



REPUBLIC OF CROATIA
OMBUDSMAN

Summary Report for 2013

Zagreb, 31 March 2014

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1. INTRODUCTION

Aiming to provide a comprehensive and integral overview regarding the protection and promotion of human rights and regarding the occurrence of discrimination in the Republic of Croatia, this Report includes information on the activities of the Ombudsman in accordance with the Ombudsman's Act, Anti-Discrimination Act, and Act on the National Preventive Mechanism. In addition to the overview of statistical data regarding our procedures and discrimination cases in 2013, we have also provided the analysis and evaluation of the situation per area of activity, primarily based on citizens' complaints, but also on a number of other sources of information. In addition to procedures based on complaints, we have also reported on our participation in public debates, processes of drafting or changes and amendments to the regulations, promotion of important topics among the general public, cooperation with NGOs and other matters.

This Summary Report is submitted on the basis of Article 215 of the Rules of Procedure of the Croatian Parliament. It provides only the basic information on the work of the Office, human rights and anti-discrimination activities in 2013, taking into account the requirement that the original should not exceed 30 pages. For more detailed information, evaluation and explanation, please consult the comprehensive text of the Report, available at www.ombudsman.hr and www.sabor.hr.

Two important circumstances marked our work in 2013 – the appointment of the new Ombudswoman and deputies, together with the subsequent reaching of new bylaws important for the work of the Office, and a major increase in the number of citizens' complaints. The total of 3021 new complaints were received, which is a considerable increase of 63 percent in comparison with 2012. Citizens frequently do not know how to protect their rights, or whom to ask for help; many citizens expected legal advice or legal representation from us, and addressed us because they were unable to receive relevant information elsewhere. Consequences of the economic crisis and increasingly difficult social situation can also be seen in the number of complaints, irrespectively of the area they belong to – social security, labour rights, participation in enforcement procedures, or other areas. Citizens still do not have sufficient information on what constitutes discrimination, or they are unable to recognize it, and many citizens are also afraid of reporting. Despite the fact that a fairly good legislative framework has been established in the Republic of Croatia, the implementation of laws is still lagging behind, with citizens unable to fulfil their legal rights. State bodies frequently do not respond to citizens' questions, or exceed deadlines for the resolution of requests; and timely finalization of administrative procedures initiated by complaints has proven to be a particularly challenging issue for a number of competent bodies.

In the course of 2013, the Office functioned in extremely limited spatial and financial conditions, and its normative strengthening which took place in the course of 2012 was not accompanied by the reservation of sufficient funds in order for new powers to be implemented in a high-quality and timely manner. All recommendations and documents of the relevant

bodies of the CoE, UN and EU require that ombudsman offices should be provided with adequate working conditions in terms of material and staffing needs, in order to protect, promote and monitor human rights in their respective countries. It is precisely the expectations of the wider public, international stakeholders, but also ourselves as servants available to citizens who invest knowledge and skills in the protection and promotion of their rights that pose even bigger challenges before us. In this process, expertise, timeliness, independence and relevance in performing our duties, based on the powers given to us, constitute the priorities and guidelines in our work.

2. STATISTICAL DATA FOR 2013

2.1 Data on procedures of the Office

In the course of 2013, there were 3021 new opened cases. In addition to procedures initiated on the basis of citizens' complaints, and complaints submitted by third persons, procedures were also initiated at the initiative of the Office, on the basis of findings from the media. In addition, a considerable number of questions were raised via the telephone on a daily basis, and 459 interviews with citizens were performed as well. The number of newly opened cases was higher by 63% compared to 2012, when there were 1849 such cases. A significant rise in the number of cases was recorded in the areas of war veteran rights; finances, including enforcement; ownership and other real rights and housing relations; conduct of police officers; health care; construction and physical planning; housing care; but also in other areas.

Table: Comparative overview of cases per topic / legal area (2012-2013)

Area	2012	2013
Justice	416	366
Health care	64	221
Denationalization, housing relations and other property relations	55	215
Civil service and employment relations	164	200
Finances / enforcement	43	190
Conduct of police officers	53	186
Persons deprived of freedom / NPM	219	221
Construction / physical planning / noise / environment	62	179
Rights of war veterans and their family members	27	142
Housing care	40	117
Social welfare	69	93
Pension insurance	77	92
Status-related rights (citizenship, place of residence, rights of foreigners, personal identification card and passport)	63	91
Family law	44	88
Preschool education, primary and secondary education, higher education and science	28	59
Municipal activities	30	41
Right to reconstruction	25	23
Discrimination (in various areas)	202	248
Other	168	249
TOTAL	1849	3021

Of the total number of complaints, 150 complaints were received from abroad. When it comes to complaints from the Republic of Croatia, as many as 57 percent came from the central part of Croatia, including Zagreb, as part of the country in which citizens can access the Office of the Ombudswoman more easily, which speaks in favour of opening local offices, since that would make the institution more accessible to all citizens of the Republic of Croatia.

During the year, in addition to 3021 new cases, procedures were also ongoing in connection with 483 cases transferred from previous years. Procedures were completed in 2275 cases, out of which 898 cases were within the competence of the Ombudswoman, while the Office had no competence in 1377 cases. Out of these 1377 cases 660 cases pertained to areas that are

not within the competence of the Ombudswoman; in 557 cases, the Office was unable to proceed due to procedural reasons; in 160 cases, the parties were provided with information on their rights and obligations and on the possibilities of obtaining court and other forms of protection. Out of 898 cases within the competence of the Ombudswoman, following the conducted examination procedure, 317 cases were determined to be unfounded, while 581 cases were determined to be founded.

One particular problem is the lack of a timely response by the competent bodies to the questions submitted by the Ombudswoman. Among bodies that do not provide their feedback in a timely manner, particularly prominent are the Ministry of Social Policy and Youth, Ministry of Science, Education and Sports, Ministry of Regional Development and EU Funds, State Office for Reconstruction and Housing Care, Ministry of Justice, Ministry of Public Administration, Tax Administration of the Ministry of Finance, and Croatian Health Insurance Fund.

2.2. Statistical data on the occurrence of discrimination

In the course of 2013, there were 248 newly opened cases pertaining to discrimination, which constitutes an increase of 22.77 percent compared to the previous year.

As in previous years, the most frequent ground of discrimination in complaints regarding discrimination was race or ethnic affiliation, skin colour and national origin, constituting 22.98 percent of the total number of received complaints. When it comes to the grounds within the competence of the Ombudswoman, the next ground of discrimination in terms of frequency is age, at 6.45 percent, followed by health condition at 5.64 percent; in 24.19 percent of cases, discrimination on several grounds was reported.

When speaking of areas of discrimination, for the fifth year in a row the biggest number of cases pertained to the area of labour and employment – 35.88 percent of the total number of received complaints, to be exact. In 10.08 percent of cases, discrimination in several areas based on the same ground was reported.

Procedures were completed in 44 cases that had been opened in earlier years, and in 145 cases from 2013, out of which 57 were permissible. Out of these, 28.07 percent of cases were founded, with subsequently prepared recommendations, opinions, warnings or initiatives for changes and amendments to regulations.

In accordance with the obligation stemming from the Anti-Discrimination Act, the comprehensive version of the Report provides consolidated data from all ombudswomen offices in regard to complaints of discrimination.

Judicial cases in regard to discrimination

According to the data from the Ministry of Justice, there were 283 various court procedures (civil, criminal and misdemeanour procedures) in connection with discrimination during 2013, with the total of 85 reached final court decisions. Out of 152 litigation procedures, the final judgment was reached in 29 cases – only two suits were adopted, 12 suits were rejected, and 15 procedures were dismissed due to procedural reasons. Out of 17 criminal proceedings in connection with discrimination, only one case reached the final judgment stage, ending

with a conviction. When it comes to misdemeanour procedures, there were 114 such procedures, 55 of them finalized. There were 41 convictions and 11 acquittals, with three procedures dismissed due to procedural reasons.

As we have been pointing out in the past, there are a number of problems regarding the sufficiency of statistical data in connection with court cases and discrimination; however, we hope that these deficiencies will be overcome with the new model of statistical data collection, being applied as of January 1, 2014.

Due to the lack of a harmonized approach by administrative courts, it is still unclear whether citizens can obtain efficient protection against discrimination within administrative disputes, given the fact that such disputes pertain to the issue of legality of administrative acts.

In addition, when speaking about the efficiency of anti-discrimination efforts, one of the key problems lies in insufficient reporting of discrimination cases. Citizens are frequently unable to recognize discrimination; they are not aware of the existence of the system of protection against discrimination; in addition, fear of further victimization and lack of trust in the system also constitute reasons of non-reporting.

RECOMMENDATIONS:

1. The Judicial Academy should organize education for administrative court judges regarding anti-discrimination legislation in the Republic of Croatia.

3. PROTECTION OF HUMAN RIGHTS AND ANTI-DISCRIMINATION ACTIVITIES

3.1. Judiciary

Complaints of citizens to the Ombudswoman regarding the work of courts in 2013 pertained predominantly to the quality of work of the courts and court decisions, followed in terms of frequency by complaints regarding the length of proceedings and the efficiency of courts. To a somewhat lesser degree, citizens were also submitting complaints regarding the quality of work and efficiency of the state attorney's offices, public notaries and attorneys.

On the basis of received complaints, a serious problem has been noted in connection with insufficient material and financial means ensured in the state budget for regular and orderly operation of courts, and the Ministers of Justice and Finances have been warned of that. We have also noted the fact that the access of citizens to the justice system is rendered more difficult due to the weakening of their economic power, which is why the Ombudswoman was receiving not only complaints, but also a number of questions and requests of citizens regarding the provision of advice and free legal aid.

3.2. Rights of national minorities

For the first time, the Report of the Ombudswoman covers the rights and freedoms of national minorities in a dedicated fashion, as part of the area of human rights. In the course of 2013, activities regarding the fulfilment of the rights of national minority members in the sphere of

employment in state administration bodies have not achieved the desired effect, given the fact that the representation of minorities remained at the level of 3.5 percent, whereas the level of 5.5 percent of the total number of employees in state administration bodies should be achieved.

In addition, one initiative appeared in the course of 2013, regarding the initiation of a referendum which would raise the threshold for the fulfilment of the right to equal official use of minority language and script to fifty percent of the total population of a given local area constituted by minority members. Such a threshold would represent a breach of the Framework Convention for the Protection of National Minorities; i.e. it would represent an unacceptable lowering of the rights of national minorities.

