	5
Noted	0	3	6	9
TOTAL	**4**	**38**	**103**	**143**

Out of 103 discrimination complaints received and solved in 2011, reasonable suspicion in discrimination was established in 18 complaints. Four cases that were received during 2011 were closed with a recommendation, warning, suggestion or information with the aim to eliminate discrimination.

However, given that discrimination is ultimately established by courts, it needs to be mentioned that also for the year 2011 the Ombudsman received from the Ministry of Justice statistical data on court cases and procedures related to discrimination, which all judicial bodies are obligated to report to the Ministry of Justice. During 2011 there were in total 65 civil procedures related to discrimination, out of which 36 were claims from the earlier period and 29 were filed during 2011. During 2011, according to the Ministry of Justice, there were 17 criminal procedures related to discrimination (out of which 12 from previous period), but there are no data available which criminal acts were the procedures conducted for, as the existing Forms do not foresee this. Final judgments were pronounced in 6 criminal cases (11 are pending), with eight persons convicted. According to data received from the Human Rights Office of the Government of the Republic of Croatia, related to hate crimes, in 2011 there were 20 indictments and 10 non-final judgments, out of which 9 were convictions for hate crimes. In the last year (Ministry of Justice data) there were in total 58 misdemeanor proceedings related to discrimination (11 from previous years), out of which 26 were finally decided. There were 20 convictions against 19 persons, and 6 acquittals.

The Ombudsman used the possibility of joining in the court proceedings as foreseen by the Anti-discrimination Act, so thus we intervened in one court case initiated by a class action filed by civil society organizations, and we also intervened in one court case initiated by an individual claim. The proceedings mentioned are still pending. Misdemeanor proceedings initiated by the Ombudsman in 2010 due to harrasment based on race, ethnicity or skin colour are still pending.

Table 2 Number of complaints received in 2011 according to grounds of discrimination

Grounds of discrimination	Number of complaints
Race or ethnic affiliation, skin colour, national origin	51
No grounds	28
Gender	11
Age	10
Religion	10
Health condition	7
Political or other belief	5
Social status	4
Disability	4
Education	4
Marital or family status	3

Grounds of discrimination	Number of complaints
Trade union membership	3
Property	3
Sexual orientation	2
Gender identity and expression	1
Social origin	1
TOTAL:	**147**

Just as in the past years, most common ground of discrimination in received complaints was race or ethnic affiliation, skin colour and national origin which makes 36,6% of a total number of re-ceived complaints. This year again, a large number of complainants against discrimination did not clearly state the grounds of discrimination, and it could not be concluded from the content. This fact points to the need of further efforts that should be put into raising public awareness on discrimination. The public should become aware that discrimination is a specific form of violation of human rights for the establishment of which, in accordance with provisions of Article 2, paragraph 1 of the Act, it is necessary to cumulatively fulfil the following assumptions:

- that this is a treatment whereby a person is, has been, or could be placed in a less favour-able position than other persons in a comparable situation and
- that such treatment is conditioned by some of the grounds mentioned in the law.

Table 3 Number of complaints received in 2011 according to fields of discrimination:

Fields of discrimination	Number of complaints
Labour and labour conditions (Art. 8, par. 1, item 1 of the ADA)	51
Judiciary and administration	34
Education, science and sports	24
Social security	11
Discrimination in general	10
Public information and media	7
Housing	4

Fields of discrimination	Number of complaints
Access to goods and services and provision of goods and services	4
Participation in cultural and artistic creation	2
TOTAL	**147**

Regarding the fields in which discrimination is complained against, the discrimination in the field of labour and labour conditions, with 34.6%, is still the most common ground for discrimination; including possibility of self-employment or paid employment, selection criteria and recruitment and career advancement conditions, access to all kinds of professional orientation, professional training and retraining. It is also interesting that the citizens often feel discriminated against due to excessive duration of court, but also other proceedings, and that ju-diciary and administration, as field of discrimination, take the second place according to the number of received complaints.

