Report on the year 2014 By the Ombudsman of the Republic of Latvia

Riga, 2015

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Abbreviations used in the Text

UN – The United Nations

CPL – Civil Procedure Law

CSDD – Road Traffic Safety Directorate

NRT – Nature Resource Tax

ISB – Internal Security Bureau

ECPAK – European Convention for the Protection of Human Rights and Fundamental Freedoms

ECHR – European Court of Human Rights

PA – Prison Administration

TDF – Temporary Detention Facility

RSS – Rural Support Service

AOCL – Adminstrative Offence Code of Latvia

CM – The Cabinet

RET – Real Estate Tax

NGO – Non-Gvernmental Organization

PMLP – Office of Citizenship and Migration Affairs

FS – Frontier Station

Satversme – Constitution of the Republic of Latvia

SET – Subsidized Electric Energy Tax

LED – Legal Equality Division of the Ombudsman's Office

SRS – State Revenue Service

SISA – Social Insurance State Agency

SSCC – State Social Care Center

SLC – State Language Center

Introduction by the Ombudsman

Dear reader,

Let me present our report on the actual topics of human rights and good governance in Latvia in 2014. To my regret, the year 2014 has not marked any significant positive shift towards human rights and good governance. Yet I am pleased to note that no rapid deterioration of the situation has been observed either.

The overall poverty of Latvian people remains among the main reasons or at least one of key aspects of the problems. Inspection cases lead to conclusion that, as far as the rights of children are concerned, the consequences of poverty are experienced most often by large families or incomplete families: they lack funds to improve their dwelling conditions, and comprehensive development of children is therefore jeopardized. In case of a child who lives separately from parents, in a foster family or orphanage most often distant from the parents' residence, the parents may lack funds for visiting the child, so they meet infrequently and therefore they get estranged. When the period of out-of-family care expires and the orphan reaches major age, the dwelling allowance in most municipalities is fixed in the amount insufficient for dwelling, and therefore this group of people may remain homeless.

Even though the lack of funds is among the reasons most frequently mentioned to excuse the poorly developed services, such as alternative out-of-family care, community-based services (group homes, social apartments) and other support services to the vulnerable groups of society, the lack of understanding of the need for such services among the decision-makers is the key reason.

The year 2014 was featured by increased attention on the part of foreign partners as well as certain local organizations and media, often bordering in pressure concerning the issues of national minorities. Occasional attempts to create intentional confusion between the aspects of national minorities and citizenship could also be observed thus seeking to discredit the observation of human rights in Latvia.

In general, the year has been saturated. The Ombudsman's Office proactively worked on handling individual applications as well as systemic problems. Everyone is welcome to familiarize with the performance of the Ombudsman's Office: the information is summarized by areas of law for your ease of reference.

Very truly yours',

Juris Jansons, the Ombudsman

I Rights of Children

1. Current Topics of the Rights of Children Division – Statistics and Overall Review

1.1. Relevant topics in 2014

There is neither special office of Children's Ombudsman nor any institution designed to provide for their activity established in the Republic of Latvia. The functions of the Ombudsman of the Republic of Latvia therefore also include the rights of children issues. The Ombudsman's Office has established the Rights of Children Division and the lawyers of the said Division are dealing exclusively with the rights of children matters.

672 applications regarding the rights of children matters have been filed with the Ombudsman's office in 2014 including applications concerning eventual breaches. The applications included 129 written and 543 – verbal or electronic applications that were not signed with a safe electronic signature.

The total number of applications filed in 2013 was 1131 including 173 written and un 958 oral and electronic. Therefore the number of applications has decreased in 2014 by 40.4%, compared to 2013, slightly exceeding the level of 2013[1]. It should be noted that significant increase of the number of applications in 2013 – by 70.1% - was explained by the newly enacted regulation concerning the purchase of teaching aids and the resulting indistinctness among the parents of school children as well as in educational establishments.

12 investigation proceedings were instituted in 2014 for clarification of the circumstances stated by private individuals in their applications.

The highest number of applications, 95, has been filed concerning the right of a child to grow up in a family. This included, for example, exercising of the right to access, the right not to be separated from parents without good grounds, restoration of custody rights, and similar. On 77 occasions the individuals applied to the Ombudsman's Office regarding the right of children to complete primary education or securing of their rights during the education process; another 46 applications were filed in relation to pre-school education, basically concerning the demand for unlawful payments including donations, "fund" payments, purchase of teaching aids and household items.

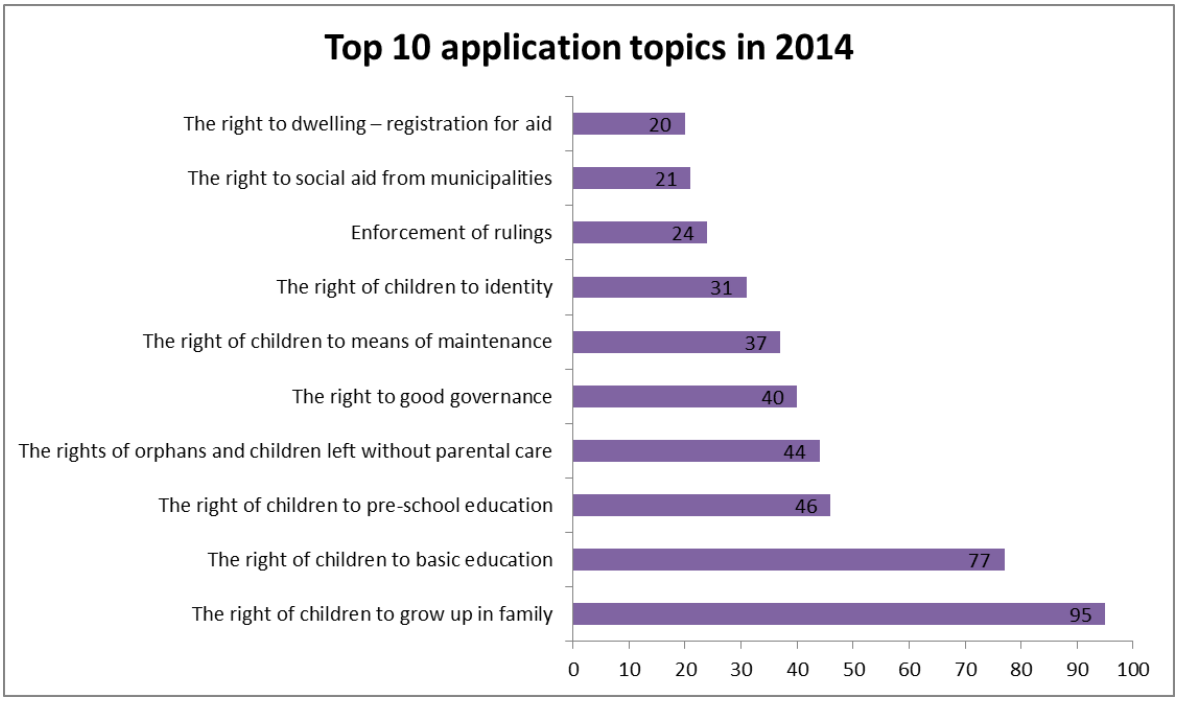
44 applications were filed in 2014 concerning the issues of orphans and children left without parental care, including the issues of insufficient support to guardians and foster

[1] 665 applications were filed in 2012 including 139 written and 526 oral and electronic applications.

families, dismissal of guardians without any legal grounds, conditions in the guardian's family, etc.

Application statistics compared to the previous years show that topical issues continue to include the right of a child to grow up in family (94 applications in 2012, 163 in 2013 and 95 in 2014) and the right of orphans and children left without parental care (45 applications in 2012, 61 in 2013 and 44 in 2014). On the other hand, the number of applications concerning the right of children to free basic education has notably decreased: from 254 applications in 2014 to 77 in 2014. This may be due to the fact that this is already the second academic year of application of the new regulation for funding of teaching aids, and the practice is strengthening.

The number of applications regarding recovery of the means of maintenance has also decreased: from 73 in 2012 to 55 in 2013 and 37 in 2014. This may be explained by establishing of the simplified recovery procedure in practice. The number of applications concerning the non-observation of the principle of good governance in municipal institutions has increased. Individuals mainly complain on the lack of objectiveness and breaches of procedure.



Whenever a breach of the rights of children or the principle of good governance was established, the Ombudsman's recommendations were issued to the involved institutions, such as: educational institutions were recommended to comply more strictly with the regulatory acts in the field of child safety; a hospital was recommended to improve the rules regarding visitors; municipalities were recommended to ensure the right of children with special needs, equally to other children, to access to proper quality education at the educational institution nearest to their place of residence, and to license the educational program required for such purpose; to

formulate criteria and identify the recipients of meals at the educational institution financed by municipality; to review the norms for calculation of dwelling allowance to orphans and children left without parental care, so that the allowance covers the actual costs incurred for the use of dwelling; custodian courts were recommended to adopt a motivated decision on the occasions they select to exercise their right to refuse disclosing of information regarding the child's whereabouts; where voluntary enforcement of the decision of custodian court is impossible and children are not emotionally prepared to the enforcement of decision, the compulsory enforcement should be postponed and attracting of a psychologist should be considered.

The Ombudsman issued opinion in 2014 on a number of socially important matters, primarily on the legal regulation concerning the authorities of custodian courts and the mechanism for protection of rights in making the decisions of custodian courts subject to judicial control.

In 2014, the Ombudsman also participated in the drafting of several regulatory acts and amendments thereto; for example, he proposed to abstain from supporting the amendments proposed by the Saeima deputies to the Law on Maintenance Guarantee Fund concerning the publishing on the website of administration of the Fund all data of the parents who have means of maintenance paid for their children from the Maintenance Guarantee Fund.

The access of any persons to personal data without legal grounds is impermissible from the aspect of protection of personal data. Publishing the data of overdue means of maintenance by a father or mother also affects the right of a child to privacy: it constitutes disclosure of the fact that parents of the child have had dispute regarding the child's maintenance, and that one of the parents has filed a claim with the court while the other one fails to voluntarily enforce the judgment; it also indicates that the financial condition of one parent is insufficient and that means of maintenance for him or her are paid from the State budget. Access by third parties to such data may adversely affect the child by making him or her subject to the risk of emotional violence, social exclusion, etc. The effect of the draft law may turn out controversial to the purpose, that is, it may infringe the child's rights and lawful interests because the child may often humiliated if other people learn about the debt obligations of his or her parents.

The present regulation – Section 71 part One of the Law on the Protection of the Rights of Children – stipulates that any data that are likely to adversely affect the child's future development or to preservation of the child's psychological balance are subject to non-disclosure. Unfortunately, the Ombudsman's objections were not taken into consideration and the regulation was integrated in the law. The Ombudsman therefore exercised the statutory right to file an application for the institution of proceedings with the Constitutional Court.

In 2014, the Ombudsman was also actively promoting the public awareness of the rights of children and the mechanisms for protection of such rights; with special focus on security of children at educational institutions. Seminars were organized for social pedagogues and other subjects of protection of the rights of children. The specialists of our office in the area of the rights of children also took part in a number of public discussions, such as the discussion "Difficult nature: what does it mean and how do we handle it?" arranged by the Psycho-Somatic Clinic of Riga Stradina University.

The priorities chosen annually in the field of the rights of children include not only the issues of socially under-protected children but also those that affect each and every child in Latvia. So, increased attention was paid in 2014 to the following topics: fostering the right of children to grow up in family; the access right of children to their imprisoned parents; and preventing violence in educational institutions.

In 2014, the Ombudsman made scheduled monitoring visits to the municipal institutional child care facilities (orphanages) focusing on specific issues such as the placement of children in psycho-neurologic hospitals; parental access prevented due to distance; insufficient preparedness and supervision of foster families and guardians; educational issues at boarding schools; supervision of foster families and guardians including the managers of orphanages by custodian courts, etc. The summary of monitoring results was presented by the Ombudsman to the general public at the annual conference[2].

In order to promote the availability of foster families and guardians for the children left without family-based care, the Ombudsman applied in 2014 to all municipalities of Latvia with the appeal to support foster families and guardians: to assess the possibility of determining appropriate forms of aid and support, and to inform about the existing situation. The municipalities were asked to reply within four months, so that they could assess the existing situation and find solutions for increasing support on the occasions of insufficient support.

In 2014, the Ombudsman's attention was also drawn for the first time to the issues concerning the enforcement of the rights of children of imprisoned persons. A study of the right to access of prisoners and their children was launched with the view to assess the compliance of the existing situation with the human rights standards and to promote understanding of the position, needs and observation of rights of such children, because the restriction of access rights presents a major problem. A poll of 430 prisoners was carried out in cooperation with the Prison Administration (hereinafter – the PA) at all prisons of Latvia, as well as poll of 44 children at 11 municipal orphanages within the orphanage monitoring scheme. Development of proposals for improvement of the normative regulation is scheduled to 2015.

[2] Available at: http://www.tiesibsargs.lv/sakumlapa/-tiesibsarga-2014.gada-konference-papildinata-ar-prezentacijam

In 2014, the State Language Center acting upon the Ombudsman's initiative, provided a repeated translation of the United Nations (hereinafter – the UN) Convention on the Rights of the Child of 1989 in order to make the society aware of their rights. It was necessary because the terminology used in the existing translation is occasionally incorrect and non-corresponding with the original text. For example, the term "adoptation" is used instead of "adoption", and expression "in case of parents who do not live together with the child" instead of "parents who live separately", and so on. The most relevant inaccuracies include the translation of Article 21 paragraph b) of the Convention where the institution of foster family described in the original text is missing. Such mistake has probably occurred due to the fact that no foster families existed in Latvia at the time when the Convention was translated for the first time.

It was also identified in 2014 that translation of the Convention on the Rights of the Child into Latvian had not been published in the official bulletin "Latvijas Vēstnesis". The Ombudsman therefore asked the Ministry of Foreign Affairs to ensure publishing of the updated translation in the official bulletin "Latvijas Vēstnesis", and it was published on 28 November 2014.

The Ombudsman's Office cooperated in 2014 with the Faculty of Law of the University of Latvia enabling the students to gain extended knowledge in the field of the rights of children.

On 27-28 March 2014, specialists from the Rights of Children Division participated at the international conference "Growing with Children's Rights" aimed at implementation of the **Council of Europe Strategy for the Rights of the Child 2012-2015**[3].

On 9 and 10 April 2014 the Ombudsman participated within the framework of international cooperation at the annual seminar of Ombudsmen of the Baltic States and Poland in Vilnius, Lithuania, where the Ombudsmen presented the actualities of their work and discussed topics such as out-of family care of children: fostering the care of children in family; national strategies for de-institutionalization children and publicly available information; role of the UN Committee for the Rights of Children in the ombudsmen work, and the application of General Comments; the problems related to "Baby Boxes"; the rights of children who belong to national minorities; support to children in the mastering of educational material; and solving of the issues of violence at schools ("Educational assistance for children and solutions of bullying problem").[4]

On 22-23 October 2014, the Ombudsman participated at the annual 18th conference and General Assembly of the European Network of Ombudspersons for Children in Edinburgh, the United Kingdom. The conference was held on the topic "The impact of austerity and poverty on

[3] Available at: http://www.coe.int/t/dg3/children/Dubrovnik/DubrovnikConference2014_en.asp
[4] Available at: http://www3.lrs.lt/pls/inter/vaikai?sakId=9903&dokId=147042&kalbId=1

the realization of children's and young people's rights".[5] The last day of the conference was devoted to the annual activities of the European Network of Ombudspersons for Children, their reports and other topics; the ombudspersons from different countries signed a joint statement[6] calling the governments of their countries to pay attention to the problems of children. The conference included demonstration of eight reels created by children and young people from European countries on the effect of austerity measures on their lives. The reels shall be also made available to general public.

Experts of the Ombudsman's Office specializing in the rights of children have provided information on several occasions to the Ombudspersons of European countries within the framework of the European network of Ombudspersons for the rights of children: for example, to the Ombudsperson of Croatia regarding the mandatory vaccination of children; to the Ombudsperson of Cyprus – regarding the fees for medicinal services depending on the type of educational establishment (public or private) and regarding the mandatory addiction treatment of children; to the Ombudsperson of Poland – regarding the involvement of children in beauty contests; to the Ombudsperson of Serbia – regarding double surname of a child; to the Ombudsperson of Bosnia and Herzegovina – regarding the insurance of students; etc.

The seminar "First psychological aid to children" was organized for specialists of the Rights of Children Division in cooperation with the Norwegian non-governmental organization "Save the children". The most urgent topics in the field of the rights of children were discussed during the meeting with the Swedish representative of the World Childhood Foundation, and the guest delegation presented their most topical projects.

1.2. The Scheduled Tasks in 2015

These include, first, repeated addressing the promotion of preventive work with children in municipalities, with the emphasis on early prevention focusing on pre-school and primary school children. Early prevention is the most effective approach to ensuring efficient development of children, while in practice adjustment of a child's behavior is only started when a teenager has already committed some more serious breach.

Second, fostering of the right of access right of children to their imprisoned parents shall be continued. It is intended in this aspect to carry out a poll of children, foster families and guardians; to draft informational and educational material; to improve normative regulations; to draft recommendations; to facilitate understanding of the problems faced by the children of prisoners among the society.

[5] Available at: http://www.garanteinfanzia.org/sites/default/files/documenti/ENOC_Programme_FINAL_20141014.pdf
[6] Available at: http://www.sccyp.org.uk/ufiles/ENOC-position-statement-on-Children-and-Austerity-2014.pdf

Third, addressing the issue of quality of technical facilities. Technical facilities include any devices that facilitate mobility of a child with disability, and enable the child to take care of himself or herself and to efficiently enjoy their leisure time, and to facilitate notably the parents' daily life. Special facilities include wheelchairs, prams, crutches, orthoses and prosthetic appliances as well as self-care devices and a number of other items. According to parents, the quality of such facilities is often insufficient to meet the special needs of the children, and the children have to wait long for such facilities, so that not only the right of a child to health care is infringed but also the right to comprehensive development. It is therefore intended to address such issue in 2015 in more details to identify the steps that should be taken to improve the provision of technical facilities.

2. Promoting the Right of Children to grow up in Family

2.1. Ensuring the right of children to comprehensive development in the conditions of municipal institutional care

Ensuring the rights of orphans and children left without parental care presents a continuous, highly actual problem. According to statistics[7], out-of-family care was provided to 7 967 children in Latvia as of 31 December 2013 including 1 854 children in child care institutions. This is one of the least protected group of children to which special attention is paid in the work of the Ombudsman.

The high number of the recipients of institutional care indicates to the failure on part of the State to put in all efforts to ensure the right to each and every child to grow up in a family.

The State has finally established the strategy of deinstitutionalization or the plan for achieving gradual liquidation of the out-of-family care institutions and promoting alternative out-of-family care, yet the transition to alternative care if too slow.

The staff of the Ombudsman's Office made scheduled visits to the municipal child care institutions of Latvia in 2014 with the view to identify the actual situation in the ensuring of the rights of children and to implement the priorities fixed in the Ombudsman's Strategy 2014-2015 in the field of the rights of children.

The monitoring was aimed at identifying the actual situation at the municipal child care institutions, focusing on the following issues:

1) Duration of the child's stay at the care institution;

2) Ensuring the access to parents and relatives of the child;

3) Ensuring availability of education at the nearest education institution;

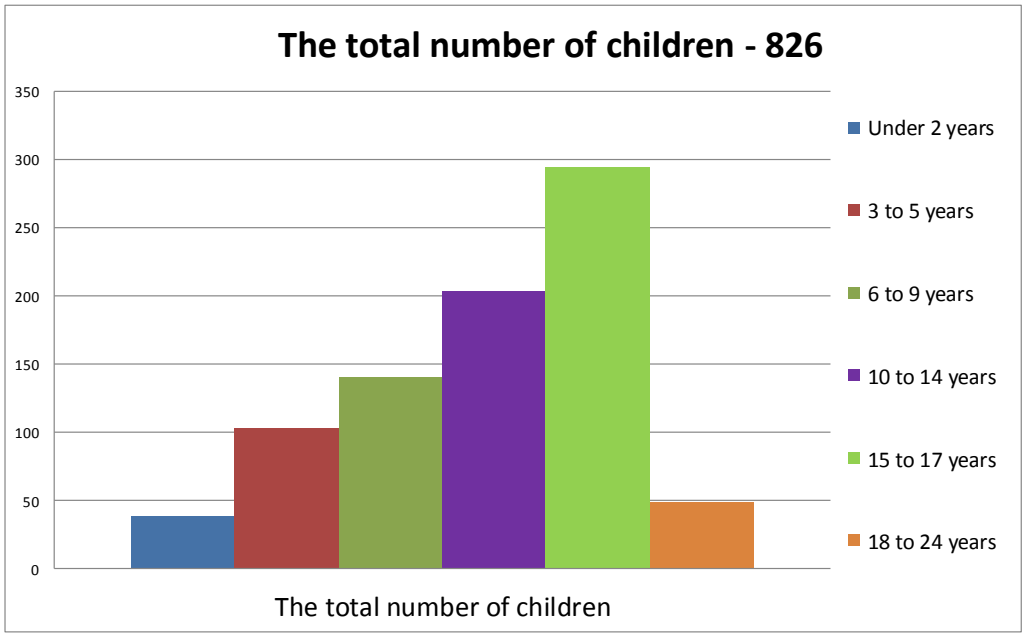
[7] Summary of report on the work of custodian courts in 2013
Available at: http://www.bti.gov.lv/lat/barintiesas/statistika/?doc=3568&page=

4) Whether or not the child's preferences regarding the type of out-of-family care: foster family, guardianship or care institution, is established prior to his or her placement;

5) The grounds for referral of children to psycho-neurological hospitals.

The following conclusions were made as the result of visits made to 21 municipal orphanages of Latvia.

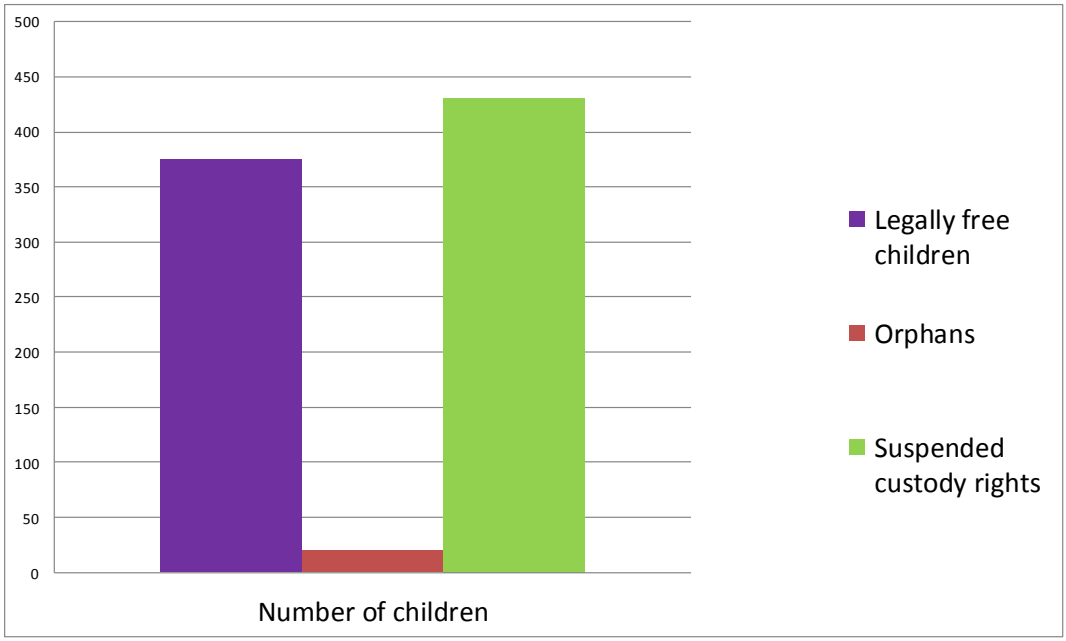
Overall Data



The monitoring carried out by the staff of the Ombudsman's Office included reviewing the dossiers of 826 children. According to the figure above, the highest number of children placed in municipal child care institutions – 294 children – are 15 to 17 years old. 203 children were 10 to 14 years old, and the lowest number of children, 39, is under 2 years.