RECOMMENDATIONS:

2. State administration bodies should prepare short-term plans for the recruitment of national minority members for each calendar year, in accordance with the Plan of Recruitment of National Minority Members to State Administration Bodies for the period 2011-2014, taking into account the analysis of the Ministry of Public Administration on the implementation of the Recruitment Plan, until national minority members in state administration bodies reach the representation level of 5.5 percent.
3. The Government of the Republic of Croatia should ensure funds in the state budget for the implementation of the Plan of Recruitment of National Minority Members to State Administration Bodies for the period 2011-2014.
4. In case of non-fulfilment of the 5.5 percent threshold in the period 2011-2014, the Ministry of Public Administration should prepare the Plan of Recruitment of National Minority Members to State Administration Bodies for the subsequent period, with ensured funds for its implementation.
5. The Ministry of Public Administration should continue maintaining reliable and verified data which would make it clear which national minorities are covered by the data on the representation of minorities in state administration bodies, and how many members of which minority are employed in which bodies, in order to be able to make reliable conclusions on the fulfilment of the right of national minority members to representation in state administration bodies, judicial bodies and administration bodies in local and regional self-government units.
6. State administration bodies should implement measures in the process of employing new civil servants and employees that would notify the beneficiaries more efficiently of the right to advantage in employment of national minority members, and of the phase of the public competition process in which one should invoke the right of advantage in employment.
7. The Croatian Parliament and the Government should maintain the acquired level of use and implementation of the right to equal official use of the language and script used by national minority members.

3.3. Discrimination on the grounds of race or ethnic affiliation and national origin

Generally speaking, citizens of the Republic of Croatia do not endorse discrimination; they support multiculturalism and do not express xenophobic attitudes. However, a high level of xenophobia is expressed in relation to asylum seekers and various ethnic groups with whom the citizens are largely not in contact. In practice, racial or ethnic discrimination is largely targeted against national minority members, in particular Roma and Serbs.

When it comes to the Roma national minority, given the fact that many Roma settlements have been built illegally, local self-government units should strengthen the efforts aimed at the preparation of physical plans and the creation of necessary physical planning prerequisites for the legalization of settlements, which is one of the prerequisites for the registration of the place of residence or sojourn. As we attempted to collect data on how the entry into force of the Residence Act impacted upon the possibility of registering the residence of Roma minority members, we received information from the Ministry of Interior that they do not have available data on the number of requests for the registration of residence submitted by members of the Roma community, because the Ministry only records data regarding the positively resolved requests.

Members of the Serbian national minority most frequently complain of discrimination on the grounds of ethnic affiliation, in the area of labour and employment, but also in other areas. Returnees in particular must frequently cope with insufficient social inclusion in the Croatian society, with employment being particularly difficult.

When it comes to asylum seekers and migrants, negative attitudes towards them should be eliminated or prevented, primarily by their better inclusion in society, particularly given the expected increase of the number of asylum seekers in the future. They need to receive appropriate assistance and information regarding their rights, and appropriate conditions of their sojourn should be ensured.

RECOMMENDATIONS:

8. Local self-government units should increase their activities aimed at the creation of physical plans and necessary physical planning prerequisites for the legalization of illegally constructed houses and for upgrading and equipping the locations of Roma settlements.

9. The Ministry of Interior should also keep records on the total number of received applications for residence for Roma national minority members, in order to evaluate the extent to which these persons can satisfy the conditions for registering the residence as prescribed by law, by comparing the total number of requests with the number of positively resolved requests.

10. The Ministry of Labour and Pension System and the Ministry of Regional Development and EU Funds should prepare programmes and ensure funds for subsidizing the employment of minority members in the entrepreneurial sector in areas of special state concern, employment of minority members within social entrepreneurship projects, and focusing structural European funds towards integration projects.

11. The Government of the Republic of Croatia and the Ministry of Interior should change and amend the state migration policy by focusing greater attention to economic, social and cultural effects of migration flows and to a more consistent implementation of measures foreseen by the Action Plan on the Integration of Foreigners.

12. The Ministry of Interior should permanently resolve the issue of space for an adequate Reception Centre for Asylum Seekers, with sufficient reception and accommodation capacity even in cases of major inflow of asylum seekers.

13. The Ministry of Interior should include the needs of specific asylum groups (e.g. pregnant women, single parents, persons deprived of legal capacity) into the system of care for asylum seekers.

14. The Ministry of Science, Education and Sports should organize courses in Croatian language for persons granted protection, in order for them to gain access to the labour market.

15. The Ministry of Interior should take into account specific cultural, religious and customs differences and needs of persons in the protection system during their stay in the Reception Centre for Asylum Seekers.

3.4. Reconstruction and housing care

Changes and amendments of regulations in this area in the course of 2013, together with the establishment of the State Office for Reconstruction and Housing Care, have made the already wide-ranging and unclear set of regulations regarding the rights of persons returning or coming to areas of special state concern additionally complex and burdened. In addition, these changes have contributed to the extension of already significant duration of procedures for housing care. In some procedures, for example those for obtaining the returnee status, a complete deadlock in decision-making occurred, while the inclusion of the state administration office resulted in new difficulties. In addition, when one compares 77,269 submitted requests with 406 available units in 2013, it is clear that the existing housing care system can hardly be considered efficient and sustainable. The announced reaching of the new Housing Care Act must be preceded by a comprehensive, wide-ranging and detailed public debate.

RECOMMENDATIONS:

16. The Government of the Republic of Croatia should regulate by law the issue of housing care for the former holders of tenancy rights in areas outside of the areas of special state concern.

17. State administration offices in counties, administrative body of the City of Zagreb, and the State Office for Reconstruction and Housing Care should resolve housing care requests within the calendar year in which these requests are submitted; alternatively, the Government of the Republic of Croatia should abolish the obligation of renewed submission of the request if the original request had not been resolved in the calendar year of its submission.

18. The Government of the Republic of Croatia should ensure additional funds / housing units for housing care for beneficiaries whose housing care requests have been administratively resolved, but without housing units ensured for these persons.

19. The Government of the Republic of Croatia should make normative changes that would recognize the right to financial aid and the right to health protection based on special regulation regarding the returnee status, from the moment of reaching the decision determining the returnee status.

20. The Government of the Republic of Croatia should harmonize the legal framework on the basis of which returnees – former holders of tenancy rights would be granted the recognition, fully or in a certain percentage, of the fact that they are former holders of the tenancy right that was relevant at the time when apartments had been purchased by citizens whose national affiliation is predominantly Croatian.

21. The Government of the Republic of Croatia and the State Office for Reconstruction and Housing Care should resolve approximately fifteen remaining cases of occupied private property whose owners still cannot enter into possession of their property, or whose property is devastated, and who must pay financial amounts to temporary users for performed investments.

22. In the preparation and signing of contracts of purchase and other contracts, the State Office for Reconstruction and Housing Care and the Agency for Transactions and Mediation in Immovable Properties should prepare statements on the acceptance of purchase/sale conditions and other legal affairs, which should also, together with the contracts themselves, contain the description of property and specified list of documentation in connection with the property.

23. The State Office for Reconstruction and Housing Care should engage in a comprehensive, wide and detailed public debate regarding the new Housing Care Act, with the participation of bodies in charge of the implementation of regulations, and with the participation of other stakeholders, while paying particular attention to the preservation of rights acquired by the existing housing care programme.

3.5. Status-related rights

When it comes to the regulation of residence, we were contacted in particular by citizens of the Republic of Croatia living outside of their homeland, concerned due to the consequences of the entry into force of the Residence Act and its impact on their right to vote in elections.

We received complaints from persons whose requests for obtaining Croatian citizenship had been refused with the justification that they did not prove that they belong to the Croatian nationals. These persons believe that the circumstance of fear for personal safety is insufficiently evaluated, as the circumstance due to which they had not dared to publicly express their belonging to the Croatian nationals in states in which they live. In addition, the possibility of returnees to fulfil the prescribed conditions for obtaining the Croatian citizenship is rendered more difficult, in particular when it comes to regulated permanent sojourn. One particular problem lies in the length of procedure for obtaining the Croatian citizenship, lasting for several years in some cases.

A significant number of complaints we received regarding the management of procedure for the approval of temporary or permanent sojourn to foreigners pertained to the duration of sojourn. In addition, we were also contacted by persons born in the Republic of Croatia, who have been living in the country since their birth and who found themselves in a situation in which they do not have a regulated status after reaching adulthood. In order to avoid the recurrence of such situations, we participated in the process of changes and amendments to the Aliens Act by submitting proposals.

RECOMMENDATIONS:

24. Police directorates and police stations should complete the procedures of extension of temporary sojourn and approval of permanent sojourn of foreigners within the deadlines prescribed by the General Administrative Procedure Act. Particular attention should be paid to ensuring that the procedures of approval of permanent sojourn be finalized prior to the expiry of the existing temporary sojourn, in order to spare the submitters of requests from the submission of a new, additional request for the regulation of temporary sojourn and corresponding financial costs.

25. In the context of changes and amendments to the Aliens Act, the Ministry of Interior should prescribe that, during the procedure of extension of temporary sojourn, not only the already recognized right of a

foreigner to remain in the state until the enforceability of the decision regarding the request be recognized, but also other rights stemming from the earlier status which expired, unless the length of procedure of extension of sojourn arose due to a fault of the submitter of request.

3.6. Conduct of police officers

The system of control of implementation of police powers in regard to citizens consists of supervision within the Ministry of Interior, and civil supervision of the work of the police, conducted by the Commission for Complaints in the Ministry of Interior. Although the Commission does not have all the necessary conditions for up-to-date work, citizens have recognized the importance of civilian supervision of the implementation of police powers, and they submitted 221 complaints to the Commission. In 22.2 percent of processed cases, it was determined that the complaints are partly or fully founded. On the other hand, in 2,238 procedures of supervision of police procedures, conducted within the system of the Ministry of Interior, violations of police procedures were found in less than 10 percent of cases.

In the course of 2013, a significant rise was noted in the number of citizens' complaints to the Ombudswoman regarding the conduct of police officers, compared to previous years. Complaints mostly pertained to unprofessional and unethical conduct of police officers towards citizens, omissions in procedures and exceeding the powers, and partiality in the determination of facts.