Table 4 Number of complaints according to denounced bodies:

Denounced bodies	Number of complaints
State administration bodies	36
Legal persons vested with public authorities	31
Legal persons	22
Natural persons	19
Bodies of local and regional self-government units	15
Judicial bodies	14
State administration bodies, judicial bodies	3
No statement in the complaint	2
Legal persons, natural persons	2
Civil society organisations	1
Legal persons vested with public authorities, natural persons	1
State administration bodies, legal persons	1
TOTAL	**147**

Table 5 Complaints in which actions were taken according to ADA according to forms of discrimination

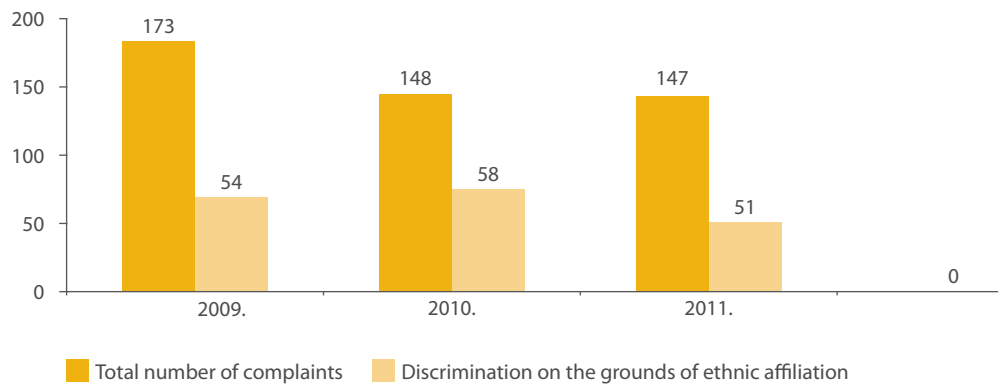
Forms of discrimination	Ombudsman
Direct	11
Indirect	1
Harassment	6
Impossible to determine[1]	55
TOTAL	**73**

[1] In the section "Impossible to determine", we have included the cases in which, after carefully conducted investigation procedure, it was established that there is no reasonable doubt of discrimination, and therefore there is no form of discrimination.

2. Discrimination on the grounds of race, ethnic affiliation or skin colour and national origin

The trend in which most of the complaints submitted to the People's Ombudsman pertain to discrimination on the grounds of race in the wide sense, which means to race or ethnic affiliation or skin colour, or national origin, also continued in 2011. In terms of this, discrimination on the grounds of national origin, or national affiliation (discrimination of members of national minorities) is particularly widespread in Croatian context.

Figure 1



Members of national minorities were in the focus of interest of the European Commission which, in the report on progress of Croatia in the EU accession process from October 2011,[2] concluded that there has been a progress in protection of minorities. The plan for employment of minorities pursuant to the Constitutional Act on the Rights of National Minorities for the period 2011 – 2014, adopted in May 2011,[3] has been favourably rated as a significant progress, given that it envisages a total of 802 members of national minorities to be employed in this period. However, due to restrictions imposed on new employment in state administration, there has not been con-siderable recruitment of national minorities in state administration and judicial bodies.

The data provided by the Ministry of Public Administration show a total of 51.645 employed civil servants and government employees on December 31, 2011, out of which 1.754 members of national minorities, while 592 members of national minorities are employed in a total number of 12.915 employees in the administrative bodies of local and regional self-government units.

The issue of particularly vulnerable position of Roma national minority members has been recognised for years in the Republic of Croatia. Some strategic documents of the Government of the Republic of Cro-

[2] http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/hr_rapport_2010_en.pdf,

[3] Plan of admission of national minorities members to civil service, to public administration bodies in the period between 2011 to 2014) (long-term plan)) OG 65/11))

atia constitute Roma among the most threatened social groups, while through Action Plan for the Decade of Roma Inclusion 2005-2015 and National programme for Roma, their position should be strengthened and they should be enabled to equally participate in Croa-tian social life. However, according to the data provided by the Ministry of Public Administra-tion, only two members of Roma national minority are employed in state administration bodies.

With regard to education, it is clear from the documents monitoring the implementation of Action Plan for the Decade of Roma Inclusion that a large number of Roma children who enrol in secondary school fail to complete it, and that significantly larger number of male than female children, members of Roma national minority, get enrolled in secondary school. Knowing the patriarchal practices in Roma community, ensuring education opportunities and acquiring quali-fications to Roma girls will have a double influence on creation of prerequisites for their equal participation in social life.