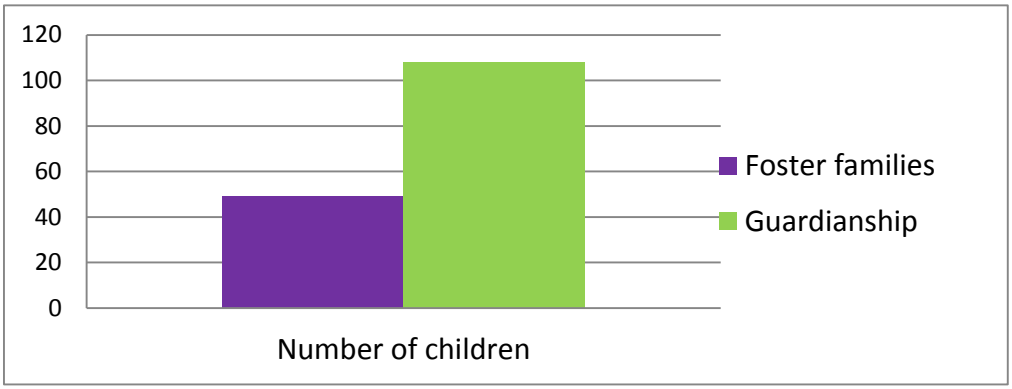
Legal Status of Children

375 children out of the total number were legally free, namely, their parents had been deprived of custodian rights by a court judgment. Custodian rights were suspended to parents of 431 children, meaning that social work with the parents continues and the children would eventually reunite with their biological family. The number of orphans made only 20 children of the total number accommodated in child care institutions.



Children with foster families and guardians

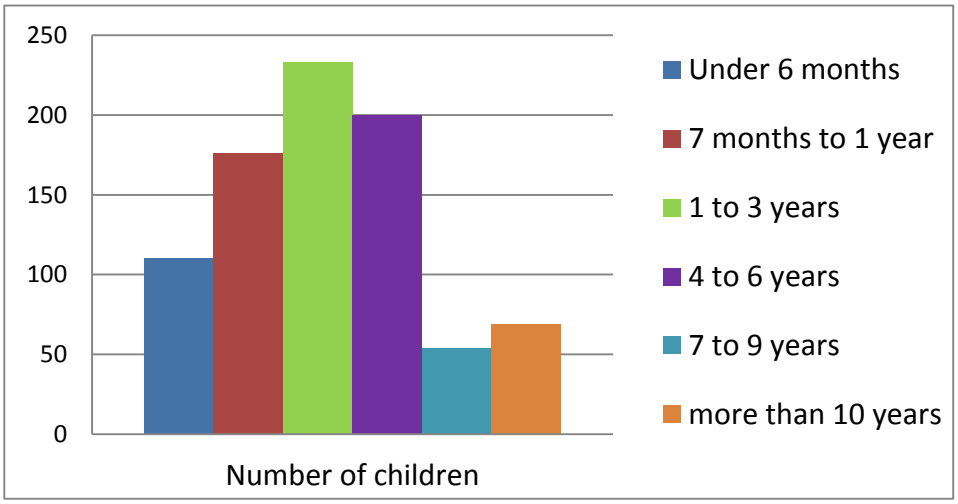
Review of the children's dossiers shows that children are placed repeatedly into municipal care institutions from foster families as well as from guardian families. In total, 108 children were displaced from foster families and 49 children from guardian families.



In the Ombudsman's opinion, such number is alarming and indicative of insufficient preparedness of foster families and guardians, and also to eventually insufficient support to such families on part of the State and municipalities. The most common reason for returning children to care institutions from foster families and guardians is the fact that foster parents or guardians are unable to handle the child's behavior. On some occasions, for example, a child lives with a guardian or in foster family from the age of three years and later the family states they are unable to cope with the teenager anymore and so they give up any further efforts. On such occasions,

children experience unacceptable repeated violence and disappointment, and therefore it is crucial to provide efficient support to foster families and guardians to prevent similar situations.

Duration of stay at care institution



Duration of children's stay at the given care institution was among the concerns of the staff of the Ombudsman's Office.

According to the information collected in the course of monitoring, the highest number of children, 233, gad spent 2-3 years in the care institution; 200 children were staying there 4-6 years, and 176 children had lived in the institution less than 7 months. 69 children had lived there over 10 years.[8]

According to Section 27 Part 3.[1] of the Law on Protection of the Rights of Children stipulates that: "Out-of-family care in a child care institution shall be ensured, if care received from a guardian or in a foster family is not appropriate for the particular child. The child shall remain in a child care institution until he or she is ensured appropriate care with a guardian or in a foster family."

It means that custodian courts are responsible for periodic reviewing of the child's dossier and for finding the possibility to provide out-of-family care with a foster family or a guardian where reunion with the biological family is impossible.

According to the collected data, however, institutional accommodation of children is comparatively continuous. Such data are indicative of the failure to review the possibility of reunion with the biological family or alternative accommodation of children with foster families or a guardian.

[8] The duration of stay means refers to the given institution, rather than to out-of-family care in general.

2.1.1. Access to parents

If the marriage of parents is dissolved and a child is placed in a care institution distant from the parents' residence, actual obstacles are caused to the exercising of the right of access by the child and the parents. Families often point out to their financial inability to visit the child with the desired and required frequency.

The right of a child and parents to maintain personal relations and direct contact is regulated in the Republic of Latvia by the Civil Law. Section 181 part Two of the said Law expressly stipulates that such right has to be ensured even if the child is separated from one or both parents. In case of children placed in out-pf-family care, the child's right to meet the parents is governed by Section 33 part One para 1 of the Law on Protection of the Rights of Children. Section 44 of the said Law stipulates that, while a child is in out-of-family care, the local government shall provide educational, social and other assistance to the parents of the child, in order to promote return of the child to the family. A foster family, guardian and a child care institution shall inform the parents regarding the development of the child and shall encourage the renewal of family ties.

In practice, a child is occasionally placed in a care institution situated on the administrative territory of another municipality, even 200 km away from the child's place of residence. Instead of encouraging the renewal of family ties, such practice prevents the parents from visiting the child and to inevitable estrangement.

In the Ombudsman's opinion, out-of-family care should be provided as near as possible from the child's place of residence to ensure that not only the child's tie with the biological family is not irreversibly lost but also other social contacts such as friends, interest education, usual environment, etc.

Similar situation also exists regarding the municipal procurements for the provision of out-of-family care service. For example, according to the information at the Ombudsman's disposal, in late 2013 the Welfare Department of Riga City Council organized a tender for procurement of long-term social care and social rehabilitation service for children in order to select the service providers in average for 188 children. The Welfare Department of Riga City Council therefore could provide the service to all children who were placed in out-of-family care and in respect of whom Riga Custodian Court had adopted a decision on the placement into long-term social care and social rehabilitation institutions. As a result of the said procurement, the Welfare Department of Riga City Council cancelled the agreements on the provision of long-term social care and social rehabilitation service with the Orphanage of Irlava County and with Eleja branch of the Social Care and Rehabilitation Center of Jelgava County, and the children continuously

accommodated in the said institutions were removed to the facilities – winners of the procurement tender.

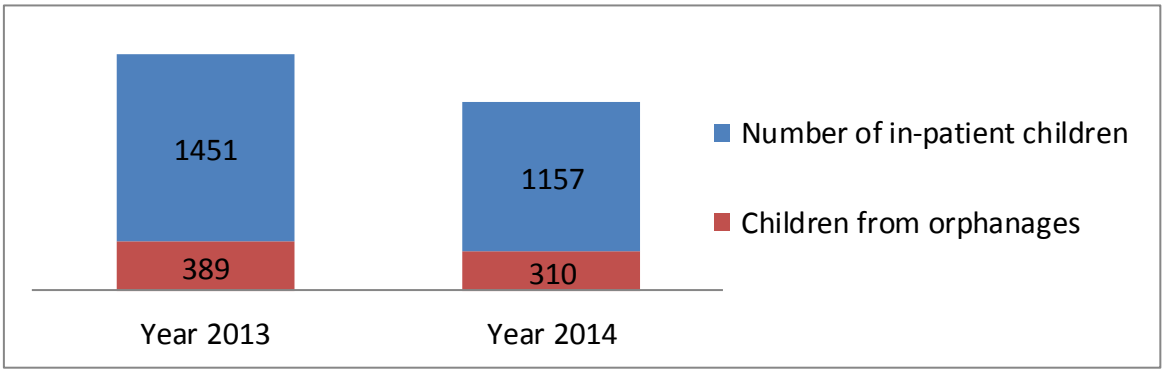
Once the service provider was replaced, several children had to change their place of residence and education, their social ties with other individuals and society were disrupted, and they had to adapt to the new conditions. Given that those children had already experienced separation from their parents, the given situation may be qualified as a major breach of the child's right to inviolability of private life from the aspect of the child's rights and interests.

2.1.2. Placement of children into psycho-neurological hospitals

In-patient psychiatric help to children in Latvia is provided by six psycho-neurological hospitals. Two of them are situated in Riga, and the others – in Jelgava, Liepāja, Daugavpils, and Ainaži.

According to the information at the Ombudsman's disposal, children accommodated in child social care institutions were frequently referred to psycho-neurological hospitals because of improper behavior. Seeking to explore the situation and the trend in general, the Ombudsman requested information from all hospitals regarding the total number of children referred to them during the most recent two years as well as information about the children from child care institutions.

Summary of the information collected from hospitals revealed that 389 out of 1 451 children referred to psycho-neurological hospitals in 2013 came from child care institutions. 310 out of 1 157 children referred to hospitals during 10 months of 2014 came from care institutions.



The given data should be analyzed in context with the total number of children in Latvia to enable more accurate understanding of the above proportion. So, there were 347 018 children in Latvia in 2013. 1 854 of them received care in child care institutions (500 children in State social care centers and 1354 children in municipal orphanages). Therefore, 345 164 children lived in family and family-based care – guardianship or foster families. 1451 children were places into

psycho-neurological hospital in 2013 including 389 children from child care institutions and 1062 from families, as mentioned above.

	2013	Referred to PNH	Inpatient children, %
Children in municipal orphanages	1354	389	28.7%
Children in families	345 164	1 062	0.3%

It may be therefore concluded that children from child care institutions are referred to psycho-neurological hospitals with ten times higher frequency than children from families or family-based environment.

The Ombudsman asked the hospitals to provide information about the reasons of referral to understand the grounds for placement of children into hospitals. The hospitals mentioned the following most common grounds of referral:

- ✓ Various behavioral disorders, demonstrative attempts of suicide;
- ✓ Mostly related to behavioral disorders (rude, aggressive, destructive behavior, trend to theft, vagrancy, lying), suicidal extortion and threats;
- ✓ Behavioral disorders of various degrees, enuresis, encopresis, changes in mood;
- ✓ Decompensation of psychical disorders expressed in the form of behavioral disorders: aggression towards other people, intentional damaging or destruction of other peoples' property, abuse of intoxicating substances, suicidal attempts, changes in moods;
- ✓ Mental development disorders coupled with behavioral deviations subject to treatment, as well as behavioral and emotional disorders.

According to the information collected from hospitals, behavioral disorders are among the most frequent grounds for referral to hospital. Reviewing the dossiers and discussions with the children revealed that the said behavioral disorders most frequently had the form of theft, lying, vagrancy, spitefulness, etc.)

The Ombudsman attempted to clarify whether or not such behavioral disorders were subject to medical treatment, and the following replies were received:

- ✓ Effective inpatient treatment is not applicable in case of diagnosis "behavioral disorders" in the form of theft, spitefulness, vagrancy, lying, etc., and there are no evidence-based medicinal data regarding the effectiveness of medical treatment.

✓ Application of medical therapy may only have the effect of correcting the child's emotionality and mobility. Delinquent behavior and the interests, manners and behavioral peculiarities resulting from unfavorable environment, however, may only be corrected by continuous pedagogic work and pedagogic adjustment.

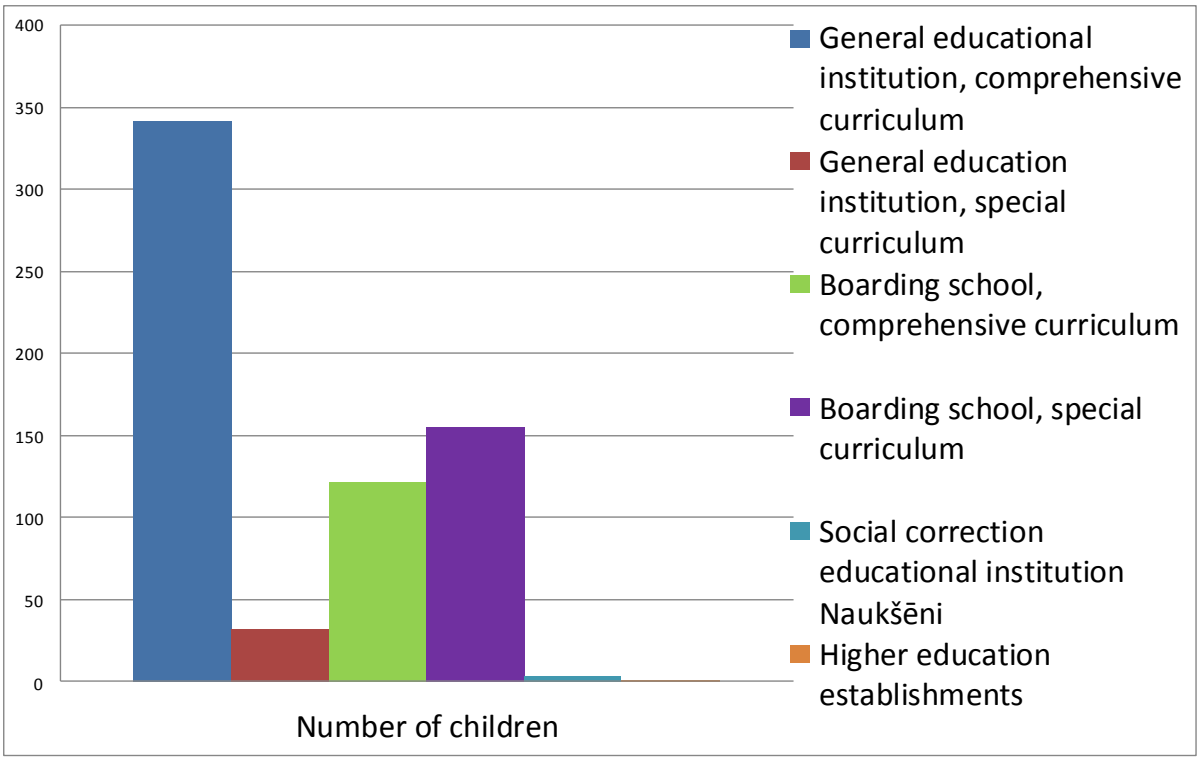
✓ Theft, lying, vagrancy and other behavioral disorders in general may indicate to developing psychical disorders or expression of a symptom among other symptoms.

✓ The process of treatment of the principal disease or primary psychical disorders, where medicines are applied along with psycho-therapeutic approach, may reduce the above-listed behavioral disorders and improve the young peoples' socialization and their social integration in society.

According to the replies issued by medicine professionals, medical treatment of behavioral disorders has no effect of helping a child. It means that alternative ways of providing emotional support and professional help to a child have to be found, so that in-patient treatment in hospital is not the only solution.

A child often needs the help of psychologist or psychotherapist, yet the care institution cannot afford to employ the relevant support staff, and so the child is most probably placed into hospital. In the Ombudsman's opinion, placement of children into hospital instead of providing the required out-patient treatment due to lack of funds is impermissible.

2.1.3. Educational issues



Section 15 part Four of the Law on Municipalities stipulates that municipalities shall care for education of the population as an autonomous function.

A number of national legal acts (such as Sections 11, 54 of the Rights of the Child Protection Law; Section 31 of the Education Law; the General Education Law) provide for the right of children with special needs to qualitative basic and general secondary education appropriate to their physical and mental abilities and preferences. There is a national and municipal level system established in Latvia for the provision of such rights to ensure that children have access to education appropriate to their needs at a special or general educational establishment including the children with special needs. Section 17 part One of the Education Law prescribes the duty of municipalities to ensure that children have access to pre-school education and primary education at the nearest educational establishment from their place of residence.

Section 53 of the General Education Law stipulates that each and every general primary education and general secondary education establishment has the right to license special curricula provided that it has appropriate base and qualified personnel required to provide education to the children with special needs.

Therefore, legal acts provide for the right of a child with special needs to qualitative education appropriate to his or her physical and mental abilities at the nearest educational establishment from the place of residence as well as the right to special aid and support from the state in the exercising of the child's rights.

It has been established in the course of monitoring that a number of children placed into child care institutions are receiving education from boarding schools, notwithstanding that they have the right to education at the nearest educational establishment from their place of residence (orphanage). The children are accommodated in boarding school throughout the academic year and they only return to the child care institutions on weekends or even during their holidays.

The municipal child care institutions that provide out-of-family care service to children including their accommodation are fully funded from the municipal budget. The municipal funding is allocated to orphanages depending on the number of accommodated children. In case of orphans or children left without parental care, the costs of accommodation in boarding schools are funded by earmarked subsidy from the State budget[9].

Parallel accommodation of a child placed into an out-of-family care institution in a boarding school enables the municipal child care institution to save the funds allocated for

[9] Cabinet Regulations No. 825 of 31 August 2010 On the Procedure for Funding of Special Educational Establishments, Special Curricula Classes (Groups) of General Education Establishments and Boarding Schools", Sub-paragraph 9.1.

maintenance of the child and to apply such funds at their discretion because accommodation costs of a child in a boarding school are funded from the State budget. It is therefore possible that the manager of a municipal child care institution who is also the legal representative of a child can place the child into a boarding school to gain financial benefit.

It should be noted that placement of the children into boarding schools not always serves their best interests because social exclusion is therefore encouraged. In particular, children in boarding schools mainly come from needy, low-income families subject to social risk, as well as children with special needs. This constitutes a breach of the children's right to family and inviolability of their privacy because, if a boarding school distant from the child's place of residence is selected, the child is prevented from maintaining personal relations and direct contacts with the parents, relatives, confidants and friends.

Given that the existing legal regulations permit double funding of the child's accommodation costs in case of a child from child care institution accommodated in a boarding school, the legitimacy and efficiency of application of the funding granted to the municipal child care institution for the provision of out-of-family care service.

Summary of the results of monitoring shows that the statements on study of the children's living conditions are formally drafted without assessing whether or not the care exercised by the guardian (manager of the orphanage) in the upbringing of his or her ward is similar to that exercised by conscientious parents in respect of their children[10]. Therefore, during 2015 the Ombudsman shall draft recommendations on the issues that require increased attention from custodian courts when assessing the living conditions of children at child care institutions, such as education, health care of the children, their access to parents, availability of alternative out-of-family care, etc.

2.2. Municipal support to guardians and foster families

In 2014, the Ombudsman's attention remained focused on the availability of alternative care for orphans and children left without parental care. According to the statistic data[11], 7 967 children in Latvia were placed in out-of-family care as of 31 December 2013 including 1 760 children placed in child care institutions (municipal orphanages and State social care centers).

The Protection of the Rights of the Child Law stipulates that municipalities are among the subjects for protection of the rights of children and they have the duty to provide out-of-family

[10] Section 255 of the Civil Law: "A guardian especially shall provide for the upbringing of his or her ward with the same care as conscientious parents would provide for their children."

[11] Summary Report on the Work of Custodian Courts in 2013.
Available at: http://www.bti.gov.lv/lat/barintiesas/statistika/?doc=3568&page=

care to the children who are left without family, on temporary or permanent basis, or in case of the children who may not be left with their families for the sake of their best interests. Section 27 parts three and 3.[1] of the said Law stipulate that, when separating a child from his or her family, he or she shall be ensured out-of-family care with a guardian or a foster family.

A child care institution shall provide out-of-family care if the care by foster family or guardian is not appropriate for the given child. The law therefore emphasizes the importance and priority of family-based care compared to the institutional care. It follows from the above-stated that municipalities have to ensure the availability of the above-listed forms of care in order to ensure the right of children placed in out-of-family care to grow up in a family-based environment.

In 2011 already, when investigating the situation, the Ombudsman concluded that provision of the right of children to care by a guardian or a foster family is affected by the insufficient number of foster families and guardians due to the lack of appropriate support from the State and municipalities. The Ombudsman informed the Saeima and the Government of the need to pursue appropriate policy for promoting the access to alternative care services, through the allocation of sufficient funding and social guarantees to the people willing to take care of children. Progress on the national level, however, is too slow. Therefore, municipalities have the key role to play in improving the situation in out-of-family care.

Increase of the number of foster families and guardians may be promoted by municipalities in two ways: first, by increasing the popularity of the movement of foster families and guardianship. Community quite often lacks information about the options of alternative care, and therefore they lack understanding of the meaning of foster families and guardianship. The second way is providing the required support and assistance to guardians and foster families. It is crucial to ensure that municipal funding to foster families (allowances for maintenance of a child and for provision of clothing and soft stock) is provided in adequate amount that covers all expenses related to the maintenance of a child.

Municipalities, when exercising their right to implement voluntary initiatives, could also provide support to guardians by payment of child maintenance allowance or guardianship allowance in addition to the State-funded allowances, and provide other assistance. The municipal aid can also include other forms of support, such as educational seminars and support groups for care-takers, access to psychologist and other specialists by the care-takers and by children; granting of various privileges, such as the right to free lunch at educational establishment. Municipalities can also arrange different events for children and their care-takers to express public gratitude for their efforts in the provision of the rights of children.

The Ombudsman applied in June 2014 to all municipalities of Latvia encouraging them to support foster families and guardians with the view to promote the availability of foster families and guardians for all children placed in out-of-family care. The Ombudsman also asked the municipalities to consider the provision of appropriate help and support and increasing awareness of the existing forms of municipal support available to foster families and guardians.

An adequate period, over four months, was granted to the municipalities for assessment of the situation and seeking the ways to increase inadequate support.

All 119 municipalities responded to the poll. Some municipalities supported the Ombudsman's efforts to promote the right of children placed in out-of-family care to the provision of appropriate conditions in a family-based environment. Some municipalities, however, still believe that provision of support to foster families and guardians is solely a function of the State. Saulkrasti County Council, for example, stated in reply to the Ombudsman's letter that the municipality finds no possibility to undertake in the nearest future the functions funded by the State[12]. Municipality of Kuldīga County informed that the concept „On improvement of adoption and out-of-family care system" had been developed by the Ministry of Welfare, and therefore the municipality would not consider any additional forms of support.[13]

2.2.1. Support to Foster Families

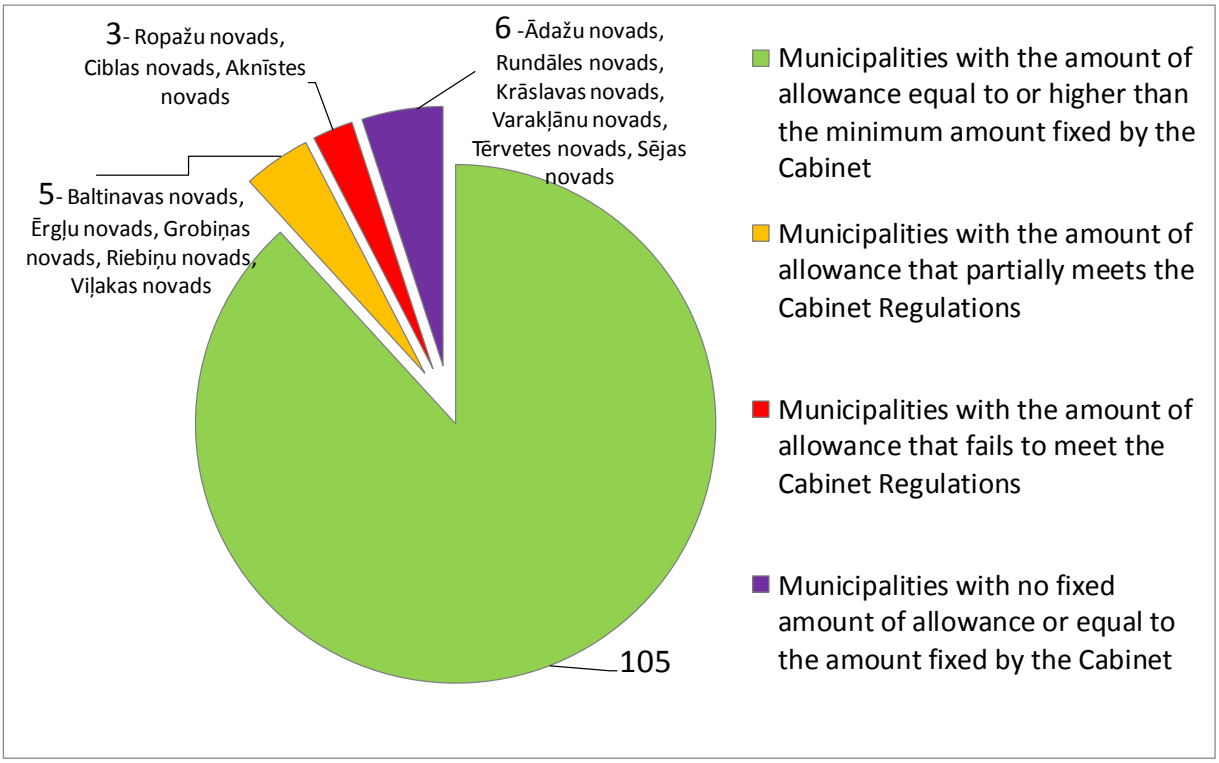
Pursuant to the State Social Allowance Law and to the Cabinet (the Cabinet) Regulations No. 1036 of 19 December 2006 For Foster Families, remuneration to foster families for performance of their function is funded by the State. The amount of such remuneration makes 113.83 EUR/month regardless of the number of children placed in the family. Allowances for the child's maintenance and purchase of clothes and soft stuff are paid by municipality in the amount fixed in their binding regulations.