RECOMMENDATIONS:

26. Through adequate changes and amendments to the Police Act, the Ministry of Interior should create preconditions that would allow the Commission for Complaints in the Ministry of Interior to examine citizens' complaints in a timely and efficient manner.

27. The Ministry of Interior should undertake continuous and efficient measures in order to achieve a higher level of efficient control in procedures initiated as a result of citizens' complaints due to unprofessional conduct of police officers.

3.7. Civil service and employment relations

Rights during unemployment

At the time of the economic crisis, major unemployment, restructuring and new normative definition of employment relations, the issue of finding and keeping a job constitutes major concern for a considerable number of citizens. According to the Croatian Employment Service (CES) data, unemployment of both men and women grew substantially in 2013. Most unemployed persons have secondary education, while the biggest number of persons receiving financial compensation during unemployment belonged to the age group between 55 and 59 years of age in December 2013 (20.2 percent). When it comes to the rights during unemployment, complainants expressed dissatisfaction with CES decisions regarding the abolishment of the right to financial compensation during unemployment, and with the inability of finding a job due to long-term unemployment.

Employment relations in public services

Complaints pointing to alleged breaches of employment rights in public services pertained to irregularities regarding changes to the contract of employment; denial of the right to annual leave; dissatisfaction with announced pay cuts; non-payment of overtime work; possible irregularities in employment; impermissible cancellation of the contract of employment; dissatisfaction with the dismissal from the position of director of public institution; and other matters. Complainants who pointed out that their employer does not include overtime work in the salary paid to them, or that the employer decreased their salary without grounds, were informed that they can seek their financial claims in court proceedings; complainants who expressed dissatisfaction due to the fact that they were dismissed as directors, and who initiated court proceedings as a result, were informed that the Ombudswoman's competence does not extend to matters in which court proceedings have been initiated.

Employment relations in the economy and crafts

When it comes to complaints in which citizens pointed out breaches of rights stemming from employment by employers in the economy and crafts, they pertained to the following: termination of employment; non-extension of fixed-term contract of employment; illegal overtime work, with the corresponding non-recording and non-payment of overtime work as add-on to the salary; non-payment of due salary; non-delivery of the calculation of owed and unpaid salary; non-payment of severance pay; mobbing.

In regard to several questions by citizens who did not know to which competent body should they report possible illegalities, we instructed the citizens to contact the competent inspection services. In some cases, especially when it comes to the termination of the contract of employment, we instructed them to protect their rights in communication with the employer or before the courts, also providing information on the ways of obtaining free legal aid to those without sufficient funds for an attorney. Claims contained in complaints and questions point to the need for providing better information to citizens regarding their rights in connection with the CES and/or the Ministry of Labour and Pension System. Information can be provided via websites in particular, but also in other appropriate ways, in order to inform citizens on ways in which they can protect their rights.

Harassment and mobbing in the workplace

For some time, mobbing has been recognized as a specific problem in employment relations. We received 15 complaints regarding this issue in 2013. However, protection against mobbing is not provided in the existing provisions of the Labour Act, nor in the Anti-Discrimination Act; in practice, it is frequently very difficult to distinguish between forms of behaviour that represent mobbing as abusive behaviour, and those that represent discriminatory harassment. Given the fact that mobbing was not regulated within labour regulations in 2013 either, we stress the necessity to do so, in order to overcome the lack of harmonization and legal void currently in place; in this process, it is important to clearly distinguish between harassment as a form of discrimination, and mobbing as abuse at the workplace.

Civil service relations

Complaints in the area of civil service relations pertained to the procedure of employment and transfer in state service; placement and availability of civil servants after changes in the structure of central state administration bodies; procedures regarding breaches of official duty; disciplinary procedures in police service; evaluation of civil servants; compensation for separate living and travel costs; other civil service rights.

The biggest number of complaints in the sphere of civil service relations pertained to breaches of the rights of existing civil servants, or their placement following the most recent parliamentary elections and changes to the structure of Ministries, in particular the Ministry of Justice, Ministry of Defence, Ministry of Interior, Ministry of Finance, and Ministry of Social Policy and Youth. The complainants also expressed suspicion regarding the changes of the employee structure based on political and other affiliations.

In our procedures based on complaints, we determined that the decisions regarding the placement of existing and inherited civil servants do not contain legal explanations, because decisions regarding their placement on the basis of their expert capacities and needs of the service should have been reached based on the rules regarding the discretionary mode of decision-making, in order to ensure protection against the potential exceeding of powers. Given the fact that the decisions regarding the placement of these complainants were not elaborated in a legal manner, we were repeatedly warning individual Ministries, but without success. We were also recommending that they examine and change these decisions as first-instance bodies. Some of these civil servants were once again placed to lower (even beginner) positions requiring higher education during the appeal procedure, despite the fact that they have a number of years of experience in relevant tasks and top grades for their work.

Even though the Committee for State Service nullified one part of these decisions, new decisions were subsequently reached, as a rule with the same content and date as the nullified decisions, which is contrary to the rules regarding the mode of execution of second-instance decisions and to the prohibition of retroactivity in administrative procedure. These civil servants then submitted new appeals, which is why the total number of unresolved complaints before the Committee for State Service is continuously growing.

Police officers who held positions of heads of internal structural units at the moment of changes to the internal structure of the Ministry of Interior were not placed to duties based on the rules and regulations on the placement of existing civil servants. Instead, internal job advertisements were posted for these positions, as if they are vacant. Breaches of rights that the complainants pointed out pertained to illegal advertising of the positions that these officers occupied at the moment of changes to the internal structure as if they are vacant, but they also pertained to the illegal mode of implementation of these internal advertisements. The complainants participated in the contest, without success, and ended up being rejected despite their expert capacities and acquired experience, even when they were the only ones who successfully underwent the testing and verification of knowledge.

In analyzing these complaints, we determined that the provisions of civil service legislation regarding the placement of existing civil servants should have been applied to decisions on the

placement of these existing police officers. Given the fact that the procedure of employment via internal advertisement can be implemented only for positions that are not held by anyone, and given the fact that the complaints also pointed out breaches of rights in thus implemented internal advertisements, supervision by the administrative inspection of the Ministry of Public Administration was requested; however, despite several consecutive requests and warnings, we have not received their reports.

RECOMMENDATIONS:

28. The Ministry of Labour and Pension System should regulate the institute of abuse at work or mobbing within labour regulations, either via the provisions of the Labour Act or via special regulation, taking into account the difference between harassment as a form of discrimination on the one hand and mobbing on the other.

29. The Ministry of Public Administration, in accordance with its supervisory authority, should undertake measures in order to timely eliminate illegalities in the process of reaching decisions on the placement or availability of existing civil servants due to the changes in the structure of central state administration bodies, while taking into account the jurisprudence of the European Court of Human Rights and the Constitutional Court regarding the discretionary decision-making in the process of reaching decisions based on free assessment.

30. The Ministry of Public Administration, in accordance with its supervisory authority, should examine the legality of announcement of internal job advertisements instead of the placement of existing civil servants based on the Civil Servants Act and the General Administrative Procedure Act, for posts occupied by existing police officers with the function of heads of structural units at the time of changes to the structure of the Ministry of Interior; in connection with that, the Ministry should also examine the legality of conducted internal advertisements.

31. In the process of reaching new decisions on the placement due to the changes of the structure, the Ministries should adhere to the rules on the prohibition of retroactivity in administrative procedures, instructions of the Committee for State Service regarding the elimination of illegalities which caused the nullification of decisions, and ensure payment of the salary balance for contested periods which arose as direct consequence of the nullification.

32. On the basis of the nullification of decisions regarding the placement of existing civil servants or their availability, due to the changes of the structure, the Ministries should proceed in accordance with the legal consequences of nullified decisions, as stipulated by Article 115 of the General Administrative Procedure Act.

3.8. Discrimination in labour and employment

In the course of 2013, we received a number of complaints regarding discrimination in labour and employment. Although the groups of citizens particularly exposed to labour and employment discrimination include older persons who are still in labour age and long-term unemployed women with secondary education, last year was marked by a fairly high percentage of unemployed youth. Some provisions of the Employment Promotion Act in effect lead to indirect discrimination on the grounds of means in possession of young persons who are not unemployed, but work in order to make a living. Since they are employed, they cannot use active employment positive measures; on the other hand, however, without the needed practice they are not interesting to employers, because they have no working experience in the vocation for which they were educated. Given the fact that an agreement has

been reached within the framework of EU institutions regarding dedicated budgetary funds for youth employment, this represents an opportunity to find a solution that would provide an optimal link between already acquired education and labour market needs.

In employment, young age is frequently perceived as a shortcoming, due to the lack of working experience. On the other hand, there are situations in which young age can become an unjustified condition for employment, regardless of the working experience or qualifications. It is therefore no rare sight to come across job advertisements seeking "young and attractive waitresses". Due to the appearance of discriminatory ads, and the fact that various forms of discrimination are still not being recognized, it is necessary to ensure awareness and education regarding discriminatory conduct.

In the labour and employment area, there is still persistent discrimination on the grounds of race, ethnic affiliation, skin colour or national origin, in particular when it comes to employment in the private or public sector, outside of the scope of special measures stipulated by the Constitutional Act on the Rights of National Minorities. Members of the Roma national minority find it particularly hard to find employment, but also middle-aged women from the Serbian national minority living in areas of special state concern, in rural communities, and in relative travel and communication isolation.

Trade union membership is increasingly becoming a ground of discrimination; however, due to the fear for their livelihoods, long duration and uncertainty of court proceedings, workers refrain from specific actions that would prevent or eliminate discrimination. We also received several complaints regarding discrimination in public companies and state service on the grounds of political beliefs. Some citizens decided to protect their rights before the courts, which opens the issue of the possibility of efficient protection against discrimination in administrative disputes, given the interpretation of regulations and the characteristic of administrative dispute as dispute on the legality of administrative acts, with the suspicion that discrimination was committed by regulations.

RECOMMENDATIONS:

33. The Ministry of Labour and Pension System and the Croatian Employment Service, in accordance with their competencies, should continuously work on increasing the participation rate of vulnerable groups of citizens in the labour market (youth, senior citizens, women, disabled persons).