2.1. Judgement on discrimination in student placement

Upon the call of the Centre for Peace Studies, the People's Ombudsman intervened in a lawsuit started by two vocational secondary school students, members of Roma national minority, in order to establish discrimination in accessing a student placement. As part of their regular secondary school education, they are obliged to complete a given number of hours in the field specific placement, in this case as shop assistants, and for that reason, in different time slots, they submitted their applications to the director of a company who refused to admit them for student placement.

Her failure to admit the students for a placement was not questionable, but the reason for such a conduct was. The plaintiffs claimed that the reason for their non-admission to student placement was their Roma origin. The defendant replied that she did not admit them for student placement because there was no need whatsoever for student trainees due to difficult economic situation. It was however questionable whether she would have admitted other students, of non-Roma origin, if they had applied for a placement at the time? During the hearing of evidence, a relaxed and very flexible attitude of the school regarding the manner of referring their students to student placement (without previous checking of available places with employer, who a few months later may claim that they do not need the student trainees at all, or at least not so many of them, retroactive conclusion of contracts, waiving trainee allowance etc.) proved to be an additional problem.

In February 2012, first instance procedure was completed in a way that the court adopted the complaint, and second instance procedure is currently ongoing.

With regard to discrimination against Serb national minority members, it should be noted that a progress in the process of return of refugees of Serbian nationality has been made. However, in practice, the returnees faced many difficulties.[4] The data show a registered return of over 132.872 returnees, Serb national minority members, which corresponds to approximately a half of Serbs who left Croatia by 1995. In the past few years, the number of ethnically motivated attacks against Serb national minority members decreased.

Despite the noted fall in the number of ethnically motivated attacks against Serb national minority members, cases of vandalism against monuments for war victims have continued, and police investigations into such incidents have improved, although few cases end in prosecution.

[4] Minority Return to Croatia – Study of an Open Process, Milan Mesić and Dragan Bagić, UNHCR, 2011)

2.2. Housing care

The civil society organisations[5] publicly warned of the differences between the conditions of housing care in and outside the areas of special state concern, as well as housing care beneficiaries depending on their ethnical affiliation, origin and social status, stating that the housing care right for Croatian Homeland War Veterans, members of Croatian Defence Council from Bosnia and Herzegovina, and persons who were granted the right to use the socially owned apartments on the liberated territory, mostly Croats, has been legally regulated by the Act on Areas of Special State Concern from 2008[6] and its amendments from 2011[7] which by their provisions enable the above mentioned persons to gain permanent ownership of a real property in which they were accomodated pursuant to a deed of gift signed with the Republic of Croatia, provided that they do not seize the property in the following 10 years. The aforementioned regulations stipulate that those persons are entitled to larger housing area in relation to previous regulations in the field of housing care and reconstruction (10 m2 extra for the apartment and 20 m2 for a family house per household member).

As opposed to this, former holders of occupancy rights who are entitled to housing care, mostly persons of Serb nationality who want to return to the Republic of Croatia, have a right to repurchase, and not to granting of apartments in which they are or will be accommodated, pursuant to decisions of the Government on sale of apartments owned by the Republic of Croatia.[8]

The conditions of repurchase of apartments in which the returnees were accommodated are not appropriate for socio-economic circumstances of most housing care beneficiaries.[9] It is precisely financial difficulties that posed the most significant problem to realisation of repurchase of most of social apartments in Croatia, despite the fact that they were privatised at a redemption price of only 10% of their market value.

The Ombudsman emphasizes the need for enhancing the existing model of housing care in a way which would include introducing an equal regulation for housing care beneficiaries on the whole territory of the Republic of Croatia, primarily regarding the content and scope of rights, including the right to apartment repurchase, deadlines and possibility to use legal remedies. Namely, the procedure of deciding on housing care requests outside the areas of special state concern is not an administrative procedure and legal remedies cannot be applied, while the procedure of deciding on housing care requests in the areas of special state concern is an administrative procedure and the applicants have legal t at their disposal.