Instead of disbursing allowance for the purchase of clothes and soft stuff, the respective items may be distributed by the municipalities. The above-mentioned Regulations concerning Foster Families stipulate that the allowance paid by municipality for maintenance of a child may not be less than the minimum amount of child maintenance fixed by the Cabinet. In 2014, the minimum amount was 80 EUR/month for children under 7 years and 96 EUR/month for children from 7 to 18 years. No minimum amount of allowance for the purchase of clothes and soft stuff is fixed, and the municipalities are free to fix it at their discretion.

[12] Letter of Saulkrasti County Council No. 01.-5.4./1120140014/IZI1661 dated 20 November 2014
[13] Letter of Kuldīga County Municipality No. 02-18/1373 of 23 July 2014

Summary of the information provided by municipalities showed that 113 municipalities have adopted municipal regulation regarding the mandatory allowance to foster families. Six municipalities, the counties of Ādaži, Rundāle, Sēja, Krāslava, Tērvete and Varakļāni, have not established binding regulations concerning the allowances to foster families or, if there are regulations in place, they contain reference to the Cabinet Regulations No. 1036 of 19 December 2006. Child maintenance allowance is paid by such municipalities in the minimum amount fixed in the Cabinet Regulations.

Support Provided by Municipalities



Out of 113 municipalities that have specified the amount of child maintenance in their binding relations, in 105 municipalities it exceeds the requirements fixed by the Cabinet regarding the minimum amount of maintenance. In five municipalities, namely in the counties of Baltinava, Ērgļi, Grobiņa, Riebiņi and Viļaka, the regulation only partially meets the Cabinet Regulations. In the counties of Baltinava and Viļaka, for example, maintenance allowance of EUR 85.37 is paid by municipality to foster families for each child placed with them. It means sufficient maintenance for children under 7 years and insufficient for 7 to 18 years old children since, according to the Cabinet Regulations, the amount of allowance in this group may not be under EUR 96 per month.

Three municipalities – the counties of Ropaži, Cibla and Aknīste – have fixed child maintenance in the amount below the minimum prescribed in the State. In the county of Cibla,

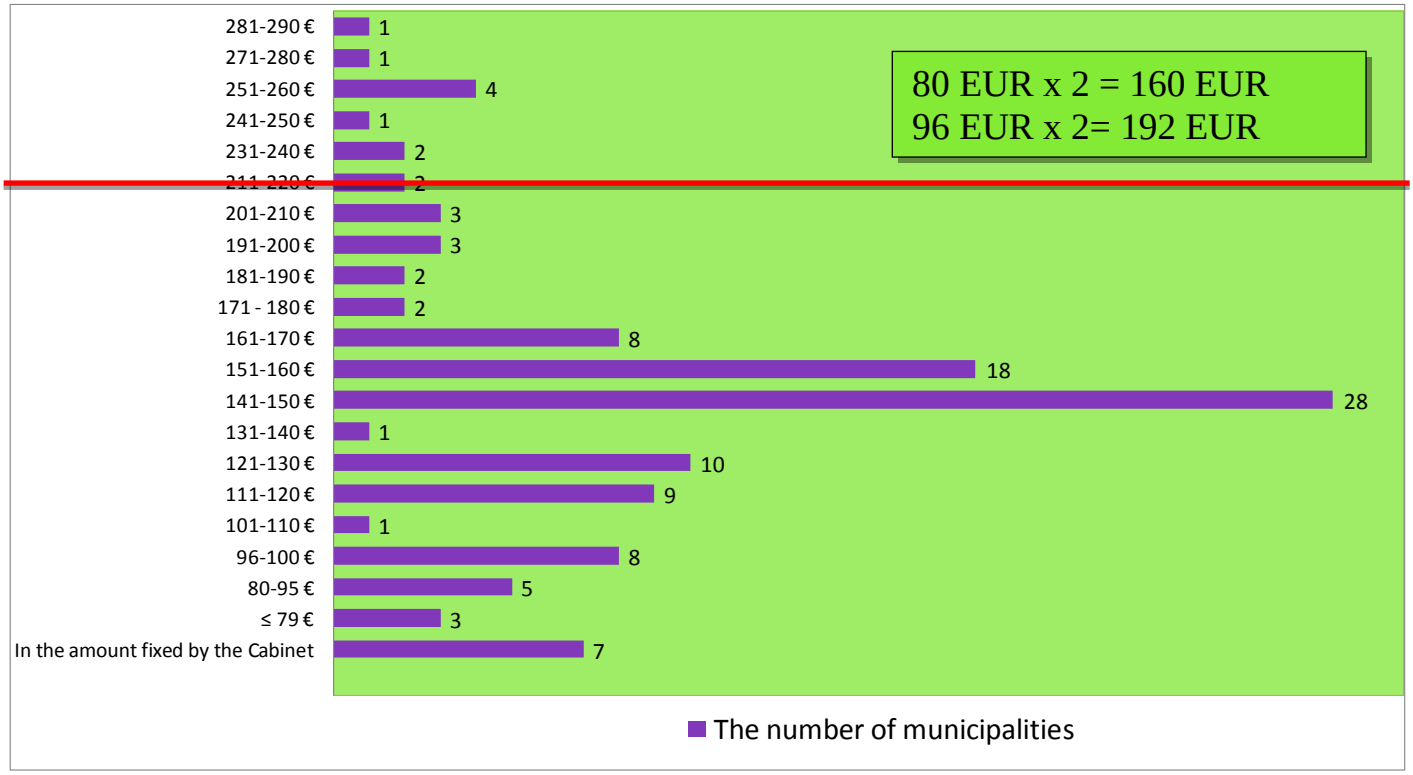
the amount of maintenance is only 60 EUR, in Ropaži – 72, and in Aknīste 75 EUR for children under 7 years and 90 over 7. The municipal regulation regarding the amount of maintenance does not fully meet the requirements set forth in the Cabinet Regulations.

On the other hand, a major part of municipalities pay increased child maintenance. The highest amount of 285 EUR/month is paid for children by municipality of the county of Stopiņi. In the county of Tukums, allowance of 280 EUR/month is paid to foster families that live in that county and take care of a child from this county. Municipalities of the counties of Iecava, Olaine, Talsi and Cēsis share the third place with the allowance of 251 – 260 EUR/month.

The allowance in other 28 municipalities ranges from 141 to 150 EUR. The allowance fixed in this group most often amounts to 142.29 EUR equal to 100 Latvian lats.

It should be noted that the amount of child maintenance is fixed by several municipalities as a rate proportional to the minimum fixed wages. Therefore the amount of allowance is increased along with increase of the minimum wages fixed by the Cabinet.

Amount of allowance paid by municipalities for children in foster families



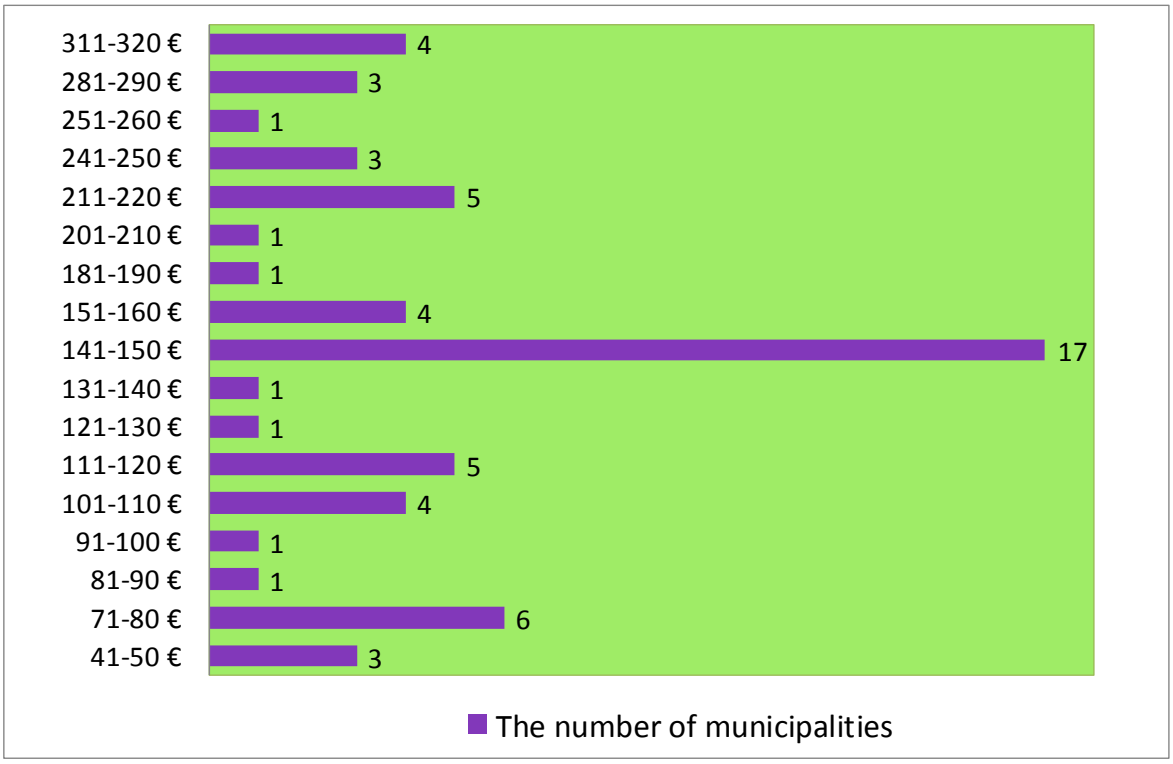
The following conclusions arise from the above chart: notwithstanding that most of the municipalities pay increased child maintenance, a few of them only (17) have fixed the allowance equal or above double amount of the fixed minimum allowance. A child has the right to monthly maintenance from both parents, that is, in double amount of the fixed minimum

allowance in the State. Such requirement regarding the minimum amount of allowance is not presently imposed by the Cabinet Regulations concerning the Foster Families, yet this issue is pending discussion.

The practice of disbursing allowance for the purchase of clothes and soft stuff differs from municipality to municipality. In 52 municipalities, for example, such allowance is disbursed to a foster family as a lump sum upon placement of the child. In 48 municipalities the allowance is fixed as a periodic payment. Some municipalities provide both a one-of and a periodic allowance for clothes and soft stuff. 10 municipalities have not fixed the amount of such allowance, and so, once there is no regulation, the foster family may apply to the municipality for providing the items necessary for the child in accordance with the Cabinet Regulations.

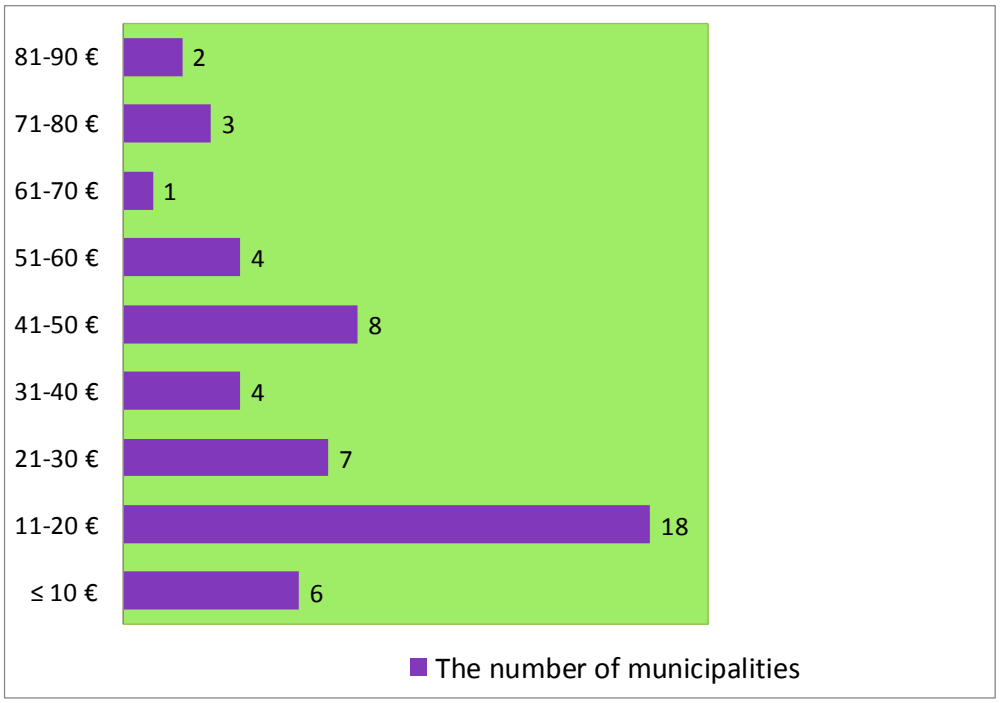
In 17 municipalities where a lump-sum allowance is available for the purchase of clothes and soft stuff the amount of allowance ranges from 141 to 150 EUR. In the counties of Ilūkste, Skrunda and Tukums, for example, the amount of allowance ranges from 31 to 50 EUR, while in the counties of Aizkraukle, Naukšēni, Roja and Talsi the one-off allowance for clothes and soft stuff is available in the amount of minimal wages fixed in the State, which is 320 EUR in 2014.

Amount of One-Off Allowance paid by Municipalities for the Purchase of Clothes and Soft Stuff



Disbursement of allowance differs among the municipalities that allocate periodic allowance for clothes and soft stuff: on monthly, semi-annual or annual basis. Comparison of data is based on the average amount of allowance payable on monthly basis.

Amount of Periodic Monthly Allowance paid by Municipalities for the Purchase of Clothes and Soft Stuff



According to the results of poll conducted in 18 municipalities, the amount of periodic monthly allowance for clothes ranges from 11 to 20 EUR. The municipalities of Jaunjelgava, Koknese, Saldus, Skrīveri, Strenči and Vecpiebalga allocate less than 10 EUR/month.

The municipality of Daugavpils has fixed the allowance in the amount of 85 EUR, and the county of Viļaka – in the amount of 85.37 EUR.

In practice, some municipalities have not fixed the amount of allowance for clothes and pay the allowance along with the child subsistence: Jūrmala (171 EUR), the county of Ventspils (160), the county of Mērsrags (170.74) and the county of Babīte (215), for example. Therefore the said municipalities are not represented in the above chart.

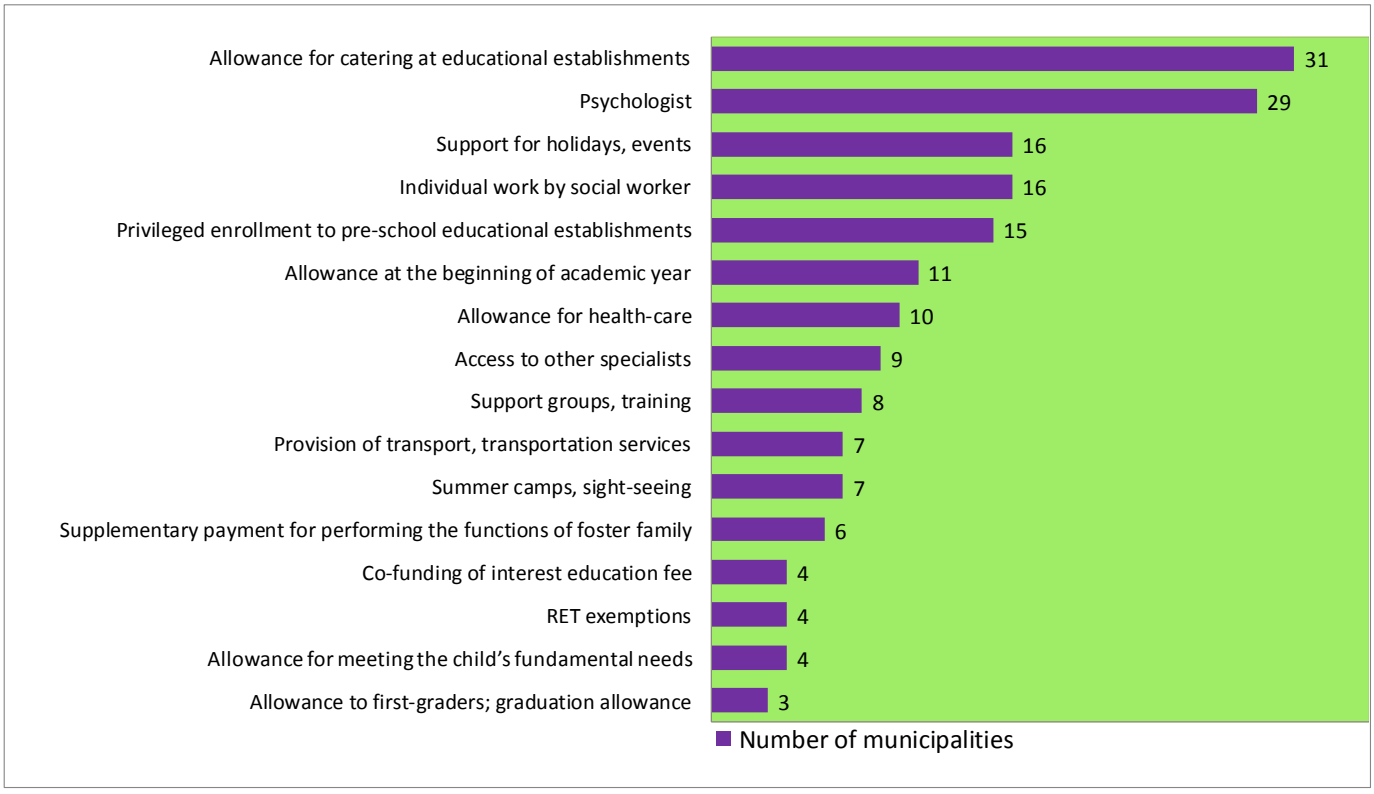
In reply to the poll, municipalities also provided information about other forms of support and assistance available to care-takers. The question in the poll regarding the additional forms of support and assistance was widely formulated to enable the municipalities to fine information about all forms of support available to foster families and guardians, because each municipality

is best aware of the situation regarding the needs of and available forms of assistance to care-takers on their respective administrative territories.

Summary of the information provided by municipalities only included the forms of support allocated by the respective municipality to foster families and guardians, with regard only to their status, and without imposing any other requirements, such as eligibility to the status of large family or low-income family required to qualify for social aid, etc.

74 municipalities informed about additional forms of support available to foster families. In practice, additional support is eventually provided by a higher number of municipalities, yet processing of information only covered the data obtained from municipalities within the framework of the poll.

Additional support and assistance provided by municipality to foster families



As evident from the chart, the additional support provided by municipalities to Foster families has many forms that can be divided into several groups.

The first group includes the support aimed at covering the costs of child care. For example, free or partially free lunch at education establishments is provided to children from foster families in 31 municipalities; 11 municipalities allocate one-off allowance for the procurement of school stuff to all children placed in their foster families; health care allowance is available in 10 municipalities including the costs of medicines, spectacles or hearing devices, services of certain profile specialists such as Orthodontist, for example, or attendance of salt room or

swimming poll, etc. Seven municipalities provide transport for the children's visits to specialists or other relevant transportation as appropriate.

Another seven municipalities provide support to their foster families in covering the costs of children summer camps and sight-seeing; four municipalities pointed out that the children placed in foster families were exempted, fully or partially, from co-payments for interest education or career counselling programs. Some municipalities provide allowance to first-graders and graduates. Four municipalities provide allowance to foster families for handling urgent issues or meeting the primary needs of a child.

The second group comprises the forms of support that enable access to specialists by foster families. It was observed during the monitoring visits to municipal child care institutions that the reasons of placement of children into institutional care include the inability of foster families and guardians to handle behavioral problems of the child. It may be therefore concluded that the municipalities should not only provide adequate financial support to care-takers to cover the actual costs of child care but also provide other, equally important forms of support: availability of psychologist and various specialists to enable a foster family and a guardian to perform efficiently their duties.

Only 29 of 119 municipalities reported on the services of psychologist available to foster families and children; 16 municipalities informed that individual assistance by a social worker was available to foster families and children; eight municipalities pointed out to various educational seminars and participation at support groups available to foster families. In nine municipalities, foster families and children had access to other specialists, such as speech therapist, ergo therapist and physical therapist.

The third group is rather related to moral support, such as arrangement of various events for children and foster families, organizing gifts, publicly expressed gratitude to foster families for their care, and certificates of appreciation. 16 municipalities informed about such practice.

Several priorities pointed out to the possibility of privileged admission of children from foster families to pre-school educational establishments as an additional form of support. This issue is especially urgent in case of municipalities with no vacancies available.

The municipalities that disburse allowance to foster families for the performance of their duties in addition to that guaranteed by the State also deserve mentioning. Such good practice is established in six municipalities: Riga, Jūrmala, Jēkabpils, and the counties of Aknīste, Salaspils, and Jēkabpils.

The amount and disbursement procedure of allowance differs from one municipality to another. Municipality of the county of Salaspils, for example, pays allowance of 50% of the amount paid by the State, for each child, while the municipality of Jūrmala city pays allowance

of 114 EUR only to foster families that are taking care of two children, and the allowance is increased by 114 EUR for each additional child. In Riga, the allowance paid for performance of the functions of foster families is 213.43 EUR/month regardless of the number of children, provided that the foster family resides in Riga and takes care for a child from Riga city who is left without parental care.

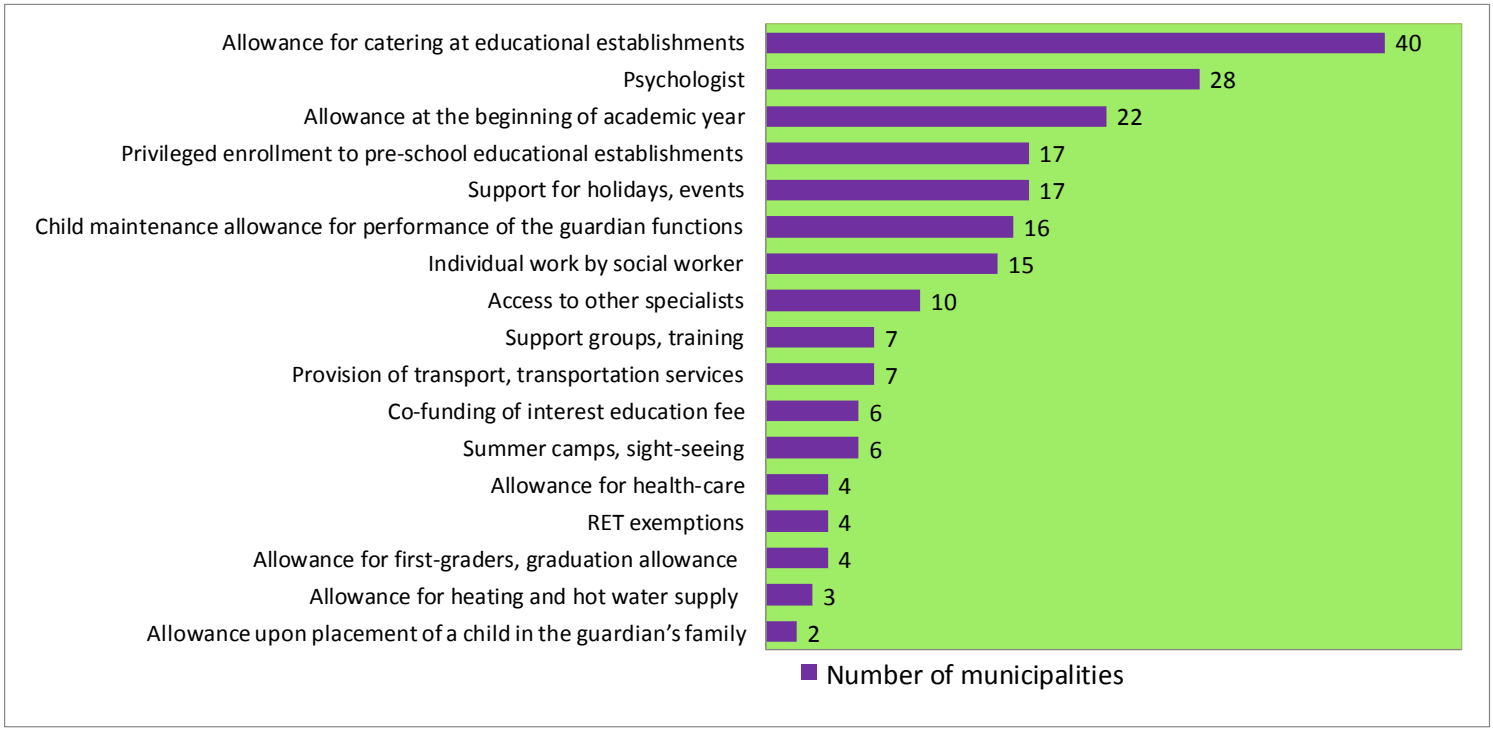
2.2.2. Support to Guardians

According to the Law on State Social Allowances, the costs related to guardianship are fully funded from the State budget: maintenance allowance for a child is 45.53 EUR/month, and allowance for performance of the functions of guardian is 54.07 EUR/month, regardless of the number of children placed in guardianship. A guardian has the right to collect maintenance for a child from his or her parents; if it is not possible, the maintenance for them is paid from the Maintenance Guarantee Fund. If a family State allowance or survivor's pension is granted for a child from the Maintenance Guarantee Fund, the child maintenance allowance is decreased by the respective amount.