34. The Ministry of Labour and Pension System should also enable the use of vocational training measure or other similar measures for young persons with higher education, but without working experience for the job for which they obtained education, forced to take lower positions in order to make a living.

35. The Croatian Employment Service should continue educating various stakeholders in the labour market in terms of increasing their awareness regarding stereotypes and discrimination at the workplace and in employment procedures.

3.9. Retired persons and the elderly

Pension insurance

Changes in the sphere of the pension system of the Republic of Croatia were marked by a

number of new regulations in 2013. The system is influenced by the regulations governing it, but also by unfavourable economic and demographic conditions. Given the fact that the pension system belongs to important factors of social security, we were submitting specific recommendations to the Croatian Employment Service in 2013, in accordance with our powers and having in mind citizens' complaints. These recommendations primarily pertain to the resolution of requests by parties within the legally prescribed deadlines, and to the improvement of international cooperation with foreign holders of pension insurance.

RECOMMENDATIONS:

36. The Croatian Pension Insurance Institute should improve international cooperation, in particular with the competent bodies in countries of the region, with the aim of providing better information to citizens regarding the method of use of the right to pension insurance in all cases that involve acquiring insurance in one country and using it in another.

Social security of senior citizens

With the introduction of state support to senior citizens (so-called social pension), foreseen by the Joint Inclusion Memorandum of 2007, but being postponed as of 2008, the aim was to provide elderly citizens without a pension or other income with the coverage of basic living needs and a better-quality life. While we are aware of the difficult economic situation, we still believe that this measure should not have been postponed. Unfortunately, the reformed social welfare system defines a lower amount of the new guaranteed minimum benefits to senior and fully incapacitated persons, for both single persons and household members, compared to the previous amount of permanent social assistance benefits.

A particularly vulnerable group consists of senior citizens who are dependent on the assistance of another person due to their functional incapacity, but cannot obtain the required assistance at home on the basis of the existing amount of social benefits. Senior and infirm persons should be enabled to stay in their own homes as long as possible, with available and quality assistance at home, and appropriate services in the community. On the other hand, those persons who cannot remain in their own home should be provided with institutional or non-institutional accommodation, ensuring equal quality and price of services, given the fact that public resources are used to ensure the accommodation. Otherwise, senior and infirm persons will be resolving the issue of their care by signing contracts of maintenance until death or contracts of maintenance for life, even though they are frequently not acquainted with possible consequences of the signing of such contracts. In order to avoid possible abuse by the providers of support, targeted counselling and forums should be organized, in order to acquaint senior citizens with important differences between these types of contracts and with their possible consequences.

RECOMMENDATIONS:

37. The Ministry of Social Policy and Youth should prepare changes and amendments to the Social welfare Act, which would raise the amounts of guaranteed minimum benefits for senior and infirm persons as of 2015, and which would introduce state support for senior citizens without a pension.

38. The Ministry of Social Policy and Youth and regional and local self-government units should develop and improve the system of social services for senior and infirm persons, in particular home assistance and care services, and daily stays in the territory of all local self-government units, in order to ensure their availability to all senior and infirm persons.

39. The Ministry of Social Policy and Youth and regional and local self-government units should develop a balanced institutional care network for senior and infirm persons who are functionally dependant on the assistance and care by other persons, in particular in counties with an insufficiently developed care of this type. Stationary care capacities should be improved in particular, thus contributing to the needs for palliative care in the local community, which is primarily implemented in the sphere of health care.

40. The Ministry of Social Policy and Youth and associations dealing with the protection of senior citizens should organize targeted counselling and forums in social welfare homes, associations of retired persons or local communities, in order to inform senior citizens of the difference between contracts of maintenance until death and contracts of maintenance for life, rights and obligations stemming from such contracts, and, in particular, reasons for the cancellation of such contracts, and difficulties that may arise in the process of their cancellation.

3.10. Discrimination on the grounds of age

When it comes to age discrimination, one should focus on the issue of how individual practices, accepted solutions and customary modes of work and procedures influence citizens belonging to individual age groups. When speaking about publicly available resources and the participation in public and social life, adjustment to specific needs of various groups of users, persons in older age groups in particular, should become a customary standard. For example, excessive orientation towards new technologies contributes to the creation of barriers in relation to senior citizens. In addition, there is also the issue of availability of comprehensive information regarding the rights and services available to senior citizens. For example, senior citizens who are gravely ill frequently do not know which forms of assistance, support and care they have the right to. On the other hand, when it comes to individual services, such as accommodation for older and infirm persons, demand is considerably higher than supply, which opens the door to attempts to introduce discriminatory criteria that potential users would have to fulfil.

When it comes to age-based discrimination against youth, in 2013 we received complaints regarding the Compulsory Health Insurance Act, changed and amended in the meantime, which tied health insurance on the basis of the status of a regular student to one's age, rather than to years of studying, and regarding the Road Traffic Safety Act, in connection with discrimination against young drivers.

RECOMMENDATIONS:

41. The Ministry of Health and the Ministry of Social Policy and Youth should ensure comprehensive, timely and understandable information to gravely ill senior citizens and to their families regarding the systems of assistance, support and care available to them.

42. All bodies of the state administration and local and regional self-government units, and all legal entities with public authority, should adjust their methods of communication with citizens to the living habits, possibilities and needs of all groups of citizens, including senior citizens.

3.11. Social welfare and family-legal protection

Social welfare rights

The Office of the Ombudswoman has been pointing out that social assistance amounts are unacceptably low, in particular when it comes to permanent social assistance benefits for single persons, but also when it comes to the amounts of allowance for assistance and care. Increase of the social assistance for single persons with the capacity to work is needed; however, what is not appropriate is to achieve this aim by decreasing the amount of assistance to a single person who is fully incapacitated for work, or to equalize it with the assistance to a person capable of working. We believe that the equivalence scale for determining permanent social assistance benefits according to the Social Welfare Act of 2012 was more just, and that it allowed for better targeting of social assistance.

We are aware of the fact that budgetary funds are limited and that they do not allow for a higher level of investment in social rights. However, poverty alleviation in Croatia should be achieved by redirecting social transfers to those groups who find themselves in least favourable position, and they certainly include persons who are fully incapacitated for work and for obtaining income, and who have no means available for basic living needs.

Social housing

The issue of social housing is not systematically regulated, and it seems that the measure of reaching a national support programme for social housing by the end of 2008 has been abandoned. The coordination between the Ministry of Social Policy and Youth and the Ministry of Construction and Physical Planning should be better in this context. Problems in this area are even more pronounced in local self-government units that neglect their legal obligation of ensuring funds for the payment of housing costs for socially endangered citizens. Having in mind the omnipresent poverty, the Ministry of Social Policy and Youth and the counties should undertake measures that would support local self-government units to implement the Social Welfare Act and to ensure that all citizens who fulfil the prescribed conditions obtain the right to assistance for the coverage of housing costs. Namely, the implementation of regular supervision and other legal institutes for the purpose of harmonizing the general acts of local self-government units with the provisions of the Social Welfare Act would ensure full implementation of these rights in practice, and their better availability to citizens.

Excessive duration of the resolution of second-instance cases

The issue of excessive duration of the resolution of second-instance cases in the Ministry of Social Policy and Youth, frequently requiring over one year, has been present for a number of years. Given the fact that the cases in question include the most vulnerable groups of citizens – those who are poor, families with more children, and persons with disabilities – we believe that more specific measures should have been undertaken with the aim of resolving second-instance cases within the prescribed 60-day deadline.

RECOMMENDATIONS:

43. The Ministry of Social Policy and Youth should prepare the draft of changes and amendments to the Social Welfare Act, which would increase the amounts of guaranteed minimum benefits for single persons and household members who are fully incapacitated for work and for obtaining income.

44. The Government of the Republic of Croatia should establish better coordination between the Ministry of Social Policy and Youth and the Ministry of Construction and Physical Planning, in order to create preconditions for the preparation of the Social Housing Strategy and regulations that would cover the area of social housing.

45. The Ministry of Social Policy and Youth should undertake measures with the aim of conducting supervision of the legality of work of local and regional self-government units in the sphere of social welfare, while continuing to ensure preconditions that enable the resolution of complaints within the prescribed deadline.

Homeless persons

For a number of years, we have been pointing out the problems of homeless persons who find themselves in extreme poverty, on the margins of society, facing social exclusion. According to the data of the Ministry of Social Policy and Youth and social welfare centres, there were 464 homeless persons in the Republic of Croatia in 2012, in 12 organized shelters active in bigger cities. Problems of financing the care for homeless persons are still present, with the issue of financing left to the fiscal possibilities of the local self-government, without the possibility of regular financial transfers from the state level, which adds to the difficulties in the work of self-government units, and which makes it all the more important to define minimum standards for their financing.

The data we received from some shelters differ from the data of the Ministry of Social Policy and Youth, in particular regarding the cooperation in providing care for homeless persons. In a number of shelters, the legal provision stating that a homeless person can be in temporary accommodation for one year at the most is not applied. The position of homeless persons has not significantly improved in the reformed social welfare system, because most shelters/reception facilities do not have the same level of standard and quality, and a homeless person in temporary accommodation in a shelter does not have the right to a guaranteed minimum benefit. More efforts should also be invested in programmes contributing to a more active engagement of homeless persons and their social integration.

RECOMMENDATIONS:

46. The Ministry of Social Policy and Youth should undertake a survey regarding the problems of homeless persons in the Republic of Croatia; National Programme of Care for Homeless Persons should be prepared on the basis of survey results, which would oblige the counties to prepare their own programmes regarding the care for homeless persons.

47. The Ministry of Social Policy and Youth should coordinate cooperation with social welfare centres and local self-government units, which would achieve social integration of homeless persons and strengthen the cooperation between social welfare institutions and shelters.

48. The Ministry of Social Policy and Youth and local self-government units should expand their capacities in order to ensure a balanced network of shelters in the territory of the entire Republic of Croatia.

49. The Ministry of Social Policy and Youth should initiate changes and amendments to the Social Welfare Act, in order to enable homeless persons to achieve the guaranteed minimum benefit despite the fact that they are in temporary accommodation in a shelter, in cases in which these persons are not provided with all social services, at the minimum quality standard, that should be ensured for these persons within temporary accommodation.