2.3. Minorities in the media

Research studies[10] point to the fact that the media representation of ethnic, cultural and religious minorities does not reflect their factual share in the population, as the size of minority group does not mean

[5] Serbian Democratic Forum, "Varying, non-uniform and discriminatory standards and practice in exercising right to housing care in the Republic of Croatia", March 19, 2012)

[6] OG 86/08

[7] OG 57/11

[8] OG 109/10, OG 109/11

[9] Humanitarian Centre for Integration and Tolerance, *Refugees from the Republic of Croatia in an unequal position in relation to other Croatian citizens in privatisation of apartments*, Novi Sad, September 28, 2010)

[10] Drago Župarić-Iljić: "Representation of Ethnic Minorities and the Presence of Ethnic-Minority Media in the Croatian Media Sphere", Politička misao, year 48, no. 4, 2011, pg. 133-153)

that it will be equally represented in the media – the Bosniacs and Italians are (more) numerous, and their representation is poor, the Hungarians are the least represented, while the Slovenains and Czeques are relatively poorly represented considering their share in the population. The Serbs, Roma and Jews are mostly represented in the media, while the Albanians and Roma are mostly represented on the crime pages, which confirms a thesis that "(d)ominant media image presents the minorities as a cause of problems of majority".

The insight into minority media quality and quantity and reporting on minorities shows that apparently there is no clear strategy of continous following and informing of minority issues, and it is justifiable to wonder if singling out the minority issues in a particular set is rather violation or promotion of minority rights, because minorities are the integral part of the society, and therefore the issue of fostering minority rights should be part of everyday life, both of minority and majority.

3. Fields of discrimination

3.1. Labour and employment

The number of discriminatory actions cases in the field of labour and employment significantly outnumbers all other fields (health insurance, education, access to goods and services etc.). Out of all other complaints to the Ombudsman, 32% of complaints pertained to this area, in 2010 39%, while in 2011 it was 34% of complaints.

Figure 2

Many research papers have shown that in selection of candidates, the employers unconsciously rely on stereotypes, and that they base their impressions of candidates on wider categories (on their own attitude on the group to which a person belongs) before they have even started reviewing individual qualifications, and this initial impression also impacts the perception of candidates' individial qualifications in further process. A part of the research "Prevalence and characteristics of discrimination in Croatian la-

bour market: Report based on survey on unemployed and employers"[11] on which the Ombudsman also reported in the last year's Report also confirms the presence of conscious and unconscious stereotypes and shows how they manifest themselves in concrete interviews in the context of Croatian labour market. 80% of employers, included in this research, claimed that in their company, members of all so-cial groups have equal opportunities, and in some similar statements, they showed a high level of awareness for differences between the workers. However, at the same time, 19% of them claimed that employment of a disabled person represents a higher cost rather than benefit, and that older persons are not capable of acquiring new knowledge and skills, and even 30% said that employment of a homosexual person brings discomfort among other employees. Furthermore, the Research has shown pretty high occurrence of discrimination experienced by unemployed per-sons, so even 38% of respondents who attended a job interview (in 2009) considered that they did not get a job because of some characteristics which is a ground of discrimination forbidden by law, and more than half of them claimed that this was clearly said or demonstrated. In other words, every third respondent among those who attended job interviews claimed they did not get a job because of their affiliation to particular group.

Those data point to the existence of discriminatory practice in recruitment, in which thestereotypical attitudes of employers play a significant role in making a final decision on selection of employee. At job interviews, the candidates were faced with attitudes and statements that they were not suitable candidates because of their age, and that such an experience was more common with people over 40. The most common inappropriate questions at job interviews were those pertaining to marital status (experienced by 1/3 of unemployed persons), the number of children, family planning (1/4 of unemployed persons) and on health condition which does not influence performance of work (1/5 of unemployed persons).

The Union of Autonomous Trade Unions of Croatia also reported to the People's Ombudsman on frequency of inappropriate questions regarding marital status and family planning asked to female candidates in 2011, by emphasizing that the assumed obligations of women, of which the employers try to find out more by asking those and similar questions, also negatively impact employers' decision.

For failure to respect the provisions on obligations of employers who employ more than 20 workers to adopt and publish the work regulations, which, besides salaries and work organisation also regulate the procedure and measures for protection of workers' dignity and measures for protection against discrimination (the Labour Act (OG 149/09 and 61/11)), the labour inspection initiated a total of 112 of misdemeanour proceedings against the employers during the past year.

