

SUMMARY

The year 2019 started on a promising note leading to expect serious changes in our country. Three new political parties were elected to the new Parliament in Autumn 2018 promising numerous improvements in our country, committed to ensure welfare of population, uncompromising rule of law, reduced inequality, and reproduction of our nation. Nearly everyone could find a significant promise in programs of such parties as well as in the governmental declaration: one would say nobody and nothing was omitted. In the Ombudsman's opinion, if the Government supported by the Parliament would be able to implement the promised actions, situation in Latvia in terms of human rights would experience a non-precedent prosperity during the mandate of this Government.

In general, the reporting period has marked some positive features. Abandoning of the practice of granting the status of non-citizens to newborn children deserves particular appreciation. Discontinued status of non-citizenship also has symbolic significance: it is a clear signal that Latvia is a law-based, democratic country guided by the common European values.

The efforts to increase, even slightly, the amounts of minimum social allowance frozen for decades (the State social security allowance; the minimum old-age pension; the minimum disability pension) also deserve appreciation, notwithstanding that the achieved increase is less than expected and the amounts remain below adequate level. Moreover, no clear and express action plan is presented regarding further increase of such amounts.

There are still a lot of things to do. In particular, the Ombudsman is very critical concerning the inability on part of the Government and the legislator to provide to medicine professionals the increased remuneration enshrined in the law. The question here is about availability of healthcare, viability of the industry and the country in general, rather than about the right of representatives of a certain industry to fair pay.

No significant improvements can be observed also in the rights of people with disabilities in terms of inclusive education, employment and efficient integration into society. In the Ombudsman's opinion, the de-institutionalization project launched in the previous years to replace institutional care centers by society-based social services approximated to the family environment, has failed in spite of significant co-funding from the European Union funds. Moreover, no targeted, well-weighted policy has been established by the responsible Ministry for continued development of de-institutionalization project. It is just the other way round: the responsible Minister rather trends to praise institutional care.

Also, no significant improvements can be observed in housing, compared to the previous periods. Municipalities are still unable to provide housing support to the vulnerable groups of people eligible to priority support according to the law. People have to wait support from their municipalities for years. There is acute shortage of social houses in our country, and quality of housing proposed by municipality is often incompatible with human dignity: the premises need repair, they are physically and morally worn out.

Human rights are exposed to continuous development. Our country is going to expect numerous challenges in some areas of human rights because development of society requires change of previous practice and legal regulations. The discussion launched in previous year by cross-industry experts in relation to the right to respectful death can serve as example here. This is a very sensitive topic because of conflict between the human right to life and respectful life, as well as the right to self-determination as a part of the right to privacy. In fact, the question here is about values. Addressing and discussion of the need for a new legal regulation is required also from the view of trafficking to clearly define the procedure for identification of the potential victims of trafficking by public authorities and for communicating of such information to the service provider.

Concerning enforcement of sentence in conformity with the concept of the 21st century, three aspects can be clearly outlined at present:

- 1) Security expectations of society,
- 2) Understanding of the need for meaningful enforcement of sentence within the penitentiary system;
- 3) Obstacles placed by the Government, the Parliament to prevent implementation of projects, as evident from periodical postponing of deadlines for construction of a new prison facility.

At the same time, better understanding of their rights is a positive trend observed in society. For example, people with mental disorders trend to more actively address the Ombudsman and other institutions seeking the protection of their rights.

Efficient preventive work was carried out in 2019 including visits to numerous establishments where personal freedom was, or could be restricted. The Ombudsman's recommendations appear to help such institutions to achieve certain yet slow progress in resolving the identified issues.

On the other hand, no positive changes can be observed in the field of the rights of a child in general; the situation has turned even worse. The State Inspectorate for Protection of the Rights of a Child as the prime controlling authority in this area has demonstrated decreasing efficiency from year to year. At present, the Inspectorate has lost their management again.

A number of complaints are filed concerning the work of custodian courts. They refer in particular to lack of objectivity and depriving parents of the right to access where the parents' custody rights are forfeited and the children are placed in foster families. Where the custodian court has established any grounds prescribed by the law for restrictions to the right to access, the respective decision shall be executed in writing so that the concerned person can appeal against it in accordance with the statutory procedure. In practice, however, the right to access is often restricted or even forfeited without such decision, solely in the form of verbal notice to parents that they may not access to their children.

It is also true, to my regret, that violence among children at schools is still left without reporting by educational institutions to the municipality, in particular to the social service. They do not even notify parents who are primarily responsible for parenting of their children. Any development-aimed environment, and certainly any educational institution has to be free from violence. It will take a long way to achieve that, however, because Latvia is an undisputed leader among the Member States of the Organization for Economic Cooperation and Development (OECD) and of the European Union in terms of mocking and violence among school children at school environment, as evident from the recent study of international importance conducted by the OECD in the framework of PISA.

Difficulties persist in enforcement of court rulings on regulation of the access procedure. Where a child lives with one parent and that parent is unwilling to enable the other parent's access to the child, enforcement of such court ruling is nearly impracticable. Similar situation is impermissible in a law-based state once the court has assessed the best interests of the child and resolved the dispute to serve such interests. Moreover, it is commonly known that involvement of both parents serves the best interests of the child, unless the contrary is manifestly proven.

The Ombudsman finalized an investigation case in 2019 and issued the opinion on governmental and municipal support to young adults after the end of institutional care, and identified a number of shortcomings in legal acts and their application. The Ministry of Welfare was encouraged to review the legal regulation procedure: to increase the minimum allowance, and all municipalities were appealed to for reviewing of the amount of allowance and services stipulated in their binding regulations. Some municipalities, including Liepaja City, for example, have reviewed and increased the allowances and other types of support to the young adults. Hardly any response to the recommendations followed, however, from most of the municipalities; their response was limited to formal replies that social guarantees were provided to the young adults in accordance with the regulatory acts.

Significant restrictions were imposed in 2018 on cross-border adoption of children placed in family-based care, with the view to facilitate adoption of children from institutional environment and to limit cross-border adoption of children from foster families. The Ombudsman has established that custodian courts bound by the new adoption procedure custodian courts are seeking arrangements for adoption abroad also in case of children from foster families by placing them in institutional care before adoption.

In the Ombudsman's opinion, adoption abroad is a matter of national social policy that should be directed by the Parliament. National policy on adoption has to be sustainable and predictable. Therefore, the Ombudsman has applied to the Parliament Commission for Human Rights and Social Affairs requesting the commission to ensure homogenous and clearly applicable regulatory procedure for adoption abroad.

The legislator should adopt a political decision on whether or not children from Latvia are available for adoption abroad. If adoption abroad is legitimized, unequivocal criteria should be enshrined in laws and regulatory acts to specify the circumstances where adoption is permissible.

It should be noted that the above-described infringements of the rights of a child in the field of family-based care system identified by the Ombudsman conform with the facts established in the audit report "Deprived childhood. Each child has the right to grow up in family" compiled in 2019 by the State Control. This demonstrates legal nihilism and the need for reforms in the system for protection of the rights of a child. Joint statement was made at press conference by the Ombudsman and the State Control on the situation in family-based care and the need to promptly change the situation. The current model where custodian courts report to municipalities has turned out ineffective. Ineffective supervision of the work of custodian courts by the State Inspectorate for Protection of the Rights of a Child is evident as well as ineffective supervision of the providers of social services by the Ministry of Welfare.