Family-legal protection and guardianship

In the sphere of guardianship, the Family Act and other regulations should be harmonized with the UN Convention on the Rights of Persons with Disabilities. When it comes to the complaints received by us, we are increasingly being contacted by parents regarding the issue of non-payment of defined amounts of child support. We are instructing these complainants to contact the Office of the Ombudsperson for Children, at the same time providing basic legal information and acquainting the parents with the possibility of obtaining free legal aid, or temporary support via the centres for social welfare.

RECOMMENDATIONS:

50. The Ministry of Social Policy and Youth should continue with the implementation of guardianship reform, in accordance with the comments and proposals received during the public debate regarding the new Family Act, and it should ensure the funds for centres for social welfare to cover the costs of expert witnessing in the procedures of deprivation/recovery of legal capacity of wards.

51. Centres for social welfare should provide maximum quality of information to parents regarding the rights and obligations stemming from the substance of parental care, in particular regarding support.

3.12. Enforcement

In the course of 2013., there were 119 complaints received by the Office, with citizens pointing out the problems regarding enforcement, in particular in cases in which they had not been informed of the initiation of enforcement procedure, and were thus unable to express facts or provide documentation for the purpose of disputing the enforcement request; or in cases in which they were not provided with information regarding the deadline for the settlement of debt, and they found out about enforcement only after the funds on their accounts ended up being blocked.

Enforcement is an unpopular, but necessary measure of protecting the rights of creditors, and a mirror image of the economic state of the country and its citizens, revealing their difficult financial and social condition, given the fact that citizens do not have sufficient funds to cover their liabilities, and funds remaining after the execution of enforcement are frequently insufficient for the coverage of basic existential needs. Considerable amounts of citizen debt pertaining to debts to the utility sector, coupled with the fact that enforcement is conducted due to unpaid gas, electricity and TV subscription bills, point to the fact that a number of citizens are no longer able to cover even their basic needs. Up to an extent, the excessive debt of citizens is due to a careless perception of undertaken obligations, and it is partly also a consequence of the inability to foresee the consequences of debt due to insufficient information or poor knowledge of citizens; however, to a significant extent, this debt is undoubtedly a consequence of the loss of jobs and the inability of finding new employment in an insecure labour market with a high number of unemployed persons.

Having recognizing the issue of enforcement as an acute issue, we dedicated particular attention to it at the level of general activities as well, going beyond procedures based on complaints. We thus organized a public debate on the issue of "Enforcement and Human Rights of Citizens", and we also participated in the process of preparation of changes and amendments to the Enforcement Act.

3.13. Rights of Croatian war veterans and their family members

Complaints of Croatian Homeland War veterans and their family members pertained to the provision of assistance in the resolution of their requests and the implementation of regulations for the purpose of fulfilment of their rights. In this context, we warned the Ministry of Veterans' Affairs and the Ministry of Defence of the need to engage in quicker and more efficient resolution of war veterans' requests. Complaints also pertained to public disclosure of the Register of War Veterans; the implementation of administrative procedure with the aim of determining the status of a war veteran; housing care; appeals procedure; enforcement of Administrative Court decisions.

3.14 Health care

Health protection

Despite the recommendations of the Ombudsman from previous reports, the Act on the Protection of Patients' Rights has still not been changed and amended by a provision on effective legal remedy, in accordance with the Constitutional Court decision of 2008.

The Act on Regulated Professions and Recognition of Foreign Professional Qualifications has been in force since July 1, 2013. Despite that, however, individual chambers and other competent bodies have not yet determined persons who would provide the required information to the Agency for Science and Higher Education, which means that the database on the system of recognition of professional qualifications is not serviced in a balanced manner. The Croatian Nursing Council and the Croatian Medical Chamber did not reach a single decision in the process of recognition of foreign professional qualifications, due to which we received a number of complaints.

In 2013, the interest of the general public was raised by the possibility of conscientious objection, allowing an individual not to act in accordance with a legal provision which prescribes behaviour contrary to his or her conscience. In this process, it is necessary that the freedom of conscience of one person does not endanger or exclude the rights of other persons. Given the fact that the right to conscientious objection is prescribed by laws governing the work of doctors of medicine, doctors of dental medicine, nurses, health care workers and non-health care workers participating in the process of medically assisted reproduction, and given the fact that it is recognized for midwives only on the basis of the Code of Ethics, we recommended that this right be prescribed by the Midwifery Act as well.

The Government of the Republic of Croatia adopted the Strategic Plan for the Development of Palliative Care for the period 2014-2016, which represented a step forward in the fulfilment of the constitutional right to health care for patients with incurable diseases, as an extremely vulnerable group of citizens. The Plan foresees a new legislative framework for the introduction of new organizational forms and content in the palliative care system. However, in its Annual Plan of Normative Activities for 2014, the Ministry of Health did not foresee the reaching of new laws or changes and amendments to existing laws which should prescribe these matters.

RECOMMENDATIONS:

52. The Ministry of Health should prepare the draft of changes and amendments to the Act on the Protection of Patients' Rights, in the form of a provision on effective legal remedy for the protection of rights prescribed by the Act, in accordance with the decision of the Constitutional Court of the Republic of Croatia of 12 March 2008.

53. The Ministry of Health should prepare drafts of regulations that would prescribe the establishment of new organizational forms and content in the palliative care system, foreseen by the Strategic Plan for the Development of Palliative Care for the period 2014-2016.

54. Professional chambers in the area of health care should appoint persons who would provide information and enter data into the database on the system of recognition of professional qualifications, and, adhering to the obligation stipulated by the Act on Regulated Professions and the Recognition of Foreign Professional Qualifications, they should reach decisions in the process of recognition of foreign professional qualifications based on citizens' requests.

55. The Ministry of Health should prepare the draft of changes and amendments to the Midwifery Act, in the form of a provision on the right of midwives to conscientious objection.

Health insurance

The complaints regarding health insurance pointed to possible omissions in the work of the Croatian Health Insurance Fund and the anomalous implementation of regulations, due to which the complainants were unable to fulfil their rights stemming from compulsory and optional health insurance, and to the inability of paying contributions for the compulsory health insurance of foreigners, which is why we submitted a recommendation for tax debt write-off to the Tax Administration. When it comes to complaints outside of the scope of competence of the Office, complainants were provided with general legal information, explaining to them who is in charge of resolving their complaints, and providing information regarding court jurisdiction and legal aid of attorneys.

3.15. Discrimination in the sphere of health care

A considerable number of complaints by citizens point to what they perceive as unjust distribution of funds within the health care system. Even though a strategic decision has been made in favour of public health care accessible to all, patients are increasingly forced to use the services of private health care. Persons without considerable income, who are unable to pay for the required health care service in the private sector, are thus frequently left without timely health care service.

The decline of the level of health care for HIV-positive persons was noted in particular. In addition, there were recorded cases of unauthorized and illegal public disclosure of data regarding the health status of individual patients, which leads to their additional stigmatization.

The implementation of outdated regulations, such as the Ordinance on Jobs Requiring Special Working Conditions of 1984, forces the services that are implementing the Ordinance to a certain degree of improvisation, which results in legal uncertainty, while the form of the certificate of health capacity does not contain instructions on legal remedy, which needs to be changed.

RECOMMENDATIONS:

56. The Ministry of Labour and Pension System should change the appearance and content of the form of the Certificate of Health Capacity (Form RA-2), in a manner that would add precise and clear instructions on the legal remedy, including the information on whom the appeal should be submitted to, and by what date.

57. The Ministry of Labour and Pension System should reach the Ordinance on Jobs Requiring Special Working Conditions as soon as possible, taking into account modern labour legislation trends and health and safety measures, together with the achievements of state-of-the-art medicine and pharmacology.

58. The Ministry of Health and the Croatian Health Insurance Fund should ensure funds sufficient for timely treatment of HIV-positive persons, with the highest level of economic and medical efficiency.

3.16. Education

The Ombudswoman received 102 complaints by parents who believe that the procedure of reaching and the content of the Decision on the Introduction, Monitoring and Evaluation of Implementation of the Health Education Curriculum in Primary and Secondary Schools (hereinafter: Curriculum Decision) breached their parenting rights guaranteed by the Constitution, international treaties and the law. The Ombudswoman, at the invitation of the Committee on Human and National Minority Rights, initiated the preparation of a special report on the respect for fundamental human rights and freedoms of parents in the procedure of introduction of health education in primary and secondary schools. At the same time, the Constitutional Court, taking into account the procedural aspect of the Curriculum Decision, reached its own Decision on the initiation of procedure of review of the conformity with the Constitution and the law, and on the cancellation of the Curriculum Decision. According to the assessment by the Constitutional Court, the process of legal definition of the content of health education has shown a lack of democratic and pluralistic approach, and the Curriculum Decision, as the outcome of that process, is deemed to be incompatible with the Constitution in its procedural aspects. Following that, the Minister of Science, Education and Sports reached the Decision on the Reaching of the Teaching Plan and Programme for Health Care Education in Primary and Secondary Schools. On the basis of a public debate, a decision was made to implement health education in primary and secondary schools in the form of a teaching plan and programme, until the reaching of the Strategy for Education, Science and Technology and the national curriculum.

The Croatian Parliament adopted the Act on Changes and Amendments to the Act on the Protection of Military and Civilian War Invalids, which took into account the recommendation of the Ombudswoman, with the deletion of Article 48b regarding the direct enrolment of children of military and civilian war invalids to secondary schools and higher education institutions. In such a manner, the Act was harmonized with Article 66, paragraph 1 of the Constitution of the Republic of Croatia, according to which education in the Republic of Croatia is available to all under equal conditions, in accordance with the person's capacities.

3.17. Discrimination in the sphere and on the grounds of education

Social and economic environment of an individual largely impacts upon the level or continuation of that person's education; as a result, children whose parents have not completed four-year secondary education are significantly underrepresented in tertiary education. Insufficient link between the education system and the labour market has been noted as well, given the fact that employers are not informed of the competences acquired in individual types and levels of education. Certain newly established educational institutions, while advertising considerable employment opportunities remain unrecognized in the labour market; on top of that, even five years after the expiry of the deadline, implementation regulations in connection with the Act on Primary and Secondary Education have not yet been reached.