For violation of provisions of the same Act which stipulates that the employers with more than twenty workers must appoint a person who shall be, besides them, authorised to receive and resolve complaints regarding the protection of workers' dignity, and give particular attention to data confidentiality in those procedures, the inspectorate initiated 30 misdemeanour proceedings.

The issues regarding appointment of commissioners and defining the way in which the procedure for protection of workers' dignity will be performed were also raised, especially by the Ombudswoman for Gender Equality. Upon examination of complaints, she concluded that the current institute of pro-

[11] The research was conducted in 2010 by the Institute of Social Sciences Ivo Pilar in the framework of the Project "Supporting Equality in Croatian Labour Market", financed through Community Programme Progress. The Project was implemented by Croatian Employment Service, the Institute of Social Sciences Ivo Pilar, Office for Human Rights of the Government of the Republic of Croatia, L&R Social Research, Croatian Employers Association and Selectio d.o.o. A complete overview of the research is available on official web site of the Croatian Employment Service: http://www.hzz.hr/default.aspx?id=6779.

tection of workers' dignity practically either does not work or its results are doubtful, as the general impression is that a goal is to protect the employer from potential lawsuit, rather than protect the victim from harassment.

The Union of Autonomous Trade Unions of Croatia as well as the Croatian Independent Trade Unions also informed us of limitation of the right of joining the trade union guaranteed by the Constitution, and of discrimination based on trade union membership. Namely, according to trade unions, it often happens that the employer conditions signing the employment contract with a prohibition on joining trade unions, and even that the employees are threatened with termination of employment contract in case they join the trade union, and there have also been cases of real termination of contract in cases of joining the trade union (which the employers try to cover by some other "objective professional" reasons).

As a proof to the fact that the trade union membership is the criteria based on which the workers are discriminated against by their employers, the trade unions emphasize the requests of the workers for trade union membership fee not to be calculated and withheld directly from their salaries as stipulated by the Labour Act, so that the employers do not find out about their membership in the trade union. Furthermore, some employers deny the right of trade union organisation, by which employers use signing of temporary employment contract as a measure of coercion, which again discourages people from organising a trade union or joining it.

After completion of investigation procedure, the Ombudsman estimated that the grounds for doubt of discrimination against the workers based on trade union membership exist, and informed the complainants thereof.

3.2. Discrimination in the field of health care

When we speak of discrimination in the field of health care, the issue of persons who enter a health care instition accompanied by a companion due to poor health condition, disability, inability to speak the language, or some other reason, must be mentioned. Very often, such persons are not directly addressed by health care workers, despite their full legal capacity, but they rather talk to the companion about the person's health condition, treatment options and other relevant facts.

In terms of discrimination in the field of health care, a particular problem is also posed by the personal data protection which is linked to functioning of the health care system but also the media (e.g. the case of girls who became public persons and the synonym of HIV infection: their photographs were blurred out, but the public knew their names, the city in which they lived and the school they attended).

The Ombudsman has been warning for several years of the violation of the patient's right to con-fidentiality of data and disclosure of the diagnosis by the illness report form. Given that the disease codes according to International Classification of Diseases (ICD) in accordance with the provisions of the Ordinance on the Rights, Conditions and the Method of Realising the Rights Arising from Obligatory Health Insurance are included in the sick leave report form,the employer has access to the diagnosed diseases of his employees, which is neither necessary nor justified. Also, ICD is a public document, and therefore the diagnosis is available to people who do not participate in patient's medical treatment. Besides HIV positive persons, the mentally impaired persons but also pregnant women are exposed to unfavourable treatment, so a practice of some general practitioners to enter some "other, more acceptable codes" is not rare. This is why in 2007, the Ombudsman recommended to the Croatian Health Insurance Institute to align the Ordinance with the provisions of the Act on the Protection of the Rights of Patients.

Since entering into force of the ADA, we received a complaint about discrimination against HIV positive status, the handling of which is an excellent example of a successful interdisciplinary work of experts, institutions and civil society in fight against this form of discrimination. The source of discrimination was a regulation itself, which was reported to the competent ministry. Such a positive evaluation was largely contributed by the fact that Croatian Association for HIV and viral hepatitis – HUHIV, with the support of UN Theme Group on HIV, started an initiative for amendments to the regulation in question. The regulation was finally amended in 2011, and more details on the case can be found in the Ombudsman's Report for 2009 and 2010.