In practice, the funds paid to a guardian by the State are insufficient to cover the actual maintenance costs of a child. Therefore, the allowance paid by the State for the performance of the functions of guardian are frequently applied to meet the primary needs of the child as well as personal assets of the guardian. At the same time, Section 258 part Three of the Civil Law prescribes that, if the means of a ward do not suffice to provide for his or her maintenance, the guardian does not have a duty to maintain the ward at his or her own expense.

The results of poll also show that 76 municipalities have voluntarily fixed additional forms of support and assistance to guardians. In other guardians, assistance to guardians is available in accordance with the general procedure like to any family with a child.

Forms of Additional Support and Assistance by Municipalities to Guardians



Similar forms of support are provided by municipalities to guardians and to foster families. The forms of support related to providing financial support to guardians for covering of child maintenance costs may be united in a single group. The most common forms is municipal allowance for catering at educational establishments. Such support is provided to guardians by 40 municipalities, in addition to those that provide free lunch to all children. This is the practice in Jūrmala, for example, in the county of Madona and other municipalities.

In 22 municipalities, children receive financial allowance in the beginning of academic year, including at professional education establishments. Seven municipalities provide transport for children for visits to doctors, for example, or trips to summer camps. Another six municipalities provide co-funding of interest education fee or career counselling programs, and six municipalities cover the costs of summer camps and sight-seeing by children.

Four municipalities provide health care allowance for the children placed in guardianship: the municipality shares the costs of medicines, spectacles, visits to specialists and physical treatment.

Municipalities of the counties of Engure and Jaunpils pay a one-off allowance for the purchase of clothes and soft stuff upon placement of a child in the guardian family. The amount of such allowance is fixed 150 EUR in the county of Engure and 143 EUR in the county of Jaunpils.

Four municipalities also provide financial support when a child placed in guardianship starts attending the first grade or graduates from elementary or secondary school.

16 municipalities pursue the good practice to pay municipal allowance to guardians for the performance or their functions of child maintenance allowance in addition to that paid by the State. Such form of support is provided in Riga, Jūrmala, and the counties of Engure, Iecava, Jelgava, Kandava, Limbaži, Ludza, Mazsalaca, Mālpils, Olaine, Priekuļi, Skrīveri, Tērvete, Tukums, and Mārupe. The amount and manner of disbursement of such allowance differs from one municipality to another: some fix the allowance for the second and each additional child, for example in Riga and the county of Iecava. In Riga, for example, the amount of allowance is fixed at 54.07 EUR/month.

Some municipalities pay allowance for each child: in the county of Kandava, for example, in the amount of 29 EUR/month, and in the county of Tukums – 55 EUR/month. The allowance is provided on both occasions for maintenance of the child.

The second group comprises municipal assistance to enable access by guardians and children to specialists. 28 municipalities reported on availability of psychologist for guardians and children; 15 noted individual work performed by social workers with families in a situation of crisis, and ten municipalities mentioned availability of other specialists (a speech therapist, for example). Seven municipalities provide the possibility to participate at educational seminars and support groups.

Moral and financial support is provided to guardians and children on Christmas, Easter and other remarkable occasions, like in the case of foster families. 22 municipalities reported on such practice.

In 17 municipalities where no vacancies were available in kindergartens pointed out to the possibility of privileged admission of children placed in guardianship to a pre-school educational establishment. Four municipalities provide exemptions from real estate tax to the guardians' families (the municipalities of Liepāja city and the counties of Babīte, Pāvilosta and Jelgava). Even though such form of support is not directly aimed at children it helps to maintain the income of the guardian family and therefore enables the guardian to provide for the child's primary needs.

The poll conducted among municipalities regarding the support to guardians and foster families was aimed at determining the best practice. The Ombudsman has concluded from the results of the poll that some municipalities still lack understanding of the need to support guardians and foster families, believing that such function has to be performed primarily by the State. It was established, for example, that in some municipalities the amount of child

maintenance for foster families is fixed under the normative prescribed by the Cabinet Regulations.

The functions of the Ombudsman enshrined in the law include identifying shortcomings in the legal acts regarding the observation of human rights and the principle of good governance and the application of such acts, as well as to encourage the elimination of such shortcomings. Therefore the Ombudsman's recommendations for elimination of the identified shortcomings were issued to the municipalities where the existing practice fails to meet the requirements of regulatory acts.

Results of the poll show that only 17 of 119 municipalities have fixed child maintenance allowance for foster families in double amount of the fixed minimum maintenance. No breach of regulatory acts has been identified in the practice of the other 102 municipalities, yet it means that the amount of allowance in some municipalities is insufficient to cover the actual child maintenance costs, since the child has the right to maintenance from both parents, that is, in the amount of double fixed minimum maintenance. The support to guardians by municipalities is also insufficient. As a result, the guardians resign from their duties when experiencing problems in the child care, and the children are placed into institutional care. Municipalities are rather focused on allowances, which is important, yet other forms of support are equally important: availability of psychologist and other specialists for care-takers and for children so that the quality of care is not jeopardized.

It should be noted that the action pursued by the Ombudsman, namely, the appeal to municipalities for providing support to foster families and guardians, has reached the target in a number of municipalities in Latvia. 31 municipalities informed on the intended or prepared draft amendments to their binding regulations in order to increase the level of services and support to guardians and foster families. Municipalities of the county of Aizkraukle and cities of Jelgava and Rēzekne, for example, informed about their intention to introduce in 2015 a monthly allowance to guardians for the performance of their functions, and municipalities of the counties of Cēsis, Cesvaine and Carnikava intend to fix monthly child maintenance for guardians.

Municipality of the county of Naukšēni expects to supplement the range of municipal services by training arranged for guardians. Municipalities of Jelgava city and the counties of Salaspils, Skrunda, Ilūkste and Viļāni intend to review and increase the amount of child maintenance to foster families and the allowance for clothes and soft stuff.

The counties of Ilūkste and Aizkraukle and the city of Jelgava intend to introduce extra pay for performance of the functions of foster families, in addition to the amount paid by the State. Municipality of the county of Brocēni informed about the intention to re-arrange their regulatory

acts to enable the provision of assistance to foster families by ensuring access to the lease of residential premises.

Three municipalities of the counties of Burtnieki, Jelgava and Vaiņode have adopted in summer 2014 the binding regulations that prescribe the right for children placed into guardianship or foster families to free lunch. Therefore, municipalities are in the position of assessing the existing situation and the needs of families, and providing the required support to care-takers in order to provide appropriate conditions for child care in a family-based environment.

3. The Right of Children of Imprisoned Persons to Access to their Parents

In 2014, the Ombudsman paid attention for the first time to the issues in exercising the rights of children of imprisoned persons.

Children of imprisoned persons have not been treated as a category of poorly protected persons in Latvia until present. Such children can be hardly classified as a distinct group of persons due to the lack of data regarding their number and position. Therefore we lack understanding of the special needs and rights of such children. According to the international research, however, there are a number of problems experienced by this category of children, including the restricted access rights of the child and the parents[14].

In order to assess the compliance of the given situation with the standards of human rights and to promote the understanding of the position of such children and respecting of their needs and rights, the Ombudsman's Office launched a study in the second half of 2014 regarding the access rights of imprisoned persons and their children. In cooperation with the PA, a poll of 430 imprisoned persons was conducted in 2014 in all prisons of Latvia, as well as a poll of 44 children from 11 municipal orphanages within the framework of the orphanage monitoring procedure.

"Trauma", "anxiety" and "stress" are the words that reflect psychological process of the children of imprisoned persons. It has been proven both scientifically and practically that loss or reduction of access to any of the parents is likely to have an adverse knock-of-domino effect on the child on the level of consciousness as well as sub-consciousness.

According to the studies, the children who have access to their imprisoned parents have much more positive mood. The maintenance of and support to the parent-child contacts can

[14] Hannah Lynn. "Prisons across Europe. National focus on protocols relating to children of prisoners" (eds). *Justice for Children of Prisoners,* 2013, 1 (4)), p.23.

reduce the adverse effect of the parents' imprisonment and enable positive development of the child.[15] Preliminary results of the study and the conclusions made by the Ombudsman show that the fact of imprisonment is on most occasions concealed from the child, and a major part of care-takers are unwilling to encourage the child's access to the imprisoned father or mother. The effect of such approach, however, may be just opposite. If the truth is concealed, the child can feel excluded. He or she may also suffer from his or her own fantasies due to lack of understanding of the situation. Clear and certain relations, on the turn, make children feel safe regarding themselves and the world, and help to reduce the sense of alarm[16]. It is therefore highly important to acknowledge the significance of encouraging access of the children to their imprisoned parents.

The negative reaction of society to the parents' imprisonment is another factor likely to have adverse effect on the child-parent relations and access. The loss suffered because of the parent's imprisonment hardly ever brings about compassion in other people, so the child has limited possibility to express and share his or her trouble in relation to the loss; children feel exclusion, rejection, and contempt.[17] It is therefore crucial to promote understanding of the position and needs of such children among society.

Investigation of the study enabled to conclude that at present children have limited possibilities to contact their imprisoned parents: the visits are occasional, telephone calls are brief, and meeting rooms at prisons are not appropriate to the child's needs. Frequency and quality of contacts are the key factors in maintaining the child-parent relations[18]. The access of a child and parents should be primarily oriented to the child's needs so that the child feel comfortable and protected in a strange place without being scared by the need to visit the parent. Therefore, meeting rooms in prisons should ensure a child-friendly atmosphere (appropriately furnished and maintained, with a space for playing, etc.), and also the security systems of prisons should not be injurious to children.[19]

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[15] Hannah Lynn. "Prison Visits & Families Impacts, Successes & Struggles" (eds). *Justice for Children of Prisoners*, 2013, 2 (4)), p.21-22.

P[16] K.Gulbe. Access of children to their imprisoned parents. Presentation at the Ombudsman's Conference 2014 on 11 December 2014.

Available at: http://www.tiesibsargs.lv/sakumlapa/-tiesibsarga-2014.gada-konference-papildinata-ar-prezentacijam

[17] Access of children to their imprisoned parents. Presentation at the Ombudsman's Conference 2014 on 11 December 2014. Available at: http://www.tiesibsargs.lv/sakumlapa/-tiesibsarga-2014.gada-konference-papildinata-ar-prezentacijam

[18] Ibid.

[19] Hannah Lynn. "Prison Visits & Families Impacts, Successes & Struggles" (eds). *Justice for Children of Prisoners*, 2013, 2 (4)), p.21-22.

Exercising of the right to access by means of telephone conversations and video-conferences is equally important[20]. The results of study show that the key problem experienced by imprisoned persons in accessing to their children is the brief and infrequent nature of telephone calls. Both the imprisoned persons and the children are highly willing to maintain contacts by means of video-conference. The need for video-conference was also supported by the PA.

Apart from the above-described, representatives of prisons and the PA pointed out to other issues, such as the need to prove the relationship or common household; the limited possibility of children who live abroad to access their parents, as well as the prohibition of long-term visits to the imprisoned persons.

The right of children to access to their parents is enshrined in national as well as international legal acts. According to Article 2 of the UN Convention on the Rights of the Child, the States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the parent's status. Article 9 of the Convention stipulates that the States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child..

The European Court of Human Rights (hereinafter – the ECHR) has repeatedly acknowledged in their practice that the possibility to enjoy each other's presence is an essential key element of "family life" within the meaning of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the ECPAK).[21]

Where a parent is imprisoned, the child's life can change dramatically, especially if feels the situation keenly. Such children feel shame; they feel unprotected, unsupported and "different". They experience both financial and emotional trouble in their lives.

Notwithstanding that the procedure for exercising the child-parent access is regulated and the importance thereof is emphasized by legal acts, the actual situation shows that access right of such persons is not efficiently provided. In the Ombudsman's opinion, the legal regulation should be amended and the practice should be changed to ensure effectively the access right of children to their imprisoned parents. Representatives of the industry have made proposals at the Ombudsman's Conference in 2014 regarding amendments of the legal norms; they have also acknowledged the need for improvements in the prison meeting rooms.

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[20] Committee on the Rights of the child. *Report and recommendations of the day of general discussion on „Children of Incarcerated Parents",* 30 September 2011.
Available at: http://www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2011.aspx

[21] See, for example, the ECT award of 1996 in *Johansen v. Norway* , Nr.17383/90, para 78.

Since an imprisoned person continues to be the father or mother of their children, in spite of imprisonment, and the access right of children to their imprisoned parents is problematic in Latvia, the Ombudsman expects to continue addressing the facilitation of the children's access right to their imprisoned parents also in 2015.

Other measures scheduled in 2015 also include extended poll of children, foster families and guardians, and fostering the understanding of the needs and rights of the children of imprisoned persons as a poorly protected group of persons among society. An informational and educational material for imprisoned persons shall be developed in cooperation with an expert psychotherapist on the topic of child-parent access. When the collected information shall be summarized and the range of issues shall be identified, proposals shall be drafted for improvement of the normative regulation.

4. Preventing Violence at Educational Establishments

All other rights of a child arise from the key principle, the right to development[22]. Such right is posed under threat if a child suffers from of violence as well as in case of violent behavior of the child, and therefore elimination of violence is crucial for ensuring the rights of children.

According to the norms of international as well as national law, a child has the right to protection from all forms of violence at school, at home, at social care institution or elsewhere. A mechanism for the protection of such rights is established in our country, where each stakeholder, including municipality, school, parents and the child, have their specific duties and responsibility for their non-performance prescribed by regulatory acts.

Special norms regarding safe environment in educational establishments is enshrined in the regulatory acts that govern the field of education. Educational establishments therefore have their specific responsibilities regarding the safety of the subjects of education as well as liability for the non-performance thereof.

Notwithstanding that the existing normative regulation is adequate to prevent and eliminate violence at school, such regulation is not effectively applied to actually prevent violence. The Ombudsman has concluded that violence at schools is largely related to the approach by municipalities to the performance of their function: preventive work with children. Practice shows that social behavior correction programs in municipalities are either underdeveloped or not established at all. Lack of timely preventive work may lead to severe violence. Educational

[22] The UN Convention for the Rights of the Child, Article 6 part Two: "States Parties shall ensure to the maximum extent possible the survival and development of the child." Section 8 of the Protection of the Rights of the Child Law: "Every child has an inalienable right to the protection of life and development."

establishments also fail to apply for timely assistance to municipalities in case of asocial behavior of children where the resources of the school turn out to be insufficient and provide no results.

Section 58 part Two para 7 of the Protection of the Rights of the Child Law stipulates that municipalities government shall establish a prevention file and draw up a program for social correction of behavior for each child who takes any actions that can lead to illegal behavior." Correction of a child's behavior is therefore the responsibility of a municipality (rather than educational establishment): the municipality has the duty to establish a prevention file in respect of each child from risk group and to draw up a program appropriate with his or her needs. Such program, depending on the circumstances of each individual case, may be pursued with or without the involvement of police because the drafting of program and therefore the selection of cooperation partners is the competence of municipalities. It follows from the international recommendations that community-based social work should be used preventing the contact of adolescents to the law enforcement system to the possible extent.

Asocial behavior of a child indicates to an earlier infringement of his or her right to efficient development, and such behavior has to be considered also in the context of liability of the persons responsible for bringing up the child (parents and pedagogues).

Particular attention was focused in 2014 on informing children and the subjects of the rights of children (social pedagogues, pedagogues, parents) about the right of children to safety at education establishment. For this purpose, seminars were arranges and two booklets "School without violence" were issued in cooperation with the Judicial Councler of the Republic of Estonia – recommendations to school children, parents and pedagogues. The booklets contain information about how to recognize mobbing, and recommended actions in the event of violence where a child is the victim or witness, or the source of violence, as well as information about the legal regulation. The booklets are available in electronic form on the website of the Ombudsman's Office.[23]

[23] Available at: http://www.tiesibsargs.lv/files/content/Skola_bez_vardarbibas_Skoleniem_un_Vecakiem_2014.pdf un http://www.tiesibsargs.lv/files/content/Skola_bez_vardarbibas_Skolotajiem_2014.pdf

II Civil and Political Rights

1. Provision of the Rights of Persons with Mental Impairments

1.1. Amendments to the Medical Treatment Law

The Ombudsman pointed out in report on the year 2013 that lack of appropriate normative regulation in the field of mental health has been continuously among the most acute problems. In psycho-neurological hospitals, for example, where forced treatment is provided, several measures of constraint were applied and the rights of individuals to privacy were restricted, with virtually no normative regulation established, and any restrictions were imposed according to the internal regulations of the institution.

Since no reaction followed on the part of competent authorities to the Ombudsman's directions, the Ombudsman had to apply to mass media for bringing that issue to overall attention, and he also applied to the Prime Minister. As a result, in September 2014 only the normative regulation was adopted to govern the application and contesting of the measures of constraint and other restrictions at psycho-neurological hospitals.

1.2. Processing of Sensitive Personal Data

The Ombudsman pointed out in 2014 to the urgent issue related to unjustified requesting/receipt of sensitive personal data regarding the individuals' psychical health from medicinal treatment institutions within the framework of criminal proceedings. It has been established that quite often such information was requested solely on the grounds that criminal proceedings had been instituted against a person regardless of whether or not real grounds existed regarding the person's psychical health.

As a result, this topic was discussed by the task force of the Ministry of Justice with the competent authorities and it was concluded that uniform practice that complies with the human rights has to be established for requesting sensitive personal data in criminal proceedings. The Ministry of Justice drafted and distributed to the judicial, prosecution and investigation authorities a letter pointing out that certification of persons' psychical health should only be requested if reasonable doubt exists regarding the person's psychical health, instead of requesting such data in all criminal proceedings.

1.3. Observation of Elections at Psycho-Neurological Hospitals

Inpatients of psycho-neurological hospitals have been selected as the target observation group because they belong to a vulnerable group of persons who often have restricted possibilities to protect their own rights. Historically, it has often believed on the governmental as well as municipal level that guaranteeing the right of vote was not so essential in case of persons with mental impairments, and a group of persons who had been declared incapacitated were deprived of their right of vote according to the normative regulation till 1 January 2013.

On 24 May 2014 when election of the European Parliament took place in Latvia, as well as on 4 October 2014 when the Saeima was elected, the staff of the Ombudsman's office was involved in observation of the course of elections at all psycho-neurological hospitals in Latvia. Apart from observing the election process, the staff of the Ombudsman's office also conducted a poll of patients (whether or not participating at the elections) and individual representatives of the hospital staff.

After the earlier elections already the staff on the Ombudsman's Office reviewed the normative regulation and observations made on the day of elections at psycho-neurological hospitals, and established a number of problems regarding the provision of the rights of vote in case of persons with mental disorders. In some hospitals, for example, patients were prevented from accessing to their passports and therefore to participate at the elections due to organizational obstacles, unless they had earlier notified of their intention to vote, notwithstanding that the law clearly stipulates that a person can also apply for voting in hospital on the day of elections.

Therefore, a number of recommendations were issued to the Central Election Commission as well as to psycho-neurological hospitals. When checking the implementation of such recommendations and conducting observation of the Parliament elections at psycho-neurological hospitals, the staff of the Ombudsman's Office identified a number of notable improvements, especially at hospitals; yet certain systemic problems were also established regarding the provision of the right of vote and the normative regulation in case of persons with mental disorders.

The European Parliament Election Law as well as the Saeima Election Law prescribes in Section 25: "If a physical handicap prevents a voter from voting or signing the voters' list, a member of his/her family or some other trustworthy person shall make marks in the ballot paper in the voter's presence according to his/her instructions". The regulation contained in Section 33 of the Law on Election of a Nation-Scale City Council and County Council is nearly identical: "If a physical handicap prevents a voter from voting, mark in the ballot paper shall be made in the voter's presence by a member of his/her family or some other trustworthy person".

The above regulation may lead to misleading assumption that only persons with physical handicaps would have the need and the right to rely on the assistance of trustworthy persons in the process of voting. Such regulation contradicts with Article 29 para iii) of the UN Convention on the Rights of Persons with Disabilities, since each and every person, including persons with mental disorders, have the right to support in the exercising of their rights. Therefore, persons with mental disorders have to be enabled to rely on the assistance of a trustworthy person.

1.4. Practical Application of the Limitations of Capacity

The Ombudsman's Office assessed in 2013 already the judgments made by courts during the first half of 2013 regarding the limitations of capacity, and a number of problems were identified in relation to the application of the normative regulation, and the Ministry of Justice was accordingly informed. In 2014, the Ombudsman's Office repeatedly drew the attention of the Ministry of Justice to the problems identified in the limitation of capacity process. The Ministry of Justice pointed out in their letter that they acknowledged the existence of such problems and intended to seek solution, repeatedly informing and educating the authorities entrusted with the application of legal norms and the courts on the application of such legal norms in limitation of capacity proceedings.

Taking into consideration the uncertainties regarding the practical application of the new regulation for limitation of capacity, the Ombudsman's Office continued in 2014 to provide information about the aspects of the application of such norms in the context of human rights. An opinion was issued, for example, regarding the enquiry whether or not the right to employment could be treated as personal non-proprietary rights, and whether a person with partially limited capacity and without any restrictions imposed on his or her personal non-proprietary rights was entitled to apply in person to the Administrative Court for issuing an affirmative administrative deed on granting the status of unemployed person and registration of unemployed person. The Ombudsman's Office pointed out in their opinion that no specific section of the Civil Procedure Law contains exhaustive list of personal non-proprietary rights, and the attribution of certain rights to personal non-proprietary rights is only derived from the meaning and substance of such rights. The Ministry of Justice in their capacity of authors of the new capacity regulation (amendments to the Civil Law and to the Civil Procedure Law) has pointed out in the training course of judges when explaining the classification of rights as personal non-proprietary rights in respect of which no limitations may be imposed on the person's capacity: "Personal rights are closely related to a person and they are non-transferable, such as the right to be an author; registration of marriage, executing of testament, adoption, the right to question or acknowledge the child's paternity, etc.".

Personal rights are also mentioned in certain sections of the Civil Law; Section 705, for example, stipulates that with the taking of the inheritance, together with the rights of the estate-leaver, also all his or her obligations, other than exclusively personal ones, shall devolve to the heir.

It follows therefore from the above-stated that the right to employment is also attributable to personal non-proprietary rights since such right is closely related to the person and it may not be transferred by authorization, for example, and such right also does not devolve to the heir. Therefore a person can apply to the court in the event of restriction of such right.

In case of any doubt regarding whether or not certain rights may be classified as personal non-proprietary rights, the given case has to be assessed from the view of the person's interests, because limitations of capacity are only intended to protect the rights and interests of the given person. The court therefore has to establish whether or not the person is capable of causing incommensurate damage to himself or herself through exercising of the given right. In case of persons with limited capacity, no clear legal prerequisites exist for imposing restrictions on their possibility to obtain the status of unemployed persons and their access to employment-facilitating measures solely on the grounds of such limited capacity. On the contrary – if such refusal would be based solely on the person's limited capacity it could be classified as discrimination on the grounds of disability.