A particularly sensitive group in terms of employment consists of persons who obtained the title of baccalaureus upon completion of their undergraduate studies, given the fact that employers believe that such persons can perform work which is part of the job description for only 11 percent of jobs. *Stručni pristupnici*, vocational school graduates that constitute a specific category in the Croatian educational system, are even less recognized by the labour market than the holders of baccalaureus degree. Complaints submitted to us regarding discrimination on the grounds of education point to the fact that specialized vocational studies are not being recognized in the labour market, and that completed undergraduate and graduate university studies are demanded for a number of jobs, without a clear reason or justification.

RECOMMENDATIONS:

59. Ministries and other competent bodies should analyze the content of regulations within their line of competence prescribing the required type of education for individual jobs, and they should harmonize these regulations with the Croatian Classification Framework and the Bologna system, taking into account the employability of graduating students of vocational and specialized professional studies.

60. The Ministry of Science, Education and Sports should reach the Ordinance on the Required Form of Education of Teachers and Expert Collaborators, which will be harmonized with the Act on Academic and Professional Titles and Academic Degree.

3.18. Discrimination on the grounds of religion

Events that marked the previous year, motivated by world-view differences, and closely connected with religious affiliation, included discussions regarding the health education in schools and the referendum on the constitutional definition of marriage as a union between a man and a woman, but also discussions regarding the allegedly insulting nature of a poster for a theatre play. Intolerance regarding diversity in issues of religious belief or lack thereof was exhibited not only in the form of inappropriate statements, but also in the form of vandalism attacks and stoning of the newly opened Islamic Centre in the city of Rijeka, and in a range of physical attacks and insults to male and female volunteers of the initiative for the collection of signatures for the referendum "In the Name of the Family", culminating in injuries inflicted on one volunteer, the burning of a signature collection stand, physical attack on divinity students from the Krka Monastery, and death threats against a student chaplain.

The judgment of the European Court of Human Rights of 2010, in the case *Union of Churches "The Word of Life", the Church of the Full Gospel and the Protestant Reformed Christian Church in the Republic of Croatia v. Croatia* remained unenforced. The judgment determined the breach of the right to freedom of religion and prohibition of discrimination, and the Republic of Croatia has the obligation to regulate religious rights of communities gathered within the Coalition on the basis of it.

In activities based on complaints regarding discrimination on the grounds of religion, we noticed unacceptable, formalistic interpretation of regulations regarding the acquisition of religious facilities, according to which tax exemption on real estate sale tax might be implemented only if religious communities would purchase the already existing churches, mosques and synagogues from each other. Such practice puts certain religious communities, predominantly minority communities, in a less favourable position, given the fact that they tend to use facilities which are not churches more frequently, purchasing and converting apartments, houses and business premises for their rituals.

Last year, in our activities, but also in the jurisprudence of the Constitutional Court, the issue of discrimination in labour and employment on the grounds of religious affiliation or belonging to a church community became prominent, i.e. the issue of hierarchy and mutual relations of various regulations. In the procedure pertaining to one complaint, in connection with the post of the director of legal and general affairs and the head of the administration office of a postgraduate study programme at a church institution of higher education, we concluded that it is not justified to require proof of sacraments as a condition for the post, given the type and nature of the work being performed; i.e. we concluded that such an approach would constitute discrimination on the grounds of religion. On the other hand, religious education teachers are expected to be appropriate for that job from the point of view of church authorities, and to have the credentials regarding the canonical mandate, which means that discrimination does not occur in such cases.

Towards the end of 2013, one quiz provoked interest among the general public. It was focused on ecology, but also included the content pertaining to religious education, which raised the issue of whether all pupils had equal opportunity to achieve success in the quiz. Even though we submitted a recommendation and a warning to the Ministry of Science, Education and Sports back in March 2012, pointing to the problem and the necessity of changing the discriminatory practice, the quiz was only removed towards the beginning of 2014, at least judging by media reports.

RECOMMENDATIONS:

61. The Government of the Republic of Croatia, Ministry of Justice and Office of the Commission for Relations with Religious Communities should invest additional efforts in the enforcement of the judgment of the European Court of Human Rights of 2010 in the case *Union of Churches "The Word of Life" and Others v. Croatia*.

62. The Tax Administration of the Ministry of Finance should act in accordance with the decision of the Constitutional Court of the Republic of Croatia of 19 December 2012, and it should remove from its website the Tax Administration opinion of 2005 on the implementation of tax exemption regarding real estate sale tax from its website.

3.19. Unacceptable and discriminatory discourse in the public sphere

Freedom of opinion and expression encompasses freedom of the media, speech and public expression, and it is of particular importance not only for an individual, but also for the society as a whole. However, the distinction between the freedom of speech and hate speech is still unclear, and it is up to the courts to develop jurisprudence on the matter.

In 2013 as well, examples of unacceptable public speech abounded. Such speech was predominantly targeted at members of national minorities and the LGBT community, but also at citizens with mutually diverse political and religious beliefs in general. In public discourse, the media play a particularly important role, as well as the politicians, in particular when it comes to the presentation of news, stories and contributions regarding individual minority groups, and when these actors impact upon the formation of public opinion.

Last year, we received several complaints regarding commercials for the first time. Commercial expression is also part of the freedom of speech; however, just like any other speech, it too is subject to limitations, which is why we warned of stereotypes and discrimination.

Chanting of insulting words, "monkey chants" and shouting of the slogan "For the Homeland" have been constituent part of the iconography at football matches for years, including both domestic club matches and the national Croatian football team. Last year was no exception in this context, with the number of fines prescribed by FIFA and UEFA for breeches of discrimination-related rules speaking of the seriousness of the situation in and around football stadiums in the Republic of Croatia.

Last year was also marked by Internet discussions and comments ranging from insults to hate speech, which led some portals to remove the possibility of leaving comments. Unacceptable communication in social networks has also been noted, and problems exist regarding the finding of perpetrators, legal qualification of such communication, and the extent of the issue.

RECOMMENDATIONS:

63. The Ministry of Science, Education and Sports and the Ministry of Interior should continuously educate the youth regarding the unacceptability of any form of violence in sports competitions, including inappropriate speech or hate speech.

3.20. Ownership rights

In the context of administrative procedures of expropriation and restitution of property seized during the Yugoslav communist rule, the complainants were predominantly contacting us regarding the length of procedure and the level of compensation offered. Namely, expropriation beneficiaries rarely offer adequate compensation, and the owners of partially expropriated property are most frequently dissatisfied, because the remainder of non-expropriated land remains unpromising for further use and possible future commercial utilization.

In the process of determining the compensation for property seized during Yugoslav communist rule, dissatisfaction among persons with the right to compensation can be noted

based on the complaints received, due to the excessive duration of the procedure that arises out of the need to collect considerable documentation which must accompany the request for restitution of seized property, to process changes that have arisen due to various legal and geodesic changes in regard to the seized property, and to overcome difficulties in identifying seized property and property to be restituted. The competent state attorney's offices tend to use regular or extraordinary legal means in most cases, due to which the procedure is inevitably prolonged.

In the course of 2013, citizens were predominantly addressing us regarding the procedures of legalization of illegally constructed houses; in addition to written complaints, a number of oral complaints by citizens were also noted, due to the breaches of their rights in ongoing procedures. There have been 30 proposals for the review of the conformity of the Act on Procedures Regarding Illegally Constructed Buildings with the Constitution submitted to the Constitutional Court until now, and a more comprehensive assessment of the actual state of resolution of citizens' requests before the competent public bodies will become possible in the course of 2014.

RECOMMENDATIONS:

64. State administration offices in counties and in the City of Zagreb, competent for ownership rights, should consistently apply the provision of Article 67 of the General Administrative Procedure Act regarding expert witnesses participating in expropriation procedure.

65. State administration offices in counties and in the City of Zagreb, competent for ownership rights, should consistently apply the provision of Article 47, paragraph 4 of the General Administrative Procedure Act regarding all expropriation beneficiaries who do not complete their documentation which must be attached to the request for expropriation within the subsequently determined deadline.

66. State administration offices in counties and in the City of Zagreb, competent for ownership rights, should ensure the preconditions for setting up a hearing in those procedures of restitution or determination of compensation for property seized during the Yugoslav communist rule in which no hearing was yet scheduled.

67. The Ministry of Justice should prepare a dedicated Regulation for the determination of special form of compensation as soon as possible, in order for the Government of the Republic of Croatia to be able to reach the Regulation.

68. Local and regional self-government units and the Agricultural Land Agency should ensure the accessibility of data on available agricultural land owned by the state which might be provided to authorized persons as substitute land, in particular when it comes to authorized persons whose main activity is agriculture.

69. State administration offices in counties should strengthen their capacities and increase the number of staff in services dealing with ownership rights, in order to shorten the duration of procedures of expropriation and restitution of seized property.

3.21 Environmental protection

In 20 received complaints pertaining to the environment and 19 complaints pertaining to noise, citizens expressed serious concern for their health, most frequently due to the conditions and mode of operation of industrial facilities and waste disposal sites in the vicinity of settlements. Problems were noted in the system of air quality monitoring in the Republic of Croatia, in particular in Splitsko-dalmatinska County, where data from private

measurement stations is used as official air quality data in the state network for permanent air quality monitoring, without final verification in accordance with the Air Protection Act.

RECOMMENDATIONS:

70. The Ministry of Environmental and Nature Protection, in cooperation with competent bodies, should prepare a comprehensive list of locations with waste disposal sites and industrial sources of environmental pollution, in order to enable systematic actions regarding prevention measures and recovery of environmental pollution.

71. The Ministry of Health, together with the Croatian National Institute of Public Health and other competent bodies, should engage in systematic collection and analysis of data regarding the impact of environmental factors on health, in particular in areas facing environmental pollution sources.

4. PERSONS DEPRIVED OF LIBERTY AND TASKS OF THE NATIONAL PREVENTIVE MECHANISM

Protection of the rights of persons deprived of liberty and the strengthening of their protection against torture and other cruel, inhuman or degrading treatment or punishment is achieved by reactive and preventive activities.

Same as in previous years, the most frequent reasons why persons deprived of liberty addressed the Ombudswoman included the conditions of accommodation; provision of health protection; conduct of judicial police; non-approval of the use of privileges; and transfers. In the conduct of examination procedures, in accordance with the Ombudsman Act, we visited the Bjelovar Prison, Požega Penitentiary and Turopolje Penitentiary in the course of 2013. We also engaged in control verification of the premises for the accommodation of persons deprived of liberty within the Police Station Pazin. In addition, we also examined the legality of conduct of competent bodies, based on complaints of persons with mental disorders located in psychiatric facilities and social welfare homes.