Also in the field of health care, Roma are particularly vulnerable group. According to the data taken from the Croatian Magazine for Public Health Care, the health condition of Roma is worse than a total average for the Republic of Croatia, as a large part of Roma population does not have a health insurance and health protection. The problem arises from the fact that a large number of Roma has not had their status regulated (citizenship or permanent residence), which is a prereq-uisite for being entitled to health protection rights. The persons granted temporary residence must pay for their health insurance, and given that Roma are mostly poor and unemployed, this condition excludes them from the health care system.

3.3. Access to goods and services, including housing

There are different ways in which service providers can discriminate the beneficiaries. They are as follows: refusal to supply goods or provide services, provision of services at the lower level than foreseen by standards, goods or services supplies under unfavourable conditions. Depending on circumstances, such actions may represent direct or indirect discrimination.

In 2011, the Ombudsman received 7 complaints pertaining to discrimination in the field of access to goods and services, including housing.

An example of discrimination is visible in business operation of banks and insurance companies which in their business operation prescribe the use of criteria such as age, gender or disability for risk assessment, which conditions availability of their services. Just as in the European legislation, putting into less favourable position on the basis of age and gender in premium and insured property contracting and other insurance conditions in line with relevant and accurate statistical data and actuarial mathematics rules, is not considered discrimination in Croatian legislation. However, the aforementioned rule does not mean that in such cases there is no discrimination, but it only excludes sanctioning of a person who acts in such a way. Today, there are concrete judgements ruling that such limitations are not always justified by a legitimate purpose, but that they are set with a view to increase profits of financial institutions.

Housing, as a separate category, is emphasized as one of subfields within the framework of availability of goods and services in which discrimination is prohibited.

The Ombudsman, as the central equality body, reacted to the article published in Croatian daily newspaper "Jutarnji list" as of November 19, 2011 in which the results of a journalist's research were presented. In order to collect the data, the author of the article, with two other female persons, made enquiries on rental advertisements, for the purspose of which one of them presented herself as a Croatian, the other as a Roma and third as a Muslim. They talked to about hundred natural persons – potential landlords out of whom all were willing to rent the apartment to the person who presented herself as a Croatian, while most of potential landlords did not want to rent the apartment to other two girls who presented themselves as Roma and Muslim. As mentioned in the article, the journalist also contacted five real esta-

te agencies, asking for their assistance in real estate transactions. As a condition for renting, she asked from the agency to refer the ethnic Croatian clients to her. It is worrisome that even four out of five real estate agencies agreed to this discriminating criteria.

The described results show that discrimination is widespread in the Republic of Croatia. Described actions show that owners and employees in real estate agencies are not aware that discrimination is prohibited by law, and that action described in the article is considered a direct discrimination. Therefore, the Ombudsman, as the central equality body, decided to react, so we indirectly addressed the agencies mentioned in the article, but also all agencies included in the Real Estate Business Association of the Croatian Chamber of Economy. The aforementioned business entities received a notification and a warning that exclusion of a person or a group of persons as potential service beneficiaries is a direct discrimination, prohibited by law. The agency owners and their employees were warned that discrimination leads to moral, civil, criminal or misdemeanour accountability, and they were reminded of their obligation to take into account the consequences which their business decisions may lead to, and to take into consideration the protection of fundamental values of the constitutional order of the Republic of Croatia such as equality, respect for human rights and the rule of law. A cooperation with the aim to fulfil the obligations stemming from the anti-discrimination legislation has been offered, also in the field of access to goods and services.

4. Discriminatory speech in the public sphere

In 2011, the Ombudsman received a large number of complaints pertaining to discriminatory speech and hate speech and publishing of inappropriate content on Internet forums and social networks. The said public sphere represents so-called grey zone, which has not been regulated by law. The Electronic Media Act defines the term "electronic media" and determines which persons are responsible for contents published on electronic media. However, the mentioned formats do not fit into definitions set by the Act, and its provisions cannot apply to public expression of attitudes on, very often, anonymous Internet forums or social networks.