It should be noted that the UN Convention on the Rights of Persons with Disabilities is effective in Latvia since 31 March 2010, and Article 27 of the said Convention contains express emphasis on career advancement and prohibition of discrimination on the grounds of disability. In particular, Article 27 part One of the Convention reads: "States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia: a) prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions; b) protect the rights of persons with disabilities, on an equal basis with others, to just and favorable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances; c) ensure that persons with disabilities are able to exercise their labor and trade union rights on an equal basis with others; d) enable persons with disabilities to have

effective access to general technical and vocational guidance programs, placement services and vocational and continuing training; e) promote employment opportunities and career advancement for persons with disabilities in the labor market, as well as assistance in finding, obtaining, maintaining and returning to employment; f) promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business; g) employ persons with disabilities in the public sector; h) promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives and other measures; i) ensure that reasonable accommodation is provided to persons with disabilities in the workplace; i) promote the acquisition by persons with disabilities of work experience in the open labor market; k) promote vocational and professional rehabilitation, job retention and return-to-work programs for persons with disabilities."

2. Protection of Prisoners at Closed Type Facilities

In 2014, like before, the work of the Ombudsman's Office was focused on several directions: reviewing applications and inspection cases, visiting prison facilities, and participating at task forces established for improvement of regulatory acts.

The number of applications filed concerning unhuman and humiliating conditions at prisons remains equally high. 66 applications have been received in 2014 regarding the living conditions that fail to meet the requirements of human rights including 18 applications for information regarding the inspections conducted and the opinions issued earlier. Applications are filed, for example, with complaints concerning the walking areas, quarantine and reception wards at Riga Central Prison; living wards, penal isolation wards at Valmiera Prison; penal isolation wards at Jēkabpils Prison; living wards at Jelgava Prison; walking areas at Daugavgrīva Prison; penal isolation wards at Liepāja Prison, etc.

It should be noted that the audit of all prison facilities in Latvia launched by the PA in 2013 has been completed. The audit committee was entrusted with the inspection and assessment of the condition of all prison facilities to establish whether or not adequate accommodation conditions were provided to imprisoned persons. The audit was also aimed at deciding on future actions in respect of each ward (prison facility): closing or investing funds in the improvement of condition of the premises.

The above-mentioned demonstrates the willingness to address the issues regarding the improvement of living conditions of the imprisoned persons. Given the activities taken by the PA

in this respect, the Ombudsman's attention to the living and accommodation conditions at prison facilities was rather moderate in 2014, compared to other years.

In 2014, like before, the staff of the Ombudsman's Office visited prison facilities including 12 monitoring visits. Such visits were mainly aimed at investigating certain issues. Unscheduled visits were made on two occasions based on the information received at the Ombudsman's Office regarding eventually unhuman treatment.

As a result of such visits, the Ombudsman reported on one occasion to the Prosecutor General of the Republic of Latvia on the potentially illegal actions on part of the prison staff in respect to prisoners. The other occasion was related to the infringement of rights of a foreign national taken into custody.

Several visits were made in 2014 to Brasa Prison, Riga Central Prison (on six occasions), Iļģuciems Prison and Prison Hospital of Latvia. The monitoring visit of several days to Iļģuciems Prison initiated in 2013 was also completed in 2014.

2.1. Prohibition of Unhuman and Humiliating Treatment

2.1.1. Security Issues

The prisoners point out in their applications, like before, to threat on part of their prison-mates, and they request on many occasions to be moved to another prison facility because they feel threatened. Since the functions of the Ombudsman do not include deciding on the distribution of prisoners in prison facilities, such applications are forwarded to the PA for deciding on the point of facts. The number of such application increased in the second half of the year due to the closing of Šķirotava Prison on 1 October 2014.

Another urgent topic brought to attention of the Ombudsman's Office was the possibility of foreign nationals to communicate with the prison staff. In particular, the Ombudsman was informed about a foreign national kept in custody at Riga Central Facility and periodically experiencing physical coerce on part of other prisoners. The staff of the Ombudsman's Office conducted an unscheduled visit and identified after the interviews with the person in question and the staff of security division and medicinal staff that in fact the foreign national kept in custody had no possibility to complain on the violence on part of his ward-mates to the prison staff because most of the staff speaks no English. The prison staff has asked the ward-mates to translate what he says, and interview with the assistant doctor revealed that conversations were translated by ward-mates in the event of necessity to communicate with the prisoner in question.

Equitable and open mechanism for handling complaints so that the prisoners can rely upon such mechanism and complain on their fear and violence is an important precondition to ensuring that the prohibition of torture and inhuman treatment contained in Article 3 of the ECPAK.

On the given occasion, the imprisoned foreign national can only communicate in English with the prison staff and any other persons. The State has the duty to ensure effective exercising of human rights, and it is impermissible that no reaction follows to a prisoner's oral or written complaints on physical violence solely because the prison staff lacks knowledge of English language. It is also impermissible that the prison staff including medicinal professional ask other prisoners to translate what their prison-mate is saying. The risks of disclosing sensitive information to other prisoners exists, and their translation may be incomplete or even contrary to the given person's interests. The failure to ensure that a person can directly, that is, without the presence of other prisoners, communicate the information at his or her disposal regarding eventual illegal actions towards him or her constitutes a breach of the prohibition contained in Article 3 of the Convention. It is equally important to ensure that the prisoner's complaints and the replies made by medicinal professional during the visit are translated by a prison official, rather than a prisoner.

The PA was informed of the above-described situation, and the prison staff assumed the obligation to ensure that the prisoner in question is heard at least once a week by an official who speaks English.

2.1.2. Efficiency of investigation at Iļģuciems Prison

Certain problematic aspects regarding the issues of security and investigation were identified during the above-mentioned monitoring visit to Iļģuciems Prison during several days. The staff of the Ombudsman's Office revealed that the functions of investigator at the prison were performed by an official of Security and Records Division. This situation may be considered as conflicting because, on the one hand, the operational information at disposal of the official of Security and Records Division may be helpful in the work of investigator; on the other hand, such combination of offices can put under question the impartiality of the adopted decision, in particular where eventual illegal actions towards a prisoner on part of the prison staff are investigated. Objectiveness of the results of investigation would be doubtful in the given situation.

It was also identified during the said visits that on no examination is undertaken on certain occasions where minor injuries are caused to a prisoner. Such incidents are fixed in a statement. The Ombudsman pointed out to the competent institutions that, whenever injuries of any nature

and severity are caused to a prisoner, the prison facility is liable for such injury and responsible for identifying the actual underlying reasons. With the view to the foregoing, a recommendation was issued to the prison facility that any injuries of a prisoner should be investigated to avoid any doubt or uncertainty regarding the reasons of such injuries.

2.1.3. Observation of the rights of persons with movement impairments

An inspection case was instituted by the Ombudsman's Office concerning the imprisonment conditions of a person in wheelchair imprisoned in Riga Central Prison. Officials of the Ombudsman's Office made a visit to Riga Central Prison to meet the imprisoned person, his cell-mate and medicinal personnel as well as the senior inspector in charge of the prisoner in question.

It was revealed that the person could not access to shower and toilet without other persons' assistance, and the equipment was not adopted to meet the needs of a person with disabilities. The said person could not take a walk unless taken for a walk by another person.

Article 14 para 2 of the UN Convention on the Rights of Persons with Disabilities provides: States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation. The ECHR has noted in several proceedings against Latvia, such as *Grimailovs v. Latvia* and *Farbtuhs v. Latvia*, that imprisonment of a person with disabilities in a prison facility where such person is unable to move without assistance and in particular unable to leave the cell without assistance should be treated as a humiliating approach. Imprisonment conditions are humiliating if persons with severe physical disabilities are left to rely on the assistance of their cell-mates to use toilet and shower, and to get dressed and undressed. Where responsibility for a person with disability is actually imposed, even for a while, on other prisoners who lack the required qualification, the compliance of such solution is questionable.

2.1.4. Application of special means of restrain – handcuffs to life-sentenced persons

The issues inherent to the practical implementation of amendments to Section 50.[8] of the Penal Code of Latvia were brought to urgent attention in 2013 already regarding the work of the commission entrusted with deciding on the need for application of handcuffs in case of life-sentenced persons. The said norm enacted on 1 April 2013 stipulates that handcuffs may be applied to life-sentenced persons on the basis of case-to-case assessment of the risk and need.

Such decision may be adopted by a commission established by the head of prison facility, and the sentenced person also has to be heard by the commission.

Three complaints have been received at the Ombudsman's Office in 2014 where life-sentenced prisoners complain on special means of restrain – handcuffs applied to them when taking them outside the cell. On one occasion, the complainer pointed out to negative decision adopted by the commission so that handcuffs are applied to the person when taking him out of the cell, without assessing objectively the sentenced person's behavior in prison. The person appealed against such decision to the PA. Since the Ombudsman's Office has been focusing on this issue for several years already, the Ombudsman applied to the PA asking to provide further information about the said decision. The PA repealed the decision on the grounds that no explicit substantiation had been provided by the commission in their decision, and therefore the decision was based on subjective opinion of the members of commission, rather than on objective grounds.

The Ombudsman shall continue to request reviewing of the decisions adopted by the commission for assessment of life-sentences prisoners regarding the application of handcuffs, in order to assess the existing practice and the development thereof in respect of the accommodation conditions of life-sentenced persons in prisons. From the view of human rights, it is crucial to ensure that this norm is not a mere formality and that special means of restrain, namely, handcuffs applied to life-sentenced prisoners on the grounds of individual objective, rather than subjective assessment of the prisoner in question.

2.2. The Right of Prisoners to Private Life

For several years already, the Ombudsman has been expressing criticism regarding the equipment of short-term visit premises for sentenced persons: such visits only take place in a room with a glass wall. The Ombudsman has pointed out to the Ministry of Justice and the PA to the impermissibility of such practice in accordance with the normative regulations of Latvia and its non-compliance with the international standards of human rights as well as the recommendation of the European Commission for Preventing Torture (CPT). It was established, however, during the visits to Iļģuciems Prison (On 2013.16.10, 2013.13.11, 2014.04.10, 2014.04.11) that the said practice in prisons has remained unchanged.

The opinion issued regarding the visits to Iļģuciems Prison repeatedly drew the attention to the impermissibility of similar practice. In August 2014, the PA finally noted in their letter that glass partitions in all short-term visit rooms had been either dismantled or equipped with convertible glass.

It should be noted that during their visit in 2013 to the prison facilities of Latvia, the CPT delegation pointed out that similar wall partitions were only permissible on exceptional occasions. It should be noted that the Ombudsman has been pointing out to that breach for several years, yet the competent authorities have only reacted after the intervention of the international institution.

The issue of premises for long-term visits to sentenced persons was also brought to attention during the visits to Iļģuciems Prison. The prison staff had critical approach to the regulation contained in Section 45 part Three of the Penal Code of Latvia stipulating that long-term visit permits may also be granted to other person (apart from relatives or spouse) who has had common household or a common child with the sentenced person prior to the imprisonment. The term "common household" is incommensurately narrow and insufficient to reflect the real situation. Even if the prisoner has had no common household with the person in question, their relations may be very close and therefore helpful in the process of re-socialization. The Ombudsman therefore applied to the PA for reviewing the practical application of the said norm and the related problems in all prison facilities throughout Latvia in order to ascertain whether or not the said norm of law should be improved.

2.3. Access to Information

According to the Law on the Official Publications and Legal Information, the official edition shall only exist in electronic version, starting from 1 January 2013. The said Law stipulates that the State shall ensure free access for every person to the official edition and systemized legal acts at the State and municipal libraries. The PA pointed out regarding the access by prisoners to external regulatory acts that each prison facility was equipped in 2013 with at least two computer sets to ensure the access to systemized legal acts on the websites *www.vestnesis.lv* and *www.likumi.lv*.

In late 2014, however, the staff of the Ombudsman's Office established during their visit to Brasa Prison that no more computers were available at the prison library because the sentenced persons had established some unauthorized connections. Inspection of the external legal acts available at the library revealed that printouts of some external legal acts were available there, along with books that contained out-of-date versions of laws. The Ombudsman concluded that the access to external legal acts by prisoners at Brasa Prison was restricted. Administration of Brasa Prison was notified thereof, as well as the PA.

Increased attention shall also be paid during visits to prison facilities in 2015 to the access by prisoners to external regulatory acts.

2.4. Compliance of the fees for services provided at prison facilities with the principle of good governance

A number of prisoners have applied to the Ombudsman's office in previous years already discontenting to the Cabinet Regulations No. 282 On Amendments to the Cabinet Regulations No. 327 of 25 April 2006 Concerning the Pricelist of Services Provided by the Prison Administration for Charge. The prisoners pointed out that due to enactment of the said Regulations the fee charged use of household appliances for the needs of prisoners has experienced incommensurate increase. They noted that prisoners were fully supported from the State budget, and it was therefore impermissible that they had to pay higher fee for the use of electric power than people in liberty. Moreover, the prisoners mostly are unemployed or employed for remuneration that is not sufficient to afford payment of the fixed fee for the consumed electrical power. The prisoners also pointed out that fees charged by the PA for their services had increased inadequately.

Notwithstanding the conclusion made by the Constitutional Court that prisoners are fully supported by the State, it does not mean that the State has to ensure satisfaction of all their needs. Full support by the State means that a person is accommodated in a facility funded from the primary State budget where the primary needs of the person, such as accommodation, food, clothes and health care, are satisfied in accordance with the procedure prescribed by legal norms.[24]

Given that, apart from the services listed in Appendix to the Cabinet Regulations No. 327 (fee charged for consumption of a personal radio receiver and a TV set), prisoners have also free access to other forms of information, such as newspapers, magazines and library, non-provision of the services provided in the said Regulations in fact do not prevent the prisoners from access to information. Provision of services such as copying of documents or recording of information into a matrix does not constitute satisfaction of the primary needs of prisoners. Costs for the provided services have to reflect the actual costs insofar practicable, because the sole purpose of such service is the provision thereof to imprisoned persons.

It may be concluded from the information provided by the PA to the prisoners and to the Ombudsman, in correlation with the computation methods, that calculations are made with the purpose to charge the maximum possible fee, instead of the average costs of consumed electric power, with the assumption that electric devices used by the prisoners operate with the maximum possible capacity during the maximum possible period of time, in spite of the fact that most of

[24] The prisoners' needs provided for by the State are listed in the Cabinet Regulations No. 1022 Concerning the Logistic Norms for Provision of Lodging and Household Needs of Prisoners, and Regulations No. 199 Concerning the Health Care of persons in Custody and Prisoners at Investigation Facilities and Prisons.

prisoners spend most of their time on work or studies. Therefore, considerable overpayment by prisoners for the consumed electric power is observed. At present, prisoners also overpay for other services provided by the PA for charge, such as provision of note-paper, copying, etc.

Taking into consideration the conclusions made in the opinion, the Ombudsman applied to the Ministry of Justice with request to take into consideration the presented conclusions and to ensure observation of the rights of prisoners. On 5 November 2014. the Ministry of Justice arranged a meeting with representatives of the Ombudsman's Office to discuss the conclusions contained in the opinion and the future actions. On 15 December 2014, the Ministry of Justice issued their written comment regarding the Ombudsman's opinion and also reviewed the fees charged for electric power and prescribed by Cabinet Regulations No. 327. The Ministry of Justice has noted in their reply that the calculations on which the fee for services provided by the PA are based, have been made with due regard to the principle of good governance. Certain amendments to legal acts are required, however, to delete the use of personal electric shaver from the list of services provided for charge, and to substitute the words "note-paper" by the word "form". With the view to the opening of electric power market, the need for reviewing the fees charged by the PA for their services shall be re-considered. The Ombudsman shall assess the arguments contained in the letter of the Ministry of Justice and decide on any future actions for protection of the rights of prisoners.

2.5. The Right of Prisoners to Vote at Municipal Elections

An inspection case concerning the rights of prisoners to vote at municipal elections was instituted at the Ombudsman's Office on the basis of applications filed by several prisoners to whom custody as a security measure has been applied. The applicants pointed out that on 1 June 2013 they had been prevented from voting at municipal elections on the grounds that they had their declared residence on the territory of another election district than the prison or prison facility. The applicants noted that such prohibition constituted an infringement of their rights guaranteed by Sections 101 and 91 of the Satversme.

The Ombudsman concluded in the opinion that the mechanism designed in the Municipal Elections Law actually prevented the persons kept in custody from exercising their lawful right to vote at municipal elections, and therefore it contradicted with Section 101 of the Satversme. If the residence or property of a person kept in custody is situated in a city or administrative territory other than that of the prison facility, the person kept in custody is unable to vote at elections. Moreover, even if the residence or real estate of persons kept in custody is situated on the territory of the same municipality as the prison, the person kept in custody is not free to change the electoral district in accordance with the procedure prescribed by the Electorate

Register Law, because they are unable either to file the application in person or to keep with them in the investigation facility the code card/calculator required for electronic access. Further, unlike other lawful citizens of the Republic of Latvia, situation of the persons kept in custody is different, and therefore determining a uniform procedure for exercising the right of vote at municipal elections for all electorate is incompatible with Section 91 of the Satversme.

2.6. Health Care of Imprisoned Persons

In 2014, several complaints have been received from prisoners concerning the requirement to procure medicinal preparations for their treatment.

Cabinet Regulations No. 25 of 14 January 2014 Concerning the Health Care of Persons Kept in Custody and Convicts stipulate that the most appropriate and cost-effective medicinal preparations prescribed by medicinal professional of the prison facility shall be provided to prisoners free of charge.

Some complaints contain references to the effect that doctor of the Medical Division of the prison, most commonly a general practitioner, has performed the primary examination of a patient without referring the patient to a competent specialist for assessment of the patient's condition and prescribing the therapy.

Whenever similar applications are filed, Health Inspectorate as the competent authority is asked to assess the quality of the provided medical aid on case-to-case basis. The staff of the Ombudsman's Office has also made visits pursuant to the filed complaints to the Prison Hospital of Latvia in Olaine and to the Medicinal Division of Brasa Prison in order to assess the availability of medical aid at prison facilities. A psychiatrist attracted to the visits interviewed the complainers on site and examined the medical documentation. It was concluded as a result of such visits that complex inspection should be conducted at Brasa Prison because of the identified shortcomings in the availability of health care.

The Ombudsman's expert psychiatrist was also attracted to the monitoring visit to Iļģuciems Prison that lasted several days. Her opinion regarding the prison facility was positive. First, primary health examination of each prisoner is performed right upon admission, and immediate treatment is prescribed as appropriate. The required medical manipulations, examinations and consultations are provided in due time.

Second, immediate medical examination is performed upon placement of prisoners to a penal isolator to assess the compliance of their health condition, and in case of any identified health problems the penalty is postponed and the prisoner is subject to periodic examination.

Third, timely medical care is provided at the prison facility along with the appropriate entries in medical records. Certain prime specialists (psychiatrist, gynecologist) are well available at the prison facility, and an internist is available on daily basis.

Fourth, examination and scheduled in-patient treatment outside the prison facility is provided within the limits of the overall quotas. The waiting period outside the facility does not exceed the average period available to the general population.

Fifth, the prisoners have access to the necessary minimum medicine preparations including State-compensated preparations as well as the possibility to purchase medicines and receive services on their own account.

Sixth, increased attention is paid to the prisoners with suicidal inclinations, assistance of psychologist and psychiatrist is provided in the event of crisis, as well as prevention of suicides. A psychiatrist is well accessible. Any treatment is based on the principle of free will and awareness. In the event of serious suicide threat, the prisoners are monitored and treated in hospital. The information received earlier at the Ombudsman's office to the effect that prisoners are referred to the Prison Hospital of Latvia on each occasion where suicide threat is present found no confirmation.

And finally, reaction to the situations of crisis is prompt and appropriate, and a psychiatrist is consulted as soon as practicable.

2.7. Release from Prison

According to Section 119 part Two of the Penal Code of Latvia, the respective county council or state-scale city council shall provide dwelling to the low income persons released from service of sentence in accordance with the procedure prescribed by the Law on Assistance in the Handling of Dwelling Matters.

Section 14 part One of the said Law contains a list of persons eligible to the provision of dwelling on privileged basis. These include, among others, the low income persons released from prison facility after the completion of service, if such persons have been residing on the administrative territory of the respective municipality and if their accommodation at the previous dwelling in accordance with the law is impossible. The foregoing is not applicable in case of persons who have authorized privatization of the State or municipality-owned apartment occupied by them to other person and who have entered into agreement with such person on termination of the right to use the residential premises, or who have consented to the sale or other transfer of the apartment, and the person has transferred the right to such apartment as a result of the relevant transaction. In practice, however, municipalities are often unresponsive and either refuse to provide accommodation on the grounds that they have no vacant dwellings or

explain that the person can return to the declared residence, notwithstanding that such residence has not been inspected. It is therefore possible that a person actually has no dwelling.

Municipalities also point out in their replies to prison facilities that the person can apply to the municipality within six months from releasing for registration in the list of applicants to residential space. Some unwillingness has also been observed on the part of municipalities to accommodate on their administrative territories convicted persons released after the completion of service, stating as a legal argument the fact that the person's declaration in the given municipality has been discontinued. According to Section 12 part Five of the Residence Declaration Law, however, municipality in the administrative territory of which the place of residence of such person has been previously declared or registered shall be considered a place of residence of the person from the day when the information on the place of residence declared has been annulled up to the day when the relevant person has declared his or her place of residence elsewhere or the information on the place of residence in the same or another municipality has been registered in conformity with the provisions of Section 10 of this Law.

Therefore, in accordance with the above-stated and pursuant to Section 119 of the Penalty Enforcement Code of Latvia and Section 14 part One of the Law on Assistance in the Handling of Dwelling Matters, the municipality on the administrative territory of which the person has earlier had the declared or registered address, is responsible for the handling of the matters of residence in case of person with no declared residence.

If a person released from service has neither dwelling nor support of relatives, a shelter-house is the most common alternative. It is possible, however, that no vacancies are available at the shelter house on the day of release, and such alternative may only be treated as a temporary solution.

The Ombudsman brought the above-described topic to attention after the several days' monitoring visits to Iļģuciems Prison, yet it equally applies to all prison facilities in Latvia. In the event of Iļģuciems Prison, this issue requires urgent solution because the prison differs from other prison facilities of Latvia not only by tailored approach to the prisoners, interest and willingness to listen on part of the staff, but also by the wide range of activities available to the prisoners: work, studies, participation at various social rehabilitation programs. The prison administration expressed appreciation of the result achieved in the work with female prisoners in a few years helping them to get prepared for living in society. Unfortunately, many of them return to prison again due to lack of external support.

According to the applicable normative regulation, a released prisoner only gets the road money and season-appropriate clothes. Therefore, a shelter-house is frequently the only alternative, at least for a while. In the Ombudsman's opinion, if no fundamental means of

survival are provided to a person upon release, the invested work and resources have been spent without result, notwithstanding that the prison facility may have successfully implemented the process of re-socialization, unless a person has the opportunity of unassisted life in society. The Ombudsman encouraged in his opinion the PA and the Ministry of Justice to bring priority attention to this issue and involve other competent authorities in the solution thereof.

3. Right to Fair Court

378 applications have been received in 2014 concerning various aspects of the right to fair court. The number of applications has increased by 125, compared to the year 2013.

When reviewing the applications filed in this area, the Ombudsman focused in 2014 on the aspects of fair court, such as the provision of access to courts, reasonable periods of hearing, the right of persons to effective defense in proper quality, and other matters.

In 2014 also, like in previous years, the Ombudsman has issued his opinion on a number of cases of the Constitutional Court regarding the aspects of fair court, and he has expressed his position regarding a number of measures intended for improvement of the judicial system in general.

3.1. Access to Court

The Ombudsman's attention was focused in 2013 already on the inadequate access by persons to the court, given the limited scope of legal attendance provided by the State.

Negative trends in seeking to improve the efficiency of the court work in 2014 include the efforts of the Ministry of Justice to bring forward the proposals drafted by the Bar of Latvia regarding the introduction of an attorney procedure in civil proceedings without stating either the substantiation or objective need for such procedure. The Ombudsman has proposed that availability of legal aid should be first improved on the national level since the population already has limited possibilities for applying to court, given the social and economic situation.

It should also be noted that applications to the Ombudsman continue by the persons who complain on the high amount of state fee as a serious obstacle to their access to court. However, no infringements were identified in 2014 in this respect, and it was concluded, like before, that similar situations occur when a person fails to exhaust the possibilities to provide objective and comprehensive information to the court about his or her financial position.

In 2014, like in 2013, convicts complained to the Ombudsman on unfair court hearing and improper application of the Transitional Provisions of the criminal Law enacted on 1 April 2013. A convict pointed out in the application, for example, that the first instance court as well as the

appellate instance court had not properly decreased the imposed sentence in accordance to the relevant amendments.

3.2. Reasonable Period of Hearing

The urgent issues that have not changed in 2014 include reasonable period of hearing. This is true in respect of criminal as well as civil and administrative proceedings.