As part of the tasks pertaining to the National Preventive Mechanism, we visited the following institutions in the course of 2013: Correctional Institution Turopolje; Glina Penitentiary; Command Company of the Croatian Navy – Sv. Nikola – Lora; Detention Police Unit of the Police Directorate Splitsko-dalmatinska; Prison Hospital; Police Station Poreč; Police Station Rovinj; Police Station Umag; Detention Police Unit of the Police Directorate Istarska; Pula Prison; Lepoglava Penitentiary; Zagreb Prison. In addition, we also participated in the procedures of changes and amendments to the Act on the Execution of Prison Sentence, Criminal Procedure Act, and Act on the Protection of Persons with Mental Disorders, by providing proposals.

Taking into account the data obtained in examination procedures based on the received complaints and in performing the activities pertaining to the National Preventive Mechanism, we conclude that there is still considerable room for the strengthening of protection of the rights of persons deprived of liberty. Namely, while we have not noted procedures that would represent torture in 2013, we have noted breaches of rights of persons deprived of liberty, as well as procedures that may represent inhuman or degrading treatment.

Accommodation conditions within the prison system, still marked by overcrowding, constitute one of the key causes of breaches or limitations of rights and freedoms of persons

deprived of liberty. The overcrowded nature of the prison system does not only constitute one of the primary generators of breaches of the right to accommodation appropriate to human dignity and health standards, but it also results in limitations of a number of other rights and freedoms. Although there is a noticeable decreasing trend when it comes to the overcrowding in the prison system since 2010, the data on average capacity load in prisons, which stands at 149 percent, points to the fact that measures aimed at the decrease of overcrowding in the prison system should continue to be implemented. In addition, and in accordance with the decisions of the Constitutional Court of the Republic of Croatia, it is important to increase the capacities of the Zagreb Prison as soon as possible, and to install the elevator in the Prison Hospital, so as to enable unhindered movement of prisoners with disabilities.

Inappropriate accommodation conditions are not a generator of breaches of rights only in the prison system, but also in individual police stations and police detention units. Therefore, the Ministry of Justice and the Ministry of Interior should stop using the facilities intended for accommodation of persons deprived of liberty which do not fulfil international and legislative standards.

In the sphere of health protection, objections of prisoners pertained to the availability, but also to the quality of health protection. Due to the shortage of dentists or lacking equipment in clinics, dental protection is not equally available, which results in waiting periods for dental check-up of up to three months in some locations. Some prisoners suffering from hepatitis C, who received medical advice on the need for treatment, but who do not have compulsory health insurance via the Croatian Health Insurance Fund, should have been treated at the expense of the Ministry of Justice; however, they were not treated due to the lack of funding. In most penal bodies, the right of persons deprived of liberty as patients to privacy is being breached, because, as a rule, officers of the judicial police tend to be present during medical examination procedures, with the exception of psychiatric examinations. Despite the decision of the Constitutional Court of 2010, effective supervision of the quality of provision of health protection has still not been established throughout the prison system. The transfer of the provision of health protection to persons deprived of liberty from the justice system into the health care system would result in improvements of the quality of provision of health protection.

One of the key shortcomings in this area lies in an unbalanced treatment of persons deprived of liberty. Although such treatment does not necessarily represent a breach of their rights, it is harmful unless it is based upon clear criteria foreseeable in advance, equally valid for all persons in comparable situations. Lack of consistency and absence of harmonized criteria are particularly harmful in the implementation of special law and order measures. In addition, one of the reasons of unbalanced treatment of involuntarily hospitalized persons with mental disorders lies in the fact that some psychiatric institutions do not have a closed department where the measure of involuntary treatment would be applied, which is one of the reasons why the measure of physical restraint is applied on patients. Reasons behind unbalanced treatment mostly stem from the shortcomings in the legislative framework and from a restrictive interpretation or inconsistent implementation of regulations. It is precisely because of this reason that further improvements in the normative framework are needed, in particular

when it comes to the Act on the Execution of Prison Sentence and changes and amendments to the part of the Criminal Procedure Act pertaining to the execution of detention in investigation prison. In addition, it is necessary to ensure the conditions for the implementation of regulations currently in force, for example Article 44, paragraph 4 of the Criminal Code, in accordance to which imprisonment not exceeding one year can be enforced in a care home, which would contribute to less overcrowding in the prison system.

Although prisoners have several remedies available for the protection of their rights, the efficiency of these remedies is questionable. Namely, according to data available to us, it frequently happens that prisoners do not receive response to their complaints within the legally prescribed timeframe, or that they are forced to wait for considerable time for the decisions on the justification of their requests for court protection to be reached. One of the problems is also the failure to implement final decisions of the executing judge determining the breaches of rights stemming from the Act on the Execution of Prison Sentence. It is therefore necessary to undertake a study regarding the efficiency of remedies for the protection of rights of persons deprived of freedom, in order to determine the availability and effectiveness of these remedies, and in order to remove possible shortcomings.

Within the activities of the National Preventive Mechanism in 2013, we cooperated with the SPT and the CPT, and we also participated in the work of the South-East Europe NPM Network. Cooperation with state bodies in the course of 2013 was good, and we would particularly wish to emphasize a substantial improvement of cooperation with the Central Office of the Prison System Directorate of the Ministry of Justice.

In June 2013, the Service for Persons Deprived of Liberty and the National Preventive Mechanism was established at the Office of the Ombudswoman. However, the addition of new powers and tasks was not accompanied by the corresponding improvements in funding and human resources. The fact that the existing capacities of the Office are not satisfactory has an impact on the implementation of tasks stemming from the Ombudsman Act and Act on the National Preventive Mechanism.

RECOMMENDATIONS:

72. The Government of the Republic of Croatia should implement the obligations stemming from the decisions of the Constitutional Court (U-III/64744/2009 of November 3, 2010; U-III/4182/2008 of March 17, 2009) as soon as possible.

73. The Ministry of Justice and the Ministry of Interior should continue improving the accommodation conditions, and they should stop using those premises intended for the accommodation of persons deprived of liberty that do not fulfil international and legally prescribed standards.

74. The Ministry of Justice should ensure the required number of health workers and improve the quality of health protection provided to persons deprived of liberty. This Ministry, together with the Ministry of Health, should also consider the transfer of the provision of health protection to persons deprived of liberty from the justice system into the health care system.

75. The Ministry of Social Policy and Youth and the Ministry of Health should intensify activities pertaining to the decrease of institutionalization of persons with mental disorders, including the strengthening of services for mental health protection at the local level.

76. The Ministry of Justice should eliminate the detected shortcomings in regulations, primarily in the Act on the Execution of Prison Sentence, Criminal Procedure Act and the Act on the Protection of Persons with Mental Disorders.

77. The Ministry of Justice should undertake a study regarding the efficiency of remedies for the protection of rights of persons deprived of liberty.

5. GENERAL INITIATIVES

In 2013, the Office was active in several general initiatives that pertained to key social issues: the issue of enforcement and human rights; referendum on the constitutional definition of marriage; establishment of the system of free legal aid; anti-discrimination activities.

Due to the increase in the number of complaints pertaining to enforcement procedures, and due to the fact that enforcement became one of the key social problems, we organized a public debate in October, entitled "Enforcement and Human Rights". Conclusions and recommendations stemming from the event included the following: there is a need to better regulate the provision of information to debtors and execution debtors regarding the status of debt; to improve financial literacy of citizens and to acquaint them with economic and social rights at all levels; to strengthen supervision measures in regard to creditors – financial institutions; to examine the possibility of legally regulating the relation between the value and the object of enforcement; to implement the practice of the European Court of Human Rights regarding the matters pertaining to the protection of execution debtors; to protect the rights of workers in cases of enforcement against employers; to apply social protection measures for particularly endangered groups of citizens.

When it comes to the referendum initiative, the Ombudswoman independently reacted on two occasions via her communications in the course of the year, and once together with the Ombudsperson for gender equality via a joint statement. In this context, the Ombudswoman pointed out that the process of changing and amending the Constitution via a national referendum constitutes a legitimate method of expressing the will of citizens; however, constitutional provisions pertaining to human rights should not be subject to changes via a referendum. The Ombudswoman pointed out the key role of the Constitutional Court, which needs to be respected in matters of interpretation of the Constitution, concluding that it is important to engage in changes and amendments to the Constitution and to the Referendum Act as soon as possible, in order to regulate the procedure and content of future referendum initiatives.

Having in mind the long-term engagement of the Office in matters pertaining to the right of equal access to justice, we were involved in the public debate and the preparation of the new Free Legal Aid Act, on several occasions. The Act should ensure an efficient system of free legal aid to social endangered citizens. Proposals regarding the improvements of the system were submitted to the Ministry of Justice.

Finally, in the course of May and June, we organized four regional roundtables in Pula, Rijeka, Split and Osijek, where we informed the relevant stakeholders on the prohibition of discrimination, the role of the Ombudswoman in anti-discrimination efforts, trends regarding

the complaints we received, and the need for better links among all stakeholders that are involved in anti-discrimination activities and that provide assistance to discrimination victims. Complaints by citizens regarding discrimination were also received in the course of these roundtables.

6. PARTICIPATION IN THE PREPARATION OF REGULATIONS

Participation in the preparation of regulations and strategic documents in the area of human rights and anti-discrimination activities constituted an important segment of work of the Office, aimed at improving the legal framework for the fulfilment of citizens' rights. In total, we participated in the process of preparation of 17 drafts of regulations on the basis of the Ombudsman Act, Anti-Discrimination Act and Act on the National Preventive Mechanism, in most cases during the public debate stage; however, we also provided opinions to the carriers of preparation of regulations, or to the competent committees of the Croatian Parliament. In addition to the Act on the Execution of Prison Sentence, Criminal Procedure Act and Act on the Protection of Persons with Mental Disorders, we also participated in the preparation of the Free Legal Aid Act; Social Welfare Act; Execution Act; Labour Act; Family Act; Lease Act; Aliens Act; Act on Employment Mediation and Rights During Unemployment; Act on the Status of Displaced Persons and Refugees; Act on Areas of Special State Concern; Act on the Protection of Military and Civilian War Invalids; Act on the Rights of Croatian Homeland War Veterans and Their Family Members; Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation; Proposal for a Directive of the European Parliament and of the Council on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

7. PROMOTION OF HUMAN RIGHTS, DOMESTIC AND INTERNATIONAL COOPERATION AND PUBLIC ACTIVITIES

New institutional powers according to the Ombudsman Act of 2012, and strengthened capacities of the Office in this line of work, together with the new Service within the Office, provided concrete results in 2013. At the same time, the appointment of the new Ombudswoman strengthened the interest of the general public for the activities of the institution, while socially relevant events in Croatia throughout the year were marked precisely by public debates and events connected with the issue of human rights.