According to the Ministry of the Interior, the servers through which the discriminatory contents are published, and which are outside the Republic of Croatia, also pose particular problems. Due to the use of such servers and national legislation of the countries where they are located, sometimes it is not possible to establish the identity of the person who presented inappropriate contents.

On the other hand, allowed anonymity of participants in such plaftorms provides the appropriate ground for expression of attitudes which they would not present under their real name.

5. Cooperation with civil society organisations

Pursuant to obligations from the provisions of Article 15 of the ADA, and with respect to the growing role of the civil society in the field of protection and promotion of human rights, the Ombudsman also continued and expanded the cooperation with civil society organisations.

In order to create a network of NGOs on the spot, with which we would regularly exchange the information and cooperate in designing anti-discrimination strategy but also resolve concrete discrimination

cases, in 2011, as a continuation of the project "Capacity building of the Croatian People's Ombudsman Office as the Central Equality Body", implemented with the support of the United Nations Development Programme, the representatives of the People's Ombudsman's Office visited the County of Split-Dalmatia and the County of Slavonski Brod-Posavina. Besides direct work with parties, meetings with representatives of local and regional self-government and representatives of county coordination bodies for human rights, during on-the-spot visits, the consultations and round tables with representatives of civil society organisations and social partners were organised. The meetings were focused on enhancing cooperation between the People's Ombudsman and social partners and civil society organisations. The representatives of People's Ombudsman's Office presented their expectations regarding cooperation in implementation of Article 15 of the Act, while the participants were invited to consider the possibilities of its strengthening and enhancement, and to present their suggestions. The meetings were used for designing a strategy for cooperation with civil society organisations in the field of suppression of discrimination at the state level.

The representatives of People's Ombudsman's Office participated in the round table of the Croatian Association for HIV and viral hepatitis – HUHIV, entitled "Stigma is not a good judge". The topics of the round table included problems faced by HIV positive persons, and possibilities of their court protection against discrimination. The difficulties in personal data protection and privacy in court but also other procedures, in e-Health care and the media were emphasized as a particular challenge. Furthermore, the representatives of People's Ombudsman's Office also participated in the conference "Croatian experience in the fight against AIDS: Getting to zero discrimination" organised on the occasion of marking World AIDS Day. One of the topics of this conference was also personal data protection and the related protection against discrimination.

The Ombudsman's advisors participated in training sessions of the Centre for Peace Studies, Domino – Queer Zagreb and Zagreb Pride in cooperation with the Judicial academy, organised to train county and municipal state attorneys, People's Ombudsman advisors and special Ombudspersons on discrimination and hate crime against LGBT persons. The trainings were organised in the framework of the EU project PROGRESS, entitled "Together Against Discrimination against LGBTIQ Persons". They were organised as two separate seminars on which the topics and presentations on discrimination and hate crime against LGBTIQ persons were presented, and there was also an exchange of practical experience in the field of protection against discrimination of the target group but also in general terms.

Pursuant to a provision of Article 15 of the ADA, civil society organisation, religious groups, social partners and the Council for National Minorities were invited to, just like in the past years, to participate in drafting of the Report on Occurence of Discrimination and submit their contributions on occurence of discrimination noted in the framework and within the scope of their work. Besides individualised letters sent to the addresses of about sixty entities, an open call for cooperation on drafting the Report by submitting data on observations and experiences pertaining to occurence of discrimination according to the fields and grounds of discrimination, covered by the particular entity through its work was published on the Ombudsman's webpage. Received observations in the statements of civil society organisations have been integrated in particular chapters of the Report, depeding on the grounds and fields they pertained to. The statements were submitted by the following organisations: Protagora, SDF, Dodir, Svitanje, GONG, Regional info centre for youth, Center for Peace, Non-Violence and Human Rights Osijek, Cenzura Plus, Centre for LGBT Equality, Croatian Christian Coalition and Matica umirovljenika Hrvatske (Society of Retired Persons), Independent Trade Unions of Croatia, Union of Autonomous Trade Unions of Croatia and the Office for Social Partnership.

Some of the received statements remind of the cases sent to the People's Ombudsman for competent processing and problem analysis of some forms of discrimination over the year, while the others present the anti-discrimination activities of the organisation.