In late 2013, the Ombudsman was looking forward to the proposed amendments to the Law on Judiciary expected to provide increased opportunities for the chairperson of a district (city) court and regional court to arrange effective hearing, including to control the progress of proceedings in a reasonable period of time. This mechanism is not efficient, however, due to the overall overload of courts. Riga City Zemgale District Court, for example, pointed out to the excessive work load of judges preventing the hearing in reasonable periods.

A number of inspection cases conducted in 2014 were aimed at assessing the hearing period. The Ombudsman also identified breaches in certain occasions. In the inspection case No. 2014-2-4D, for example, the Ombudsman found the collected information sufficient for calling the judge to disciplinary account for delaying the proceedings, and so he applied to the Ministry of Justice for assessment of the collected information. The competent ministry held, however, that such actions on part of the judge who failed to schedule the court hearing and to render a judgment in due time presented no grounds for disciplinary liability prescribed by the law, and they should rather be treated as shortcomings in her work; therefore the Ministry of Justice, exercising organizational management function in respect of the court, found it sufficient to address the chairperson of Riga City Zemgale District Court for discussing the committed breach with the judges in order to prevent similar shortcomings in future.

In the inspection case No. 2014-22-4D, the Ombudsman did not identify any infringement of the right of person to fair court in reasonable time; certain delay was only identified in a separate stage of legal proceedings; at the same time, a breach of the principle of good governance was established in this case in handling of the person's application. The applicant had pointed out to the court chairperson that three judges had been replaced in proceedings pending with the first instance court for three years already, including a judge who resigned from the office during the annual leave of the justice in charge who expected to retire after the leave, and so the applicant's right to fair court in reasonable time was infringe. No reply was issued to the application, and the application was inserted in the file. The Ombudsman criticized in his opinion the effect of such actions on part of the court on the mechanism established by the legislator for handling the situations where a number of shortcomings are identified in the course

of proceedings from the view of the right to fair court, likely to result in infringement of the right to hearing in reasonable period of time.

In the inspection case No. 2014-49-4D, the applicant pointed out to civil dispute regarding a real estate the settlement of which was pending since 1992. Taking into account the above-stated, it has been concluded from materials of the inspection case that the case has been heard by various court instances nearly during 21 years and 6 months. Examination of progress of the case through different court instances showed that the delays in hearing of the case, in particular from 1994 to 1998, were caused by frequent petitions of the parties for postponing the hearing because of their health condition or unavailability of defense counsels. The hearing was also delayed in 2004-2006 due to the postponing requested by the parties and also due to inability of the parties to reach agreement. The Ombudsman pointed out in the opinion that not only the court but also the parties to proceedings have certain duties in the ensuring of hearing of a case in reasonable period of time.

In examining eventual breaches of the right to hearing in a reasonable time, however, not only the actions of parties to proceedings should be taken into account but also the actions of the court and the possibility to exercise control over the proceedings including to ensure well-disciplined behavior of the parties and uninterrupted progress of the proceedings. The ECHR have pointed out that, even though court instances are not responsible for behavior of the parties, such behavior does not, however, the court from ensuring the completion of proceedings in a reasonable period of time.

It has been concluded in the inspection case that the court has applied remedies to the parties to proceedings for non-attendance only on one occasion. It has also been established in the inspection case that, apart from the periods when hearings had been postponed without any procedural actions required, downtime of the case at various court instances has exceeded six years and one month. Therefore, infringement of the applicant's right to hearing within a reasonable period of time has been established.

Taking into consideration the findings made in the case and the fact that at the time of issuing the opinion the civil case was presented for hearing to the Supreme Court, the Chairman of the Supreme Court was urged to take immediate steps and ensure that the civil proceedings are completed in compliance with the standards of the right to fair court enshrined in Section 92 of the Satversme and Article 7 of the ECPAK.

Finally, a recommendation was issued that the applicant should file a claim with general jurisdiction court against the Ministry of Finance of the Republic of Latvia for adequate indemnification against infringement of the right to hearing within a reasonable period of time pursuant to Section 92 of the Satversme.

It has also been observed in 2014 that Section 49.[1] part One para of the Criminal Law 1 which is recognized by the ECHR as an efficient mechanism for the protection of rights is applied with increasing frequency in the trial of criminal proceedings with unreasonably long duration. It should be noted, however, that similar judicial practice is unable to solve the problem in respect of the victims in criminal cases, since they still have no effective mechanism for protection of their rights available in the event of infringed right to reasonable period of hearing, and the only remedy available to them for compensation of such infringement is application to a general jurisdiction court on the grounds of Section 92 of the Satversme.

The negative examples observed by the Ombudsman in practice in 2014 also include petitions filed by a person with disabilities with the Regional Administrative Court for scheduling accelerated hearing of criminal proceedings (where such person contests a decision adopted by municipality on refusal to register the person in the waiting list for dwelling), because hearing of the case in appellate procedure was scheduled after a year. Notwithstanding that the person pointed out to certain individual, objective circumstances, the judge had declined the petition. Application by the Ombudsman to chairperson of the court referring to the relevance of hearing in reasonable time and drawing the attention of the court to material circumstances of the given case, on the turn, had a positive result: the hearing was scheduled to an earlier date.

The fact, that apart from performing the scheduling supervision function prescribed by the law, chairpersons of some courts have also taken other steps to improve the work of courts in general, should be appreciated as a positive aspect of the amendments to regulatory acts.

The general meeting of justices of the Civil Division of Riga Regional Court, for example, discussed the issue of procedural rules applicable to the keeping of court records and the judicial culture. Attention of the justices was also brought to the requirement that court records should reflect explicated and motivated court rulings substantiated by procedural norms of law including Sections 209 and 210 of the Civil Procedure Law, in order to enable parties to the case to gain full understanding of the procedural actions taken by the court including the motives and grounds of postponing the hearing.

The Ombudsman appreciates the activities of the Ministry of Justice aimed at ensuring timely hearing, for example, by drafting amendments to the normative regulation on transferring the hearing to another case, as well as the guidelines drafted for application of the said amendments and the increase of the number of justices.

3.3. Qualitative and Effective Defense

Since the right to fair court also includes the right to qualitative and effective defense, the Ombudsman emphasizes the fact that, according to the results of certain inspection cases, the

counsels appointed by the State have not ensured the right of a person to actual and effective defense. Similar shortcomings have been established in two inspection cases.

The inspection case No. 2013-171-4K, for example, was conducted for assessing whether or not the right of person to fair court has been ensured and whether or not the defense provided by the State in proceedings regarding the application of the measures of medical restrain against R.K. who did not attend the court meeting.

The court released R.K. from criminal liability in 2012 in criminal proceedings and ordered the application of a measure of medical restrain: treatment at a guarded psychiatric hospital. In 2013, R.K. filed with the court a petition for replacing the applied measure of medicinal nature by another, less restrictive measure. R.K. did not attend the court meeting, and his defense was provided by defense counsel compensated by the State because, according to the Criminal Procedure Law, the presence of defense counsel is mandatory in similar proceedings. The court declined the person's petition as unsubstantiated.

The Ombudsman concluded in the opinion that, contrary to the person's petition for replacement of the measure of medical restrain, the defense counsel applied at the court meeting for continuing treatment of the person at guarded hospital, thus sharing the opinion of medicine professional and the prosecutor. Moreover, the failure on part of the defense counsel to familiarize with materials of the case prior to the meeting followed from the record of the court meeting. It was also established in the inspection case that the defense counsel had neither made any contacts to the defended person or his attending physician nor otherwise collected any information regarding the actual situation prior to the court meeting to be able to protect efficiently the person's interests at the court meeting.

It was therefore concluded in the opinion that the defense counsel appointed by the State failed to ensure defense of the person and acted contrary to the interests of the defended person in breach of the norms of the Code of Ethics of the Bar. In the Ombudsman's opinion, such approach may not be treated as effective defense in compliance with the rights guaranteed in Article 6 of the ECPAK.

The Bar of Latvia was notified of the conclusions recorded in the Opinion asking to repeatedly pay the attention of attorneys to the right of persons with mental impairments to effective, state-funded defense that serves the best interests of the person.

On another occasion, examination of the circumstances in the inspection case No.2012-175-3F revealed that initially N.A. had voluntarily applied for treatment to hospital, and later only he remained there because of unsubstantiated assumptions on part of the medical staff of the hospital regarding the need for keeping the person in a closed ward of the hospital till the court would render the ruling, in contradiction with the statutory procedure. It is concluded in the

Opinion that similar restriction of the person's liberty was pursued in breach of Article 5 of the ECPAK. Moreover, misleading of the patient regarding the need for in-patient treatment without obtaining an appropriate court ruling, instead of explaining and observation of the rights of patient, may lead to long-term adverse effect and compromise the trust in medicinal staff.

Regarding the observation of persons' right to fair court, the Opinion contains the conclusion that the right to fair court had not been ensured in the legal proceedings for application of the measures of medicinal restrain because the person's right to effective defense was not ensured as well as the access to appellate instance court as required by Article 6 of the ECPAK and Article 14 of the UN Convention for the Rights of Persons with Disabilities.

The Opinion was forwarded for information and consideration to the hospital administration. It should be added that representative of the person filed a complaint on the given case with the ECHR and the complaint was accepted.

Apart from the above-mentioned cases where observation of rights involves persons with mental impairments, and the Ombudsman's Office has also identified established similar issued in previous years concerning the application of Section 68 of the Medical Treatment Law in practice, it also follows from the received applications and from the information obtain in course of consulting that people in other proceedings do not expect qualitative defense from the providers of legal assistance appointed by the State because it is assumed that remuneration paid by the court to defense counsels is inadequate and so qualitative assistance should not be expected either. In the light of the above-stated, the amount of remuneration provided by the State for legal assistance should be reviewed, and participants to proceedings should be educated regarding observation of the right to fair court in case of persons with mental impairments.

3.4. Hearing of Administrative Offences

Ensuring the principle of equality of the parties in administrative offence cases was assessed in two inspection cases conducted in 2014. Ensuring the equality of parties was also assessed in relation to the summoning of witnesses as well as complaints filed by the parties concerning refusal to apply written procedure and concerning the statements made by judges.

In the inspection case No.2014-71-4F, for example, complaints of a person were assessed in relation to statements made by the judge at court room and indicating, in the applicant's opinion, to potential prejudices present in the debates. The person also pointed out in the application to inequality in the witness summoning procedure: summons were issued to the witnesses on part of a public body, while the party brought to account had to ensure attendance by the witness on their part. Finally, the applicant pointed out to significant discrepancies between the audio record of the court meeting and the minutes of the first instance court, in

particular regarding the statements of the judge and the summoning procedure in respect of witnesses. The said complaints had been neither examined nor reacted upon by the appellate instance court.

The said facts found confirmation in the inspection case conducted by the Ombudsman, and therefore the legal proceedings in the given administrative offence case did not meet the requirements of Section 92 of the Satversme and Article 6 of the ECPAK.

It has been concluded in the two above-mentioned inspection cases that serious shortcomings in the ensuring of several guarantees to the right to fair court have resulted in aggregate in infringement of the person's right to fair court.

In other two inspection cases, the eventual infringement of the right to access to a substantiated judgment was assessed in administrative offence proceedings. In one occasion the infringements found no confirmation while facts in the other case made us to conclude that shortcomings in substantiation by the court in correlation with other serious shortcomings in the ensuring the right to fair court in the overall proceedings have resulted in infringement of the person's right guaranteed in Section 92 of the Satversme.

A potential infringement of the person's right to fair court where complaint of the person had been left without considering by the court in administrative offence proceedings was assessed in the inspection case No. 2014-30-4C. The Ombudsman conclude in the Opinion that in 201w already the legislator had made significant amendments to the Administrative Offence Code of Latvia (hereinafter – the AOCL) introducing a new legal norm regarding representation of a person and imposing on person the duty to participate in person at the proceedings. In the given situation, however, where authorized representative of the person was not admitted to the court room without substantiating such refusal by the court, and the appellate instance court referred to non-compliance of the proxy with the norms of the AOCL, it was essential in the given inspection case to establish the opinion of other bodies, namely, the Ministry of Justice and the Council of Notaries Public. The Ombudsman therefore shared the view of the Council of Notaries Public that no formal approach is permissible when interpreting the scope of proxy, and requirements to the parties to proceedings should be commensurate to the level of their legal qualification and skills. The court should strictly require compliance with the norms of law in respect of the bodies representing the State as the respondent, while in case of an individual applicant the court should apply the measures for protection of the individual's interests to the extent permissible by the law so that the individual is not prevented from access to court.

It is therefore pointed out in the Opinion that arguments of the court regarding the non-compliance of the issued proxy with the requirements of Section 262 of the AOCL deserve no support, and it is further pointed out that narrow interpretation of Section 262 of the AOCL by

courts fails to achieve the objectives set by the legislator: to ensure higher procedural standard (corresponding with that of criminal proceedings) in administrative offence cases.

The opinion also draws attention to the judicial practice of the ECHR and Latvian courts, indicating that Section 289.[7] of the AOCL is only applicable if the applicant has lost interest in the case and ignores summons to the court meeting, and this was not the confirmed in the given inspection proceedings.

Having assessed circumstances of the case in their entirety, the Ombudsman concluded: the court ruling and the reviewing thereof by the appellate instance has formally ensured access to court by the person, however, given that such rulings prevent the person from having their claims heard in point of facts, an infringement of the right to fair court guaranteed in Section 92 of the Satversme can be established.

3.5. Hearing by Video Conference

In 2014, the Ombudsman also addressed the issue of holding court meetings by video conference at prisons in order to assess the ensuring of the rights of prisoners to fair court in such process. The project for equipment of all prisons with video conference facilities was finalized in 2012 already, however visits to certain prisons revealed lack of uniform approach to the application of such technologies.

Different practice exists in prisons in the handling and provision of video conference matters. Given that the number of court meetings held by video conference trends to increase, the identified shortcomings should be timely eliminated and uniform approach should be provided to the application of video conference in all prisons, and the required additional resources should be procured where appropriate.

Imprisoned persons also pointed out to certain problems in this process, in terms of ensuring effective defense as well as other aspects that prevent persons from efficient exercising of their rights. Detailed investigation of this issue is expected to continue in 2015, yet the Ombudsman has already drawn the attention of the PA to the fact that normative regulation prescribes enabling the prisoners to familiarize with material of the case (including records if the court proceedings are fixed by technical means); in practice, however, the prisoners – parties to proceedings have virtually no opportunity to familiarize with the records of court meeting fixed by technical means and received from the court. The Ombudsman has urged to find prompt solution to this issue in order to ensure uniform application of the norms of law in all prisons and to ensure observation of the principle of procedural equality as a key element of the right to fair court.

3.6. Opinions Issued to the Constitutional Court

The Ombudsman has issued opinions during the reporting period in the case No. 2014-13-01 Concerning the Compliance if Section 635 part Six, insofar the enforcement is concerned in conversional matters for recovery of wages, with the first sentence of Section 92 of the Satversme.

The applicant pointed out in the constitutional complaint that, pursuant to Section 635 part Six of the Civil Procedure Law (hereinafter – the CPL), a litigant in respect of whom prompt enforcement of the judgment of first instance court in a labor dispute is ordered has no opportunity to file a petition for conversion of the enforcement unless the repealed judgment is based on false data or forfeited documents provided by the claimant. The applicant also pointed out to breach of the principle of procedural equality because the litigant has no possibility to return what has been recovered on the grounds of the repealed erroneous judgment by which an unsubstantiated claim has been granted.

The Ombudsman, having assessed the compliance of the contested norm with the Satversme, pointed out that the right of access to court may be restricted, in particular regarding the availability of appellate procedure, however such restrictions must not restrict or reduce the person's access to the court to such an extent that the very foundation of the right is affected. Similar restrictions are incompatible with Section 6 part One of the ECPAK unless they follow a legitimate objective or unless the proportionality of the applied means and the pursued objective is substantiated.[25]

When establishing the mechanism for protection of rights, the State must ensure that any infringements in hearing of a case would be certainly eliminated upon hearing in the point of facts, because any damage caused in between or upon finalization of proceedings may become irreversible once no real compensation of such damage is available in a claim filed for recovery of financial compensation.

In case of lasting proceedings, prompt enforcement of the judgment ordered by the judge may be equal to adjudication on the point of facts because of continuously fixed situation of final ruling. In addition, once recovery is impossible, the consequences may be irreversible for the respondent and activation of the mechanism for protection of the infringed rights may make no sense.

Taking into consideration the positive responsibility on part of the State for ensuring fair court, a situation where the litigant in labor dispute has no access to the measures of legal

[25] Judgment of ECHR of 14 June 2011 in *Mercieca v. Malta*, para 45. Application No. 21974/07.

protection within the framework of the pending proceedings and has to initiate new proceedings that involve additional resources from the litigant as well as from the State is impermissible. Therefore, the normative regulation that disables conversion of enforcement in favor of the respondent in the cases for recovery of wages, unless the repealed judgment is based on false data or counterfeit documents provided by the claimant, has the effect of incommensurate restricting of the respondent's right to prompt and effective protection of the infringed right. With the view to the foregoing, the Ombudsman has concluded that the contested norm contradicts with the first sentence of Section 92 of the Satversme.

An opinion was also issued in the case No. 2014-09-01 Concerning the Compliance of Section 495 part One of the Civil Procedure Law with the first sentence of Section 92 of Satversme of the Republic of Latvia.

The case No. 2014-09-01 has been instituted with the Constitutional Court on the basis of constitutional complaint filed by SIA "Hipotēku bankas nekustamā īpašuma aģentūra" concerning the non-compliance of Section 132 part Para 3 and Section 495 part One of the CPL with the first sentence of Section 92 of the Satversme, insofar the said norms provide no right to file a claim for invalidation of an arbitration agreement by a general jurisdiction court. The contested norm in fact stipulates that jurisdiction of the dispute is decided upon by the court of arbitration notwithstanding that either of the parties has contested the existence of validity of the arbitration agreement.

When assessing compliance of the given norm with Section 92 of the Satversme, the Ombudsman noted that the State control over arbitration rulings should also ensure that arbitration proceedings are also acceptable by the State if they are fair and impartial; otherwise the State is equally liable for an arbitration award rendered without observing the fundamental rights and the principles enshrined in Section 92 of the Satversme[26].

The present normative regulation permits and, if no amendments are made, continue to permit the situation where arbitrations are able to render judgments that formally meet the requirements of law while actually based on invalid documents, and such arbitration awards would even remain valid if the courts refuse the issuing of court orders. The Ombudsman also noted that the shortcoming identified in the case No. 2004-10-01 made by the Constitutional Court on 17 January 2005 has remained unsettled: no procedure is prescribed by the CPL for contesting of an arbitration award unless the issuing of court order is requested[27].

[26] When analyzing the arbitration proceedings and access of an individual to court, the Constitutional Court already held in case No. 2004-10-01 that, first, the State is responsible for ensuring the means of protection against the infringements of procedural rights in arbitration proceedings and, second, the State shall not accept the result of such arbitration proceedings. Award rendered by the Constitutional Court on 17 January 2005 in case No. 2004-10-01, para 9.1.

[27] Award rendered by the Constitutional Court on 17 January 2005 in case No. 2004-10-01, para 10.

The Ombudsman uttered that an individual can achieve no fair result from a general jurisdiction court because, unlike the existence or validity of arbitration agreement contested or criminal proceedings instituted in arbitration, the courts suspend neither the issuing of court order nor the institution or finalization of executive proceedings. The damage caused to the individual's interests by such regulation exceeds the advantage to public interests.

The Ombudsman has established material shortcomings in the arbitration mechanism that make the entire arbitration process subject to criticism while the possibility to correct the arbitration mistakes by the State is formal, and therefore the contested norm fails to comply with Section 92 of the Satversme.

In 2014, the Ombudsman also issued opinion in the case No. 2014-31-01 Concerning the Compliance of Section 44 part One para 1 of the Civil Procedure Law (in the wording as of 29 November 2012) (the contested norm) with Sections 1, 91, 92, and 105 of the Satversme.

The contested norm in fact determines the amount of compensating the litigation fee for the assistance of attorney in civil proceedings. The norm applicable before the amendments of 29 November 2012 stipulated that the attorney fee in civil proceedings shall be compensated in the actual amount, subject to the limit of five per cent of the granted portion of claim. According to amendments to the norm enacted on 1 January 2013, the amount of fee was notably increased even to 30 per cent of the granted portion of claim on some occasions, while in some claims the limit was fixed as a lump sum amounting even to several thousands.

When assessing the compliance of the given norm with the Satversme, the Ombudsman pointed out that the legislator was entitled to amend the existing legal regulation, subject however to the need for observation of the principle of legal certainty. The said principle is primarily aimed at protecting the rights of person in the event of deterioration of an individual's legal situation as a result of amendments to the legal regulation. According to the said principle, the legislator has to provide for mitigated transition to the new regulation in the event of such amendments.

The Ombudsman concluded that the persons had legal grounds to rely upon stability and persistence of the norm, and the contested norm constituted an infringement of the principle of legal certainty stipulated in Section 1 of the Satversme. The Legislator has not granted any transitional period in respect of the persons relying on the applicable normative regulation, and so the result of such amendments was compensation of attorney fees to the other party in the amount that exceeded several times the one fixed at the time when the person applied to the court.

3.7. Efficiency of the Mechanism of State Responsibility in the Event of Infringement of Human Rights

The key regulatory acts that currently govern the responsibility of the State including for infringement of a person's fundamental rights include the Law on Compensation of the Damages Resulting from Unlawful or Unsubstantiated Actions on part of the Investigation Authority, Prosecutor's Office, or Court, as well as the Law on Compensation of the Damages caused by Governmental Authorities.

Certainly, the administrative court can also be treated in respect of certain infringements as a mechanism available for a person to recover corresponding compensation, such as infringement of Section 95 of the Satversme, for example.[28] In practice, the Ombudsman is periodically experiencing the situations where material infringement of the fundamental rights of person can be established, however no specific procedure has been provided by the legislator for obtaining compensation on judicial or extra-judicial grounds. The Ombudsman has established, for example, an infringement of the injured person's right to fair court in relation to the hearing of a criminal case heard in the first instance seven years ago. An infringement of the accused person's right to fair court has also been established in hearing of a civil case that has lasted over 21 years. The Ombudsman has also established an infringement of a person's right to liberty in relation to the enforcement of administrative detention after the statutory lapse period, and also in relation to the increasing of the maximum statutory term of detention applied to the suspected person. Infringement of the right to liberty has also been established in respect of a person continuously kept in detention in spite of the fact that the judgment of the first instance court in criminal proceedings had been repealed in its entirety by the appellate instance court without rendering a new ruling for application of the measure of security.

A person in the capacity of injured person in criminal proceedings who had obtained the prosecutor's opinion that investigation of the criminal proceedings had been delayed without justification also applied to the Ombudsman. Infringement of the person's fundamental rights guaranteed in Section 104 of the Satversme was also established in relation to the failure on part of the prosecutor's office to reply in point of facts to the person's application indicating to an eventual criminal offence, as well as on other occasions.

Given that no specific procedure has been fixed by the legislator for claiming reasonable compensation by a person in the above-mentioned case and in a number of other occasions where infringement of the person's fundamental right has been established, the Constitutional Court has directed in 2001 already: the third sentence of Section 92 of the Satversme that

[28] Award of the ECHR of 24 September 2013 in *Ignats v. Latvia*, No. 38494/05, para 113-116; award of the ECHR of 5 November 2013 in *Iljins v. Latvia*, No. 1179/10, para 34-41.

provides for reasonable compensation in the event of unjustified infringement of the person's rights shall be applied both directly and indirectly, like any other norm of human rights.

As mentioned above, the Ombudsman has established a number of occasions where no specific mechanism for claiming compensation is available to a person in the event of infringement of the fundamental rights therefore, pursuant to the opinion of the Constitutional Court, the Ombudsman recommends application to the general jurisdiction court by such persons on the grounds of the third sentence of Section 92 of the Satversme.

The Ombudsman's Office reviewed in 2014 the case law in order to assess the efficiency of such mechanism for claiming reasonable compensation. The review included analysis of the case law of district and city courts as well as the case law of appellate and cassation instance courts if involved in the proceedings in question. In addition, the conclusions made by the Supreme Court Senate and the Constitutional Court in the context of direct application of the third sentence of Section 92 of the Satversme were also analyzed.

According to the earlier reviewed case law of district or city courts and regional courts, direct application of the third sentence of Section 92 of the Satversme in the case law at present lacks uniformity. Even though the conclusions made by the Constitutional Court and the Supreme Court clarify the principles applicable to such cases as well as responsibility of the courts, first, to assess whether or not infringement of the person's fundamental rights has taken place and, second, where infringement is established, to decide on the most appropriate compensation, such conclusions are not always uniformly applied by the lower instance courts.

First, different case law exists regarding the principles applicable to the cases based on the third sentence of Section 92 of the Satversme. Notwithstanding that the Supreme Court has held that similar disputes by their nature do not pertain to civil disputes since they arise from the situations where public authority has been exercised by the State in respect of the individual, most of courts, especially the first instance courts, trend to apply the principles of civil procedure to such disputes. On certain occasions, however, the courts acknowledge that objectively an individual should be treated as a vulnerable party against the State, and such acknowledgement is taken into consideration for establishing an infringement of the fundamental rights.

Second, different case law is pursued in concerning the content of the term "unjustified infringement of rights". Unjustified infringement of the fundamental rights has also been established in certain awards even without direct breach of the norms of substantial or procedural norms on part of the State. On most occasions, however, especially in case of the first instance courts, an unjustified infringement according to Section 1635 of the Civil Law can only be established if the State has acted unlawfully, that is, in breach of the law.

Third, the case law lacks uniformity in terms of the duty of compensation for infringement of the fundamental rights. Where an infringement of the person's fundamental rights is established, the court presumes on some occasions that certain damage has been caused to the person. In part of the analyzed cases, however, establishing of infringement of a person's fundamental rights not always leads to conclusion that damage has been caused to such person, and the claimant may have to prove separately the existence of damage, in particular moral damage.

Fourth, different practice is also applied to the legal grounds of compensation. In some cases where compensation is granted the established infringements of the person's fundamental rights are not related to the rendering the verdict of not guilty, for example, unreasonable period of adjudication (7 years and over 12 years) or enforcement of administrative detention after the expiration of the lapse period. On one occasion, the compensation has been granted without reference to the special law. On other occasions, however, the court, having established an infringement of a person's fundamental rights, substantiates the compensation by the Law on Compensation of the Damages Resulting from Unlawful or Unsubstantiated Actions on part of the Investigation Authority, Prosecutor's Office, or Court.

Finally, the case law lacks uniformity in determining the amount of moral compensation. The judicial practice reveals the cases where national or international case law has been discussed by the court to compare the granted compensation in similar cases, as well as judgments where no such comparison is reflected. As regards the compensations granted by the general jurisdiction courts, it should be noted that the compensations granted in the judgments covered by this review are considerably less that the compensations granted, for example, by the ECHR in comparable circumstances.

It follows from the above-mentioned conclusions that the first instance courts as well as regional courts lack understanding of the fundamental right guarantees contained in Section 92 part Three of the Satversme and the meaning thereof in relations between the State and an individual. If an individual files a claim for eventual breach by the State of the person's fundamental rights guaranteed by the Constitution, such individual may lack reliance on hearing of the claim in point of facts and in accordance with the principles applicable and predictable in the case of such claim. The different case law prevents and even destroys the trust of individuals to the effectiveness of such mechanism for assessment of liability on part of the State and determination of a reasonable compensation. The Ombudsman can only share the conclusion made by Administrative Department of the Supreme Court Senate that "when determining the

compensation, the court is the media expressing the public position regarding the importance of the infringed rights and the very fact of infringement."[29]

In the Ombudsman's opinion, however, the above conclusion concerns not only the financial amount of compensation but also to the manner and principles by which the person's claim is assessed concerning an infringement of the fundamental human rights. It is therefore crucial to establish the national mechanism that is not only effective, accessible and clear to individuals but also enables the trust to liability assumed by the State for infringement of the fundamental rights, so that the individual can obtain the reasonable compensation guaranteed in Section 92 of the Satversme.

4. Guarantees to Protection of the Rights of Persons in their Contacts to Police

4.1. Effectiveness of Investigation by Police Staff

Applications were filed in 2014 by private individuals concerning unjustified application of special measures or physical coercion by police officers during detention and escorting. From the aspect of human rights, establishing an effective protection mechanism available to a person upon infringement of their rights is crucial for the State.

Internal Security Bureau (ISB) of the State Police is entrusted with supervision of legitimacy in the actions taken by officials of an institution. The ECHR has already identified shortcomings in the activities of ISB in the case *Jasinskis v. Latvia*. The previous practice of the Ombudsman's Office was changed in order to ensure comprehensive assessment of the efficiency of ISB activities in specific situations and to issue recommendations for improvement of any identified shortcomings, and in 2014 such applications were forwarded for considering to the competent authority, ISB of the State Police. Therefore, applications concerning the eventual unlawful actions on part of police officers were on most occasions assessed in the context of efficiency of the established mechanism for protection of rights. In particular, efficiency of the ISB inspections were assessed on case to case basis.

The minimum standards of effective investigation include the requirement for impartial, disinterested and public investigation as well as responsibility of the competent authority for

[29] Award of Administrative Department of Supreme Court Senate rendered on 16 February 2010 in the case SKA-104/2010, para 18.

conducting operative investigation with proper diligence[30]. Requirements for timely initiation of investigation and completion in reasonable time are also imposed.[31]

It should be noted that on most occasions the replies issued to ISB and to applicants from the units of regional administrations regarding the results of conducted departmental or official inspections caused no doubt in comprehensive nature of such inspections. In 2014, shortcomings were only identified in case of one inspection where operation of the established mechanism for protection of rights turned out ineffective in the context of Article 13 of the ECPAK.

Namely, officers of the State Police detained K.Š. on the grounds of suspect for commitment of a criminal offence. K.Š. was brought to the station and placed into short-term detention facility after the proper procedural actions. When K.Š. was released he applied to a doctor who established bodily injuries – a subcutaneous hematoma. K.Š. filed an application with the Ombudsman's Office concerning the actions of police officers during the detention.

Expertise of medicinal documents would be helpful to establish the time of origin of the bodily injuries thus confirming the statements made by K.Š. in his application or removing doubt in the actions of officials; however, no expertise was ordered by the State Police and therefore the doubt in the actions of officials was not straightened out. Taking into account the above-stated, it was held that the State Police failed to exercise proper diligence in their inspection within the meaning of Article 13 of the ECPAK.

On 3 June 2013, the Cabinet supported the draft concept for transformation of ISB of the State Police into an institution supervised by the Minister of Justice. The State therefore took steps for strengthening institutional autonomy of the ISB. Compliance of operation of an institution with other standards of efficient investigation is also crucial, however. Therefore, attention should also be paid to the diligence and timeliness of investigation, and this would be promoted by appropriate qualification (training) and motivation of the staff.

4.2. Living Conditions at the Short-Term Detention Facilities of the State Police and at the Court Escort Premises

Continuous applications are received from persons regarding the non-compliance of living conditions at the short-term detention facilities (STDF) of the State Police and at the court escort premises with the requirements of human rights.

The staff of the Ombudsman's Office visited in 2014 the STDFs in Liepāja, Ventspils, Bauska, Saldus, Valka, Rēzekne, Daugavpils, Riga and Alūksne. It was established that the normative regulation prescribes no time limits for placement of a person at the STDF of the State

[30] The ECHR award of 28 January 2008 in *Maslova and Nalbandov v Russia,* para 91.
[31] The ECHR award of 24 February 2005in *Isayeva, Yusupova and Bazayeva v Russia,* para 236.

Police, and therefore such limit should be addressed by amending the respective regulatory acts. It was revealed during the said visits, for example, that on some occasions persons were kept at STDF even a month or longer.

Notable differences in the living and accommodation conditions were also established at the STDF of the State Police, and attention of the competent institutions was drawn to the lack of uniformity at such facilities in terms of hygiene requirements and lodging, catering and correspondence control.

In 2014, a number of detained persons complained to the Ombudsman regarding the poor conditions at the escort transport vehicles of the State Police including insufficient light, lack of ventilation as well as treatment during transportation. The staff of the Ombudsman's Office visited the vehicle park of the State Police and inspected the transport vehicles used for escorting. The conditions at such vehicles differed and, given that no regulatory acts set specific requirements to such transport vehicles and their equipment (including requirements to the premises for accommodation of persons), the Ombudsman applied to the State Police for information regarding the criteria applied by the institution to adjustment of transport vehicles for such purpose. Assessment of the above-described issue shall continue in 2015.

4.3. Pretrial Investigation in Criminal Proceedings

In 2014, applications were filed with the Ombudsman's Office by various individuals regarding the actions and decisions of the State Police during the pretrial investigation. A number of persons have pointed out in their applications to infringements of their fundamental rights resulting from the decision adopted or action taken by the official driving the proceedings in the course of pretrial investigation. Several applicants pointed out, for example, to allegedly unjustified decisions on refusal to initiate criminal proceedings or the actions of the official driving the proceedings upon making videos during personal search, or refusal to attract or contact the selected defense counsel.

Article 13 of the ECPAK stipulates that the State shall establish an effective protection mechanism to be applied by a person in the event of infringement. Section 337 of the Criminal Procedure Law prescribes the procedure available to a person in the event of infringement that results from the actions of the officials conducting the criminal proceedings. In 2014, the practice of the Ombudsman's Office was changed and applications concerning the actions of the officials involved in criminal proceedings were only assessed where the person had exhausted all remedies made available by the criminal Procedure Law for protection of their rights. On most occasions, the applicants had not exhausted the above-mentioned remedies.

In some applications, however, persons also pointed out to shortcomings in the work of prosecutor's office in the exercising of pretrial investigation in criminal proceedings. On some occasions, the Ombudsman applied to the superior prosecutor including to the Prosecutor General for assessment of the actions taken by officials in driving the criminal proceedings. In the Ombudsman's opinion, strengthening of the institute of investigation deserves special attention of the State.

According to the applications filed with the Ombudsman's Office in 2014, duration of pretrial investigation in criminal proceedings was incommensurable. In some criminal proceedings, for example, concerning the authorized person's failure to return the amount gained for the sold real estate to the authorizing person, the pretrial investigation lasted eight years. On another occasion, qualification of the investigated action was changed after adopting the decision on dismissal of the criminal proceedings, in spite of the fact that pretrial investigation had lasted six years and the person had filed repeated complaints with the supervising prosecutor's office.

4.4. Administrative Offence Proceedings

Applications were also received at the Ombudsman's Office in 2014 concerning the actions taken and decisions adopted by the officials of the State and Municipal Police in administrative offence proceedings. The Ombudsman established on several occasions, having assessed the actions of such officials, that they had been acting in breach of the Public Administration Law, including breach of the principle of good governance. In respect of an application filed by a person for initiating administrative proceedings, for example, the decision was adopted on refusal to initiate criminal proceedings, and compulsory enforcement of the decision adopted on the basis of the AOCL was ordered after the expiration of the lapse period. Some persons also pointed out in their applications to unjustified decisions adopted concerning the imposing of administrative penalty as well as the failure of the institution to ensure interpretation in the course of appealing the decision.

One person, for example, was taking audio and video record of the executing of administrative offence protocol at the State Police station without the official's approval. An administrative offence protocol was executed on the grounds of Section 175 of the AOCL for refusal to discontinue the said actions. The first and the second instance court established that actions of the person contained an administrative offence, while the Ombudsman concluded that no direct prohibition to take audio or video records of the official actions, such as executing the administrative offence protocol, was contained in the regulatory acts.

It should be taken into consideration that the rights guaranteed in Article 8 of the ECPAK are notably restricted in case of an officer performing his or her official duties. Infringement of third person's right, on the turn, is only possible if the officer fails to organize properly the procedural activities. If the officer acts responsibly, the prohibition to obtain (by taking audio or video record) and publish information regarding the executing of an administrative offence protocol should be treated as incommensurable restriction of the right to the freedom of speech.

5. Efficiency of Protection of Private and Family Life

Applications have been filed in 2014 with the Ombudsman's Office by different persons concerning eventual infringements of violability of their private life and their housing. Several examples have been filed, for example, concerning the fact that information about the conversation of the suspect and his defense counsel was made available to the officer driving the proceedings in the course of communication control (telephone tapping) in the framework of special investigation measures. Given the special role of defense counsel in criminal proceedings and the principle of confidentiality arising from legal assistance to a suspect, the Ombudsman's Office has applied to the competent authorities for clarification of the practice in order to ensure comprehensive assessment of the said situation. Addressing this issue shall be therefore continued in 2015.

5.1. Anonymous Comments on the Internet Injurious to the Person's Esteem and Dignity

In 2014, the Ombudsman's Office was addressing the question of whether or not sufficiently efficient mechanism for protection of rights was established in our country in the event of anonymous comments on the Internet injurious to the person's esteem and dignity. The existence of such mechanism is required because, as a rule, the injured person can obtain no data of the offender. According to Section 128 of the CPL, however, a statement of claim has to state the respondent's name, surname, personal number and residence address.

Amendments were introduced in 2011 to the Electronic Communication Law that prescribes in Section 71.[2] the provision of information in civil proceedings, with the view to establishing a mechanism that enables application by a person to the court in the event of civil infringement in the form of Internet comments. Section 100 part Three of the CPL provides, on the turn, that the judge may order collecting of the required evidence without summoning the

potential parties to proceedings on urgent occasions only, including where no parties to proceedings can be identified.

It follows from the legal norms referred to above that the injured person first has to file an application with the court for obtaining evidence with the view to identify the offender. Once the offender is identified the claimant can file a claim against him or her.

Seeking to understand the operation of such mechanism in practice and to clarify the case law in Latvia, the Ombudsman's Office issued enquiries to all first instance general jurisdiction courts. Results of the enquiry showed that during the period from January 2012 to September 2014 no civil proceedings had been initiated for anonymous Internet comments injurious to esteem and dignity. Civil proceedings concerning anonymous Internet comments had been initiated on a few occasions where the applicant had identified the author of specific comment. It was concluded on one occasion that the claimant had to withdraw the claim due to impossibility to obtain further information and to identify the users who had distributed data injurious to esteem and dignity in the electronic environment. No information was available about whether or not the claimant was aware of the existence of such mechanism.

Notwithstanding that normative regulations enable application to the general jurisdiction court in the event of anonymous Internet comments injurious to the person's esteem and dignity, there is virtually case law regarding such issues. The persons injured by anonymous comments hardly ever apply to general jurisdiction courts and then, as a rule, they have already identified the respondent. According to the oral and written information collected from courts, no claimants have applied to court for the provision of evidence.

5.2. Improvement of Legal Acts in the Context of Video Surveillance

In 2014, the Ombudsman's Office applied to the Ministry of Justice for drafting normative regulation of video surveillance in the special regulatory acts concerning the persons accommodated in psycho-neurological hospitals and social care centers, as well as in educational establishments and closed-type facilities. The requirements set in such regulation should include the duty to inform about video surveillance; the period of storage of the collected data; observation of the principle of proportionality and commensurability, and other principles applicable to the protection of personal data.

Contrary to the Ombudsman's opinion that normative regulation of video surveillance should be improved, the Ministry of Justice believes that any issues related to video surveillance should be handled in accordance with the Personal Data Protection Law. Secretary of the State of the Ministry of Justice has entrusted the PA with drafting an improved regulation of data processing and protection to include the regulation of video surveillance. The Ministry of Justice

concluded that no problems related to video surveillance existed at medical treatment and social care institutions. As regards State social care centers, the Ministry of Justice concluded that certain video surveillance measures should be reduced. Taking into account the above-mentioned, the Ministry of welfare shall be urged to address the organizational aspect of video surveillance in order to ensure compliance with the Cabinet Regulations No. 291 of 3 June 2003 Concerning the Requirements to the Providers of Social Services.

As far as video surveillance at schools is concerned, the Ministry of Justice has concluded that this issue depends primarily on the level of awareness and knowledge of the respective staff of educational establishments regarding the organization of video surveillance at educational establishments in accordance with the Cabinet Regulations No. 1338 of 24 November 2009 Concerning the Procedure for Providing the Security of Students at Educational Establishments and the Events Organized by them. The Ministry of Justice points out that the State Education Development Agency should be able to assess whether or not the organization of video surveillance at school complies with the existing legal regulation.

The Ombudsman's Office, however, obtained no assurance that the Personal Data Protection Law was sufficient to address all issues related to video surveillance. We are therefore going to follow up the developments including the drafting of the internal regulation of the PA.

5.3. The Right to Register Marriage with Foreigners Serving Sentence at Penal Institutions

Section 110 of the Satversme and Article 12 of the ECPAK guarantee the right to men and women of full age to register marriage and build family in accordance with the national legislation of the State governing the exercise of such right.

The principles enshrined in the ECPAK stipulate that restrictions of the right to marriage prescribed by national regulatory acts may also include norms that regulate such aspects as transparency and marriage registration ceremony. They can also include some norms of substantive law based on the protection of commonly recognized public interests, basically concerning legal competence [for registration of marriage], consent, the prohibited degree of relationship or preventing registration of double marriage. In the context of the Immigration Law and pursuant to good cause the State has the right to prohibit marriage of convenience registered with the view to gain immigration privileges. The respective laws that also have to meet the standards of accessibility and clarity stipulated in the ECPAK have no authority of prohibiting

competent persons or categories of persons to register marriage with a partner of their own choice[32].

In early 2014, a person filed with the Ombudsman's Office an application pointing out to prohibition by the State to register marriage. The applicant stated he was born, brought up and educated in Latvia and then in 80s left for studies to Russia. He stayed there till mid 90s when he decided to reunite with his family in Latvia – his parents and sister. The applicant initially lived in Latvia on the basis of term residence permits. In 2004, the applicant was sentenced to 20 years, and he could not settle the formalities with the Office of Citizenship and Migration Affairs (the PMLP) since his conviction. At the time of application, the applicant was serving his sentence in Vecumnieki Prison. The applicant and his partner applied to Vital Statistics Registry Office of the county of Vecumnieki for registration of marriage, yet registration was refused. The applicant and his partner appealed against the refusal to the Administrative District Court.

Having reviewed the applicable normative regulation and the case law of ECHR, the Ombudsman's Office has concluded that the right guaranteed in Section 110 of the Satversme provide for the fundamental right of men and women to register marriage and build family, and no restriction or prohibition of such right may be imposed by the State to the extent that the very nature of such right is infringed. Personal liberty is not a mandatory precondition for exercising the right to marriage. The fact that a person is deprived of liberty does not mean that such person may not exercise the right to marriage or exercise it on special occasions only. The ECHR has emphasized that persons deprived of their liberty continue to enjoy the fundamental human rights and freedoms insofar they contradict with the essence of deprival of their liberty, and any further restrictions have to be substantiated by the competent institutions.[33]

Recommendation Rec (2006)2 issued by the Committee of Ministers of the Council of Europe to the Member States on 11 January 2006 regarding the European Prison Rules provides that restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed. The said Rules also emphasize that all persons deprived of their liberty shall be treated with respect for their human rights and they shall retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody.

Bearing in mind that a person has to be able to return to and integrate in society after the lasting custody, the Ombudsman's Office believes that prohibition to register marriage in case of a foreigner serving sentence in Latvia is incommensurate unless the need for protection of the

[32] ECHR award of 5 January 2010 in case *Frasik v. Poland*, Nr.22933/02, para 89.
[33] Ibid, para 91; *Hirst v.UK*, No. 74025/01, para 69; and Award of 13 October 1977 in *Hamer v. UK*, No. 7114/75, para 49.

commonly recognized public interests is established (legal competence [for registration of marriage], consent, the prohibited degree of relationship or preventing registration of double marriage).

6. Freedom of Assembly and Association

On 23 April 2014, the Constitutional Court rendered their award in proceedings initiated at the Ombudsman's application in 2013 regarding the compliance of the words "uniting in trade unions" in Section 49 part One of the State Border Guards Law with Section 102 of the Satversme regarding the right of association and the second sentence of Section 108 stipulating that the State shall protect the freedom of trade unions. Section 49 part One of the State Frontier Guards Law stipulated that frontier guards were prohibited to form trade unions and to organize and participate at strikes.

The Ombudsman pointed out in his application to the Constitutional Court that imposing on frontier guards the prohibition to form and operate in trade unions has the effect of restricting their fundamental rights guaranteed by the Satversme. He also emphasized that prohibition to join trade unions means prohibition, rather than restriction. The absolute prohibition to form trade unions in case of frontier guards is an ultimate measure unnecessary in a democratic society, because association of frontier guards in trade union presents no threat either to the interests of the State and public security, or to other human rights and freedoms in Latvia.

The Constitutional Court acknowledged that the prohibition imposed on frontier guards to form trade unions restricts incommensurately their fundamental rights and therefore it fails to comply with Section 108 part Two of the Satversme. The Constitutional Court pointed out that the right of frontier guards to form trade unions as such presents no threat to the interests of the State or public security. Though the Constitutional Court held that the contested norm was aimed at legitimate purpose, protection of public security, such purpose can be well achieved by other means less restrictive to personal rights and lawful interests.

7. Supervision of the Removal Process of Foreign Nationals

In 2014, the Ombudsman's Office continued interviewing of the foreign nationals subject to removal, evaluation of the detention facilities pursuing observation of removal as the function prescribed by Section 50.[7] of the Immigration Law, and our staff was also present on several occasions upon the actual removal to the place of origin of the person subject to removal.

42 decisions on removal of foreign nationals were received at the Ombudsman's Office during the period from 1 March 2013 to 1 July 2014, including 34 decisions received during the

period from 1 July 2013 to 1 July 2014 when the implementation of the subject of 2013 program of the European Return Fund continued and the mechanism was established for supervision of the persons subject to removal.

In December 2013, observation of the final stage of the process, the actual removal, was undertaken by the Ombudsman's Office. Starting from December 2013, observers from the Ombudsman's Office have participated at eight actual removals by air and across the land border. No breaches in the actions of the officials of the State Border Guards were identified by the Ombudsman's observers during the actual removal.

The staff of the Ombudsman's Office performing the observation fixed, however, a number of aspects in the process of removal where improvement or elimination of shortcomings was required. The report sent in mid-2014 to the Ministry of Interior focused on the following aspects:

- Interviews revealed that decisions on removal were made available to the persons with delay. In practice, the failure to make the decision available in due time is likely to cause obstacles to the persons subject to removal in effective exercising of the mechanism for protection of their infringed rights, and therefore such practice should be eliminated in future.

- The Ombudsman recommended to pay attention to the quality of translation provided by the officials of the State Border Guards and to ensure, as far as possible, that decision is translated to the persons subject to removal and that they understand the consequences and the appellate procedure.

- The Ombudsman recommended drafting amendments to the Cabinet Regulations No. 542 Concerning the Procedure for Placement and Detention of a Person detained by Frontier Guards at Short-Term Detention Facilities, and Requirements applicable to the Furnishing and Equipment of the Premises, in order to ensure compliance of the space of short-term detention facilities and availability of lavatory with the human rights standards. The Ombudsman also pointed out to the shortcoming that the Cabinet Regulations No. 542 contained no definition of the period for accommodation of detained persons at the Frontier Stations (hereinafter FS). According to Section 54 of the Immigration Law, officials of the State Border Guards have the right to detain a foreign national for 10 days, with possible extension of such period. The staff of the Ombudsman's Office established during their visits that officials of the State Border Guards had no uniform understanding of the permissible period for placement of detained persons in short-term detention facilities. Given that most of the short-term detention facilities failed to meet the applicable requirements, it was pointed out that continuous accommodation of persons in such premises is not permissible. The Ombudsman urged to make the relevant amendments to

the Cabinet Regulations No. 542 to provide that a person may be kept at short-term detention premises no longer than four hours.

- It was recommended to take all steps necessary to adjust the detention premises so that they are available to persons with movement impairments.

- The Ombudsman focused on the fact that, whenever persons are kept at short-term detention facilities of the State Border Guards longer than four hours, the need for continuous video surveillance of the detained person should be critically considered on case to case basis.

It should be added that in 2014 the Ombudsman's Office continued the activity undertaken in 2013, namely, evaluation of the premises for detention of foreign nationals subject to removal. In 2013, the Ombudsman's Office performed evaluation of 14 FS short-term detention facilities within the framework of removal observation, while in 2014 special attention was paid to evaluation of the conditions of detention at the STDFs of the State Police.

Having evaluated the FS short-term detention premises, the Ombudsman recommended to amend the Cabinet Regulations No. 542 so that the space of such premises meets the human rights standards, and to undertake the required improvement and reconstruction work to make them available to persons with movement impairments.

During the period from 24 October to 1 November 2014, the staff of the Ombudsman's Office evaluated the STDFs of the State Police in Alūksne, Valka, Bauska, Daugavpils, Rēzekne, Ventspils, Saldus, Liepāja and Riga in order to establish whether or not any foreign nationals subject to removal were accommodated there, and the rights guaranteed there to such group of persons. A wide range of problems were identified within the framework of such evaluation and reported to the Ministry of Interior as well as the institutions subordinated to them: the State Border Guards and the State Police.

The following aspects were identified as material problems as a result of evaluation of the STDFs:

- Amendments are required to the Law on Detained Persons Accommodation Law to enable accommodation of foreign nationals subject to removal in STDFs, since the current wording prevents the placement of such group of persons in the structural units of the State Police.

- The following rights are not guaranteed to the foreign nationals detained in STDFs of the State Police:

a) To meet their relatives of other persons including representatives of NGOs because such right is not provided for in the Detained Persons Accommodation Law,

b) To keep with them any funds in the amount exceeding one half of the minimum monthly wages fixed in the State,

c) To use common-use premises,

d) To keep food in special storages,

e) To keep with them any items that are not included in the list of items the keeping of which at the Accommodation Center for Detained Foreign Nationals is prohibited.

It should also be noted that in 2014 the Ombudsman's Office finalized the inspection case No. 2012-237-5A. The case was instituted in August 2012 on the grounds of applications filed by two foreign nationals subject to removal and their defense counsel stating that the said foreign nationals were groundlessly detained and removed from Latvia without taking into account the residence permits granted to them and the family ties established on the territory of the State.

The applicants draw the attention of the Ombudsman to a number of breaches committed by the competent authorities in the process of forced removal; in particular, the scope of rights provided for them was not equal to that of detained foreign nationals accommodated by the State in the Accommodation Center for Detained Nationals "Daugavpils". Further, they were not allowed to prepare their identity documents for taking with them, and they were groundlessly detained in the Short-Term Detention Isolator of the State Police. In the applicants' opinion, the above-listed actions infringed their human rights to inviolability of family life, protection against unlawful removal and groundless detention.

Having reviewed the circumstances described in the applications, the case laws of the ECHR and the Court of Justice of the European Union, as well as the replies received from competent authorities, the Ombudsman concluded in the inspection case that, first, violation of Article 13 of the ECPAK and Article 1 part one para a) of Protocol No. 7 to the ACPAK had been committed in respect of the foreign nationals subject to removal. It is therefore state in the opinion: once the State holds that, along with the Supreme Court, the Prosecutor General is also entitled to assess decisions on including a person in the list of foreign nationals prohibited to enter the State, adversarial proceedings should also be ensured in such process, similar to that before the Supreme Court. Should a foreign national seek to contest the decision, a defense counsel shall be attracted who has access to restricted information and the State secret, and who has the right to familiarize with the evidence on which removal of the foreign national is based, to enable consequent filing of complaint in protection of the person's interests.

Second, when analyzing the considerations discussed in the adopting of decision on removal, including commensurability that also includes assessment of the right to inviolability of family life, as well as observation of the *non- refoulement* principle, no breaches of *non-refoulement* principle and the right to inviolability of family life by the State have been identified in the process of removal of the foreign nationals.

Third, it was established in the inspection case that placement of the foreign nationals in the STDF of the State Police was not provided in accordance with the procedure prescribed by the Immigration Law and the State Border Guards Law.

III Social, Economic and Culture Rights

1. The Right to Social Security

The governmental commitment to reduce poverty and focus on the most vulnerable categories of population – needy and low income persons, persons in social care centers and persons with disabilities – has been followed up by the Ombudsman in the accounting period. It should be noted that about one half of the applications filed with the Social, Economic and Culture Department of the Ombudsman's Office during the accounting period were directly concerned with social issues: low pensions and allowances, unfair reviewing of pensions and allowances, unsubstantiated deductions from salaries or pensions; unfair actions on part of the municipal social agencies, or unfair legal norms.

In March 2014, the Ombudsman attended the 27th ICC Annual Meeting of the UN in Geneva. The Ombudsman presented his speech at a related event[34]. The related event was mainly concerned with the topic "Experience with austerity measures and infringements of human rights in the conditions of limited economic resources". The Ombudsman reported on the effect of austerity measures implemented by the Government during the economic crisis on the fundamental rights of population.

Operation of the national institutions of human rights in the international environment is basically related to civil and political rights of population, while social, economic and culture rights and issues are left solely for the management on national level. In the recent years, however, the austerity measures pursued by national governments under the pressure of economic crisis have seriously affected the fundamental human rights of population, and this is already an issue beyond the national level.

The Ombudsman emphasized that Member States of the Meeting were related not only by their participation at the international organizations and cooperation networks but also by shared space of values. The Member States have enshrined in the Treaty on European Union their intention to achieve the growth of welfare in accordance with the principles of the UN Charter. According to the commitment contained in the Treaty, the European Union shall take into consideration the requirements related to the provision of adequate social protection level and

[34] Available at: http://www.tiesibsargs.lv/sakumlapa/tiesibsarga-runa-27.-ikgadeja-nacionalo-cilvektiesibu-instituciju-sanaksme

combating of social exclusion. It is therefore crucial not only to include such commitment in policy planning documents and declarations but also to implement it in reality.

Social rights are not absolute, they may be restricted. In the conditions of economic crisis, however, where austerity measures are implemented, the persons' social rights have to be provided in accordance with two key principles. First, social rights must be provided on the minimum level at least. Moreover, such minimum must not be formally fixed; it has to be economically substantiated by specific calculations and ensure that individuals receiving or earning such minimum are able to ensure decent living conditions to themselves and their family members. Second, the principle of progressive development has to be followed in the provision of social rights, whereby national governments have the obligation to provide social rights with the maximum possible financial resources available to them.

As a matter of concern, not only continuously unemployed persons are exposed to the risk of poverty but also the vulnerable groups of population: children, persons with disabilities, and seniors. These persons are not in position to change their own situation and they depend on the social allowances and pensions granted by the State. Moreover, the employees earning the minimum wages fixed in our country are also exposed to the risk of poverty. The above-stated shows that, when fixing the amount of social allowances and the minimum wages, the Government has not observed the principle of social rights, and the fixed minimum is inadequate.

Latvia has made indisputable achievements in terms of economic parameters, however they have been achieved on the account of absolute ignorance of the priorities: human rights and social security. Such priorities must be balanced with the economic growth, and no achievements of certain economic goals may be made on the account of most vulnerable categories of population. No austerity measures must affect the areas of health care, education, and social security. Latvia is continuously distinguished between other Member States of the European Union by the lowest proportional rate of GDP assigned to health care and to social support measures.[35]

The Ombudsman's task in the protection of social rights is drawing again and again the attention of the national Government to the key element of social rights: creating the living and working conditions for the population that ensure decent life at least on the minimum level.

It is crucial in the context of protection of person's rights to recognize that in the field of social and economic rights no compensations are available to an individual, unlike the field of civil and political rights where a person can apply to the ECHR, for example, for protection of

[35] Eurostat. General government expenditure in 2011 – Focus on the functions 'social protection' and 'health'. Available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-13-009/EN/KS-SF-13-009-EN.PDF

their rights. The Ombudsman has therefore initiated a discussion of the formation of eventually regional court where each and every individual can seek protection of their rights also in the field of social rights.

1.1. On Amendments to the Law on State Pensions

The effect of wage-tied insurance contribution index on the amount of pension

In 2014, the Ombudsman reviewed upon the applications of several persons the inspection case No. 2011-276-17AA[36] regarding the effect of application of the wage-tied insurance contribution (the capital index) on the amount of old-age pension.

Section 12 of the Law on State Pensions and Paragraph 13 of Transitional Provisions of the said Law stipulate that, when granting an old-age pension, the person's pension capital and the starting capital shall be updated, taking into account annual insurance contribution wage indices that comprise the amount of insurance contributions for the current and previous year during the respective sequent periods (from 1 August of the respective year till 31 July of the following year).

The objectives of capital index application include adjustment of the amount of obligations on part of the State towards socially insured persons, depending on the actual and objectively established economic activity of population, thus ensuring sustainability of the pension system. Given, however, that capital index depends on the sequent trend of demographic as well as economic development of the country, in particular on the number of persons making social contributions and the trend of changes in the level of wages, the specific effect of such index on the amount of old-age pension depends on such changes.

During the years of economic development of the State when the number of those making social contributions was increasing, along with the wages, the annual indices applicable to the pension capital calculated for the respective years were correspondingly high, and therefore the calculated pensions were higher. On the other hand, the decrease in number of social contributors and in the wages due to the economic and financial crisis in the country had negative effect on such indices, and therefore the amount of old-age pension granted to the persons retiring in the years of economic crisis was also reduced.

The inspection case included estimate of the eventual amount of pension in 2009 to randomly selected applications at the ratio of 1.3106 effective in the years of economic growth was applied, in comparison with the actual pension of such applicants at the ratio of 0.7978 applied to pensions granted in 2011. The Ombudsman therefore concluded that, if the applicants'

[36] Full text of the Opinion is available on the Internet website of the Ombudsman's Office at:: http://www.tiesibsargs.lv/files/content/atzinumi/Atzinums_Pensiju_kapitala_indekss_02042014.pdf

employment period, social contributions and age in 2009 was equal to that in 2011 when decision on the granting of old-age pension was adopted, the pension for one person in 2009 would be higher by 108.81 lats and for other person – by 48.07 lats. In other words, the pension granted in 2009 would be higher than that granted in 2011 by 21% and 24%, respectively.

It was established in the inspection case that, first, at present, according to the Law on State Pensions, where a person retires in a year with negative capital index, the amount of pension is irreversibly reduced for life, without any possibility of compensation or adjustment in future; There is no mechanism established in the pension system of Latvia for preventing the evident adverse effect of capital index on the particular amount of pension, i.e., on the individual's right to pension in the amount proportional to the amount of social insurance payments and the employment term of each individual; the State of Latvia has recognized the right of each person to pension in the amount earned by their social contributions and employment term, and therefore the State should be able to guarantee the observation of such principle through prudent exercising of discretion by the State; due to the lack of mechanism in the pension system of Latvia for preventing the evident adverse effect of capital index on the amount of particular pension, it has been concluded in the given inspection case that the mechanism stipulated in Section 12 and Paragraph 13 of Transitional Provisions of the Law on State Pension in respect of particular individual fails to comply with the provisions of Sections 1 and 109 of the Satversme.

Second, application of a negative capital index to an individual restricts their right to receive pension corresponding with the scope of participation by such person at the first level on the pension system; since the right to pension belongs to the notion of "property", application of negative capital index constitutes restriction of the person's right to property. Therefore, Section 12, part One and Paragraph 13 of Transitional Provisions of the Law on State Pension fails to comply with the first sentence of Section 105 of the Satversme.

Third, the capital indexation system stipulated in Section 12, part One and Paragraph 13 of Transitional Provisions of the Law on State Pension creates unjustified inequality between the retired persons to whom "positive" capital indexation factors have been applied upon retirement, and those with "negative" capital indexation; no reasonable balance is provided in the Law on State Pension between the secured public interests and the restrictions imposed on the individual's rights (infringement of fundamental rights). The infringement of individual fundamental rights exceeds the public benefit. Therefore, Section 12, part One and Paragraph 13 of Transitional Provisions of the Law on State Pension fails to comply with the first sentence of Section 91 of the Satversme.

The Ombudsman has applied in this respect to the Saeima for amending within six months from the date of this opinion:

1) Section 12 of the Law on State Pension should be supplemented with a new part with the following wording: “If the annual insurance contribution wage index is below “1”, the pension capital of the insured person shall be updated through application of factor “1””;

2) Paragraph 13 of the Transitional Provisions to the Law on State Pensions should be supplemented with a new part with the following wording: “If the annual insurance contribution wage index is below “1”, the initial pension capital of the insured person shall be updated through application of factor “1””.

The Ombudsman has also applied to the Cabinet for taking the following steps within six months from the date of receipt of this Opinion:

1) Establish a compensating mechanism for elimination of the consequences of negative capital indexation for the retired persons whose fundamental rights are currently restricted due to the application of negative capital indices;

2) Establish a mechanism for elimination of the consequences of negative capital indexation for prospective pensioners.

On May 7 2014, the Saeima Commission for Social and Employment Affairs discussed the issue of negative capital index applied in the calculation of pensions during the period of crisis. The meeting resulted in decision adopted by the Commission on instructing the Ministry of Welfare to make the estimations and elaborate the potential models for pension compensation, and to present them to the Commission; further discussion of this matter was thus postponed to the following months. The Cabinet, on their turn, have issued a reply[37] to the Ombudsman on 16 May 2014 regarding the recommendations made in the Opinion.

The Cabinet noted in their reply, among other things, that the Government shared the Ombudsman’s opinion regarding the need to consider a mechanism for limiting sharp “jumps” and “falls” of the indices. The possible solutions include application of factor 1 to the updating of pension capital if the estimated annual pension capital index is below 1. In the years following the years in which the estimated index of pension capital indexation is below 1, the estimated indices of pension capital indexation shall be replaced by factor 1, until multiple of the former negative indices and the subsequent positive indices equals to 1. According to the information provided by the Social Insurance State Agency, introduction of leveraging capital index in respect of future pensions to ensure that multiple of the estimated capital indices equals or exceeds 1, can be provided within four months from enactment of the respective regulatory acts.

The Cabinet informed that, according to the estimates made by the Ministry of Welfare, if the pension capital indices applied since 2009 were replaced by factor 1 without retrospective compensation for earlier periods, the additional funds required from the special budget in the

[37] Available at: http://www.mk.gov.lv/lv/mk/tap/?pid=40319394&mode=mk&date=2014-05-13

first year would amount to 45 million euros. The Cabinet noted that additional costs would also be incurred in subsequent years until retirement of the persons with their pension capital affected by the indices applied in the years 2009-2011.

The Government also pointed out that 10 months were required for implementation of the proposal and that recalculation can be made no sooner than 1 January 2016. Indexations made in the previous two years should also be taken into account in recalculation of the amount of pension, i.e., the compensated amount on most occasions should be reduced by increase in pensions resulting from the indexation. The approximate costs of implementation in the information system are estimated at 67.5 thousand euros.

The Cabinet discussed the Ombudsman's letter[38] of 9 December 2014 at their meeting on 13 January 2015, and the Government pointed out in their reply that the Ministry of Welfare was working on amendments to the Law on State Pension to handle the impact of negative capital indices on the amount of pension. Presentation of the said amendments to the State Chancery is expected before 30 March 2015.

Taking into consideration the above-stated, there are grounds to believe that the identified issue would be remedied by the Government and the Parliament; if, however, the promised constructive measures are not taken within a reasonable period, the Ombudsman would not exclude the possibility of application to the Constitutional Court.

1.2. On amendments to the Cabinet Regulations No. 299 of 30 March 2010 Regarding the Recognition of a Family or Person Living Separately as Needy

Regarding the accrual of savings

The Ombudsman Office initiated at the Ombudsman's initiative the inspection case No. 2012-167-17E regarding the substantiation and application of the criterion prescribed by Sub-Paragraph 19.3 of the Cabinet Regulations No. 299 of 30 March 2010 Regarding the Recognition of a Family or Person Living Separately as Needy, namely that a person recognized as needy may not own cash funds in any amount.

According to the above-named legal norm, where an individual seeks recognition of a needy person, theoretically he or she may not own funds in any amount, even a single euro (and therefore no such funds may be disclosed in the income declaration); otherwise such individual does not meet the criteria for granting the status of a needy person (prior to amending the said norm by Cabinet Regulations No. 366 of 29 May 2012 concerning Amendments to the Cabinet Regulations No. 299 of 30 March 2010 of 30 March 2010 Regarding the Recognition of a

[38] Available at: http://tap.mk.gov.lv/lv/mk/tap/?pid=40342668&mode=mk&date=2015-01-13

Family or Person Living Separately as Needy, pursuant to Sub-Paragraph 1.10 a person recognized as needy could own funds in the amount of minimum monthly wages).

At the same time, the ownership of one euro as mentioned above makes no essential change in the financial condition of such person and does not provide the possibility of such person to meet the basic needs (according to Section 1 Para 11 of the Law on Social Service and Social Assistance: food, clothing, housing, health care, mandatory education), yet it prevents a person from being recognized as needy. Therefore, such person has no right to allowance for provision of the guaranteed minimum income (GMI) level of 49.80 euro/month because such allowance is only granted to families or separately living persons that gain insufficient income for objective reasons and therefore can be recognized as needy.

According to the explanation provided by the Ministry of Welfare, the funds per person/household fixed in Appendix para 3 of the CPL were unreasonably high to recognize such person as needy at the time of economic crisis. In addition, "the managers and specialists of municipal social services have been noting during several years at the seminars organized by the Ministry of welfare that the above-mentioned legal norm required from the specialists of social work an inspection of matters that are subject to no inspection, such as cash savings kept by individuals at home, and therefore the amendments in question have been made". The Ministry further noted that application of the adopted norm had to be reasonable, and it would never mean that a person may not hold cash funds on their personal account for meeting the basic daily needs.

According to the information received from municipal social services, disclosure by a client of any savings in the income declaration is a rare practice, and therefore refusal of the status of needy has never been therefore in case of a person with minor savings. At the same time it has been established that, if minor savings were disclosed in the income declaration, the reaction would differ from one social service to another: some would permit a person or a family to own funds below the minimum monthly wage fixed in the State or the amount of GMI allowance, while others would refuse granting the status of a needy to such person. Potential problems with application of the legal norm in practice are therefore evident, if a retired person, for example, discloses in good faith savings of one euro in his or her income declaration. At present, according to the explanations made by social services to their clients, any disclosed amount is treated as saving that prevents the person from obtaining the status of a needy person, and therefore people are eventually encouraged to abstain from disclosing minor funds in their declarations. Pursuant to Article 6 of the Cabinet Regulations No. 299, however, the client filing an income declaration with the social service has to sign such declaration to confirm that he data stated therein are true. Therefore, recommendation to abstain from disclosing minor funds in the

declaration may be well treated as encouragement to violate the Cabinet Regulations No. 299, and such action is impermissible.

In addition, municipal social services have noted that amendments to the normative regulations have resulted in no major changes in their work since, like before, information provided by the clients is not verifiable, and social workers have to rely upon the information voluntarily disclosed by the clients in their declarations.

The restriction imposed by the given norm is incommensurable, due to the lack of uniform practice among municipal social services regarding the understanding and application of such norm, and such imperfection of the legal norm is not available by means of binding municipal regulations. The Ombudsman therefore concluded that the legal regulations should be altered to fix specific cash limit that is not treated as savings for the purpose of Cabinet Regulations No. 299.. The Ministry of Welfare was requested to review the Cabinet Regulations No. 299, in particular sub-paragraphs 2.1 and 19.3, and to improve the normative regulation in order to eliminate the identified shortcoming.

The Ministry of Welfare has acknowledged that Cabinet Regulations No. 299 require specification, and the draft regulations have been presented on 25 September 2014 at the meeting of Secretaries of the State. The draft regulations provide for fixed permissible amount of savings: 128.06 euro/person. This is the minimum amount the shortage of which at present makes a person eligible to additional support from the Government and municipality. However, no progress can be observed at present in moving forward the draft regulations.

1.3. On the Necessary Amendments to Legal Acts

Regarding discontinuation of care allowance in case of persons placed in long-term social care institutions, regardless of the source of funding

A complaint was investigated by the Ombudsman Office concerning a potential infringement of human rights, namely, unequal treatment in terms of allowance paid to disabled persons subject to care and placed in a State or municipal long-term care and social rehabilitation institution (hereinafter – social care institution) or a private social care institution.

Section $12.^{1}$ of the Law on State Social Allowance stipulates that allowance for care of a person subject to care shall be granted to a disabled person who has reached the age of 18 years and requires special care because of severe functional impairments. Section 10 part Five of the Law on State Social Allowance stipulates that payment of care allowance is also discontinued if a person is placed in a State or municipal long-term care and social rehabilitation institution.

It follows from the above-mentioned that payment of care allowance is also discontinued if a person is placed in a State or municipal social care institution, regardless of the source of

funding of the services provided by the social care institution. On the other hand, no such limitation to care allowance applies in case of a person placed in a private social care institution. Therefore, situation is disadvantageous for a person who is placed in a State or municipal social care institution and pays for the accommodation there, compared to a person in a private social care institution.

The Ministry of Justice has clarified in relation to the above-mentioned that the framework guidelines for implementation of the UN Convention on the Rights of Persons with Disabilities in 2014-2020 included under the action plan "Social protection" the following measure: "Review the procedure for granting and payment of allowance in case of disabled persons who are subject to special care if the recipient of allowance is placed in a long-term care institution". The said measure includes specification of the applicable procedure in case of a recipient of allowance who is placed in a long-term care institution, in particular that payment of allowance may be discontinued depending on the source of funding, rather than by the legal form of the institution, which is presently the case. Therefore, payment of allowance should not be discontinued in case of a person who pays for their care service, namely, the service is not funded, fully or partially, from the State or municipal budget. Implementation of such measure had to be finalized by the last quarter of 2014, however no relevant amendments have been adopted to legal acts.

1.4. On exclusion of premium payments from the calculation of the average wage contributions for the purpose of the amount of social allowance

The Ombudsman has investigated the inspection case No. 2013-114-17A regarding the actions of Social Insurance State Agency (hereinafter – SISA) when deciding on payment of maternity and parent allowance without including premiums paid by the employer in the calculation of the average wage contributions.

It has been established in the inspection case that, if the said legal norm is grammatically interpreted, the amount of calculated average wage contributions should include premium payments made by the employer to a person for timely completion of the job duties.

The SISA and the ministry of Welfare have pointed out that problem in the given situation arises from the "latent" gap in Paragraphs 7 and 8 of the Cabinet Regulations No. 270 of 28 July 1998 Concerning the Procedure for Calculation of the Average Wage Contribution and the Procedure for Granting, Calculation and Payment of State Social Care Allowance.

The Ombudsman has applied to the Ministry of Welfare for reviewing Paragraphs 7 and 8 of the Cabinet Regulations No. 270 and to improve the concerned as well as the related normative regulations to eliminate the "latent" gap in the law identified by the SISA in order to prevent legal uncertainty in case of persons who believe that the payments made by the employer

on other grounds rather than for performance of the job duties would be included in calculation of the State social insurance payments, and to prevent the situation where a person relies on the application of Paragraphs 7 and 8 of the Cabinet Regulations No. 270, yet application of the legal norm solely on the grounds of grammatical interpretation is unreasonably wide and includes also the situations that are not attributable to tie objective of the Law on Maternity and Sickness Insurance.

The ministry of welfare has applied to the SISA for taking into account the case law and the provisions of Section 59 of the Labor Law in future so that the bonuses, premiums, allowances and other disbursements made to a person are taken into account when estimating the average wage contributions, with the exception of persons on maternity leave, child care leave of unpaid leave for taking care of a child.

It may be concluded from the above-mentioned that the SISA and the Ministry of Welfare have taken proper actions to prevent recurrence of the identified infringements of the rights of person.

1.5. On separating the income of a self-employed person from the income taken into account for determining the person's financial condition for the purposes of social aid

The Ombudsman, pursuant to a person's application, has investigated the inspection case No. 2014-16-17D regarding the approach by the Social Service of Riga to the interpretation of income for the purpose of the Cabinet Regulations No. 299 of 30 March 2010 Regarding the Recognition of a Family or Person Living Separately as Needy when assessing the income and financial condition of a self-employed person.

In particular, the applicant is a self-employed person, and the income and expenditures related to the person's commercial activity are reflected on his personal bank account (opening a separate bank account for the purposes of commercial activity is not a mandatory requirement in case of self-employed persons). When the person applied to the Social Service of Riga, the latter, when assessing the financial condition of the applicant, treated as income all gains from commercial activity of such person (in accordance with Paragraph 13.1 of the Cabinet Regulations No. 299), notwithstanding that Paragraph 2 of the said Regulations stipulates that income is subject to assessment, rather than gains. Therefore, the Social Service did not take into account the fact that commercial activity of the person required also certain commercial expenditures, such as the lease of premises for commercial activity; transport costs; costs required for the provision of services other than those required to meet the person's basic needs.

In the Ombudsman's opinion, the terms "income" and "gains" used in the Cabinet Regulations No. 299 are not synonyms, and the Social Service has to establish the actual

financial condition of a person. Given the purpose of providing social assistance – financial support to needy and low income families (persons) in the situation of crisis so that they are able to meet their basic needs, and facilitating the participation of able-bodied persons in the improvement of their situation, it is crucial to assess with maximum accuracy the real income and financial condition of a person, including a self-employed person.

It has been established in the inspection case that, by treating the gains of a self-employed person as income without assessing the actual income and financial condition of the person, the Social Service of Riga has eventually prevented such person from access to the required social aid, in breach also of the principle of good governance.

The Ministry of Welfare is asked to ensure uniform approach of the social services to the assessment of financial condition of a certain person, in particular regarding the separation of income from gains in case of self-employed persons. The Ombudsman sees a particular solution of this situation in drafting methodologic guidelines for assessment of income