The most important events in the area of cooperation of the institution with other domestic stakeholders include the establishment of the Council of the Ombudsman for Human Rights. It includes eight members appointed for a four-year mandate, on the basis of public invitation, coming from the ranks of civil society organizations, the academia, the media and national minorities. The Agreement on Inter-Institutional Cooperation has also been signed by the Ombudswoman, Gender Equality Ombudsperson, Ombudsperson for Persons with Disabilities, and Ombudsperson for Children. The Agreement will ensure better communication among independent bodies for the protection of human rights, and it will ultimately result in more efficient protection of citizens' rights.

Systematic cooperation with CSOs – regional anti-discrimination contact points of the Office – has successfully continued via project implementation. As of this year, the cooperation with the civil society is expanding beyond the framework of the Anti-Discrimination Act, covering general initiatives as well, in particular those pertaining to the protection of citizens in regard to enforcement, free legal aid, reactions regarding referendum initiatives, and cooperation on events connected with the rights of national minorities, in particular the Roma and Serbian minority.

In the course of 2013, the visibility of the Office increased as a result of public reactions – the total of 17 communications were published, with communications on hate speech, inappropriate speech at sports events, initiation of the referendum on changes and amendments to the Constitution, involuntary hospitalization cases, and bilingual signs in the city of Vukovar causing the highest level of attention among the general public. Communications regarding international days in connection with human rights were also published. The official site of the Office, www.ombudsman.hr, was expanded in terms of content, and the number of website visitors increased by an average of 11 percent compared to 2012. In September, the Twitter profile of the Ombudswoman was started, and it is accessible at pravobraniteljica@OMBUDSMAN.HR. The number of media appearances increased as well, including TV and radio, but also internet portal transmissions, and interviews in specialized magazines. The number of written questions submitted by journalists increased as well.

In June, the Office completed the implementation of a project from the IPA programme, "Establishing a Comprehensive System for Anti-Discrimination Protection". Implementation of the project "I Choose Society without Discrimination" was initiated as well. The project is implemented by Cenzura plus NGO, in partnership with the Office of the Ombudswoman and our three regional anti-discrimination contact points. In order to ensure additional funds for the activities aimed at the strengthening of expert capacity of the Office, we also prepared a project proposal within the flexible IPA 2012 instrument for the strengthening of administrative capacity. The project has received temporary approval, and the beginning of implementation is expected towards the end of 2014.

In July 2013, the International Coordinating Committee for National Human Rights Institutions of the Office of the UN High Commissioner for Human Rights again accredited the institution of the Ombudsman in the highest category "A" of the accreditation status, based on the compliance with the Paris Principles. In the explanation of its decision, the Committee also provided three additional recommendations: on the necessity of ensuring funds for operation in the context of extended powers, despite austerity measures in connection with the state budget; on the need for better accessibility of the Office to the most vulnerable groups of citizens by opening regional offices; and on the need for Ombudsman Act to provide a more precise definition of the obligation of the institution to promote ratification and joining of international instruments for the protection of human rights.

Delay in reporting in the context of international agreements has been noted, including the delay of as many as eight years in the case of the International Covenant on Economic, Social and Cultural Rights. It is of utmost importance that the Republic of Croatia ratifies the

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Revised European Social Charter.

In November, in cooperation with the UNDP Office in Zagreb, the Office organized a seminar of ombudspersons from Croatia and countries of the region, focusing on the impact of EU enlargement on human rights and the UPR process. In the course of the year, the Ombudswoman, her deputies and Office staff participated in a number of events organized by CSOs, international organizations and state bodies, presenting the work of the Office in their interventions, and providing tangible contributions to the conclusions of events.

RECOMMENDATIONS:

78. The Government of the Republic of Croatia should reach a new Decision that would appoint the coordination body for the reporting on Conventions, and that would appoint bodies in charge of the preparation of reports and the fulfilment of recommendations per Convention.

79. The Government of the Republic of Croatia should initiate the procedure of ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and of the Revised European Social Charter.

8. HUMAN RESOURCES, ORGANIZATION OF WORK AND OFFICE BUDGET

The Croatian Parliament appointed the new Ombudswoman on February 15, 2013, and her deputies on July 15, 2013. In the course of the year, key bylaws and strategic documents were reached: the Strategy Plan for the period 2014-2016; Rules of Procedure of the Office of the Ombudsman; Ordinance on Internal Order; Decision on the Marking of Content and the Method of Resolution of Submissions and Cases under the Competence of the Ombudsman. Five services have been structured by the Rules of Procedure, in accordance with the new working requirements and powers of the Office; in addition, the Ordinance also foresees activities in regional offices in Osijek, Split and Rijeka, in accordance with the Ombudsman Act.

Towards the beginning of the year, the Office had 35 employed civil servants and two employees; by the end of the year, it had only 29 civil servants and one employee. Due to budgetary limitations, we did not employ new staff. The Anti-Discrimination Service was particularly weakened as a result, with only three out of the required nine advisors available. Due to the need for savings, the Office left the previous premises in Kralja Držišlava Street 6 in July, and is present on two locations since: in Opatička Street and Petrićeva Street. We did not move into the new premises located at Trg hrvatskih velikana 6 in Zagreb, assigned to us in May 2013, because not even the minimal funds required for that purpose were ensured in the budget.

Significant normative strengthening of the Office and the expansion of powers in the sphere of administration of justice (which has proven to be one of the key generators of the increase in the number of complaints), work on the promotion of human rights protection that stems from the entry into force of the Ombudsman Act in 2012, and the beginning of activities in the context of the National Preventive Mechanism in 2012 were not accompanied by the

earmarking of additional funds for the implementation of these powers. Even though the Budget of the Office was increased to 10,466,450.00 HRK in 2012, due to the merger of staff members of the Centre for Human Rights, the Budget was nevertheless insufficient; i.e. it is not referential for regular fulfilment of all of the stipulated powers at the annual level. Instead of rising in 2013, the budgetary amount was in fact additionally decreased for the year, to 9,248,988 HRK; on top of that, the Office had significant additional expenditures during the year that were not taken into account in planning, which is why we were unable to employ new staff members for available civil service positions in the course of the year.

In 2013, the budget of the Office was executed in the amount of 9,118,338 HRK, which constitutes 98.6 percent. However, when analyzing the budget execution in the narrow sense of the word, without EU funds, it stands at 8,721,310 HRK, or 99.05 percent.

In times of the economic crisis, we are fully aware of the realistic limitations and the need for austerity at all levels, in particular when it comes to rational expenditure of budgetary funds. However, under the circumstances at hand, there is serious concern regarding the capacity for expected, regular and high-quality implementation of all the tasks within the competence of the institution, and the establishment of regional offices has also been rendered impossible. The number of staff members for the implementation of tasks pertaining to the Central Equality Body is particularly insufficient, given the fact that we currently have three persons working on these tasks, out of the required nine persons. In this manner, and due to such budgetary planning, the Office of the Ombudswoman is being directly and significantly weakened.

In order to avoid problems in the regular performance of tasks within the institution's competence, and in order to fulfil international commitments by opening regional offices, we consider it necessary to employ additional staff, so as to reach the number of employees that existed in 2012 and to enable the opening of regional offices. In a situation in which economic and social rights of citizens are increasingly threatened due to the burden of the crisis, it is necessary to organize the work of the Ombudswoman in such a manner. The continuation of operation under the current circumstances would seriously jeopardize the fulfilment of basic functions of the Office as an independent institution for the protection of human rights.

RECOMMENDATIONS:

80. The Government of the Republic of Croatia, in accordance with relevant documents and recommendations of the Council of Europe, the United Nations and the European Union, should ensure sufficient funding within the State Budget, in order to enable optimal operation and fulfilment of all legal powers of the Office of the Ombudswoman, in particular the establishment of regional offices outside of Zagreb.

9. CONCLUSION

The year that passed was marked by a substantial increase of 63 percent in the number of cases compared to 2012. The biggest increase in the number of complaints and questions pertained to the area of housing care; war veterans' rights; conduct of police officers; right to health or health insurance; enforcement; area of ownership rights and housing relations; construction and physical planning.

The position of ethnic or national minorities was reflected in an insufficient implementation of the Constitutional Act on the Rights of National Minorities, but also in issues pertaining to the fulfilment of the rights of returnees. The year was also marked by public expressions of intolerance towards minority groups in general. The fulfilment of social rights was rendered more difficult; the network of social services was insufficient; social benefits were frequently too low for the coverage of basic living needs. The reform of guardianship was not implemented in full, while the care for homeless persons was fully handed over to the local level.

One of the key causes of breaches or limitations of the rights of persons deprived of liberty continues to be overcrowded conditions of accommodation, and insufficient quality of health protection.

Even though a relatively good legislative framework has been established in the sphere of human rights and anti-discrimination, regulations are frequently not harmonized, and their implementation is lagging behind in practice. A particularly problematic issue is the implementation of administrative procedure, not only in terms of inconsistent implementation of the General Administrative Procedure Act, but also in terms of its unclear interpretation and insufficient capacities for decision-making in regard to appeals.

The Office therefore worked particularly intensively in 2013, but with decreased human resources. On the one hand, the Office acted based on individual complaints submitted by citizens; on the other, it engaged in general initiatives, became involved in public debates, and participated in the process of reaching of regulations and the drafting of their changes and amendments, aiming to impact upon the improvement of the framework in which human rights would be fulfilled. However, the normative strengthening of institutional powers in recent years, coupled with the fact that the conditions necessary for their implementation have not been ensured, ultimately means that the institution has weakened, despite the fact that citizens have justified expectations that it would be increasingly involved in social affairs in connection with human rights, and that, above all, it would be efficient in resolving their complaints.