UNDP Project
"Strengthening the capacity of the Croatian People's Ombudsman"

Beginning of the cooperation in 2009:

As a follow-up on the UN accreditation of the Croatian Ombudsman as a national human rights institution for protecting and promoting human rights with status A, we have turned to UNDP Croatia for a support. First U NDP contribution was financing the Capacity Assessment of the CPO, made by the end of 2008 by international experts who made respective recommendations in order that the CPO fully meet the Paris principles.

To raise public awareness on the CPO activities among wider public UNDP supported translation and publishing of the first publication of the CPO since his establishment – Summary Annual Report for 2008, bi-lingual version both on Croatian and English language.

With the UNDP Croatia support a launching conference on marking the entry into force of the Anti-Discrimination Act and a new role of the Ombudsman as a central equality body was organized in Zagreb in January 2009 with participation of the high state officials, social partners and NGOs from all over the country.

According to the CPO's new s NHRI status and obligation to cooperate with the UN system UNDP organized a workshop on reporting to treaty bodies and UPR for not only for the CPO staff but for his partners - the staff of special Ombuds and Center for Human Rights– October 2009

Activites in 2010:

Analysis on rationalization of the human rights system in the republic of Croatia: a non-paper was publicly discussed and submitted to the government and parliament.

1) Development of an expert analysis with comparative indicators of all PROS and CONS arguments for the rationalization of all human rights institutions financed by the state budget including analysis for:

a) rationalization of all human rights institutions in Croatia

b) integration of the Human Rights Centre (HRC) with the CPO

c) fostering of a formal co-operation on the basis of compatibility with the Human Rights Centre.

The comparative analysis of the organizational and functional transformation of HRC was conducted in order to examine acceptability of three variant solutions which are:

I. Maintaining the existing relationship within the system (status quo);

II. Expanding activities of the Centre as specialized agency – provider of services to a larger number of users, especially other Ombudsman institutions;

III. Merging with the Croatian People's Ombudsman Office.

Regional outreach of the CPO and visibility enhanced

2) Two consultative multi-sectoral meetings held at local levels – Vukovar and Knin Counties

3) Two field visits of the CPO staff to local communities were organized to bring the service closer to the citizens

4) To enhance awareness about the new CPO roles and discrimination issues the 2009 Annual CPO report, containing the Anti-discrimination report (the first report since entry into force of the new Anti-discrimination Act) was translated into English, and bi-lingual version published.

5) As part of promotional activities aimed at increasing awareness on how to recognize, report and solve discrimination cases for different users, a "Guide to the Anti-discrimination Act" was re-issued

Activities in 2011:

1) Analysis / projection of the conditional merger between Croatian People's Ombudsman Office (CPO) and the Human Rights Center (HRC) was conducted

2) Two consultative multi-sectoral meetings held at local levels – Split and Slavonski Brod Counties

3) Two field visits of the CPO staff to local communities were organized to bring the service closer to the citizens

4) To enhance awareness about the new CPO roles and discrimination issues the 2010 Annual CPO report, containing the Anti-discrimination report was translated into English, and bi-lingual version published.

5) Two field visits of the CPO staff to prisons, detentions and psychiatric institutions - Zadar County; Šibenik- Knin County

Trainings for the CPO staff and special Ombuds

6) Sub-Regional Training "Strategic Planning and Developing a Communications Plan for NHRIs", was held in May 2011

7) Study visit to Estonia for representatives of the CPO office and representatives of other specialized ombudsman offices was organized in November 2011

8) Joint legal training/workshop for the CPO and special Ombuds legal practitioners on case law of the Croatian courts in relation to the Anti-Discrimination Act, direct training on procedural aspects of the law necessary for acting as an intervener, as well as an examination of some unresolved legal issues encountered while implementing the Anti-Discrimination Act which need further legal interpretation took place in November 2011

Activities in 2012:

1) Two field visits of the CPO staff to prisons and detention facilities – Split-Dalmatia County; Požega

2) Research on attitudes and awareness of discrimination and forms of discrimination conducted and comparative analysis produced

3) Round Table „Cooperation under the Article 15 of the Anti-discrimination Act" held in Zagreb – strategy for further cooperation elaborated

4) To enhance awareness about the new CPO roles and discrimination issues the 2011 Annual CPO report, containing the Anti-discrimination report was translated into English, and bi-lingual version published

Press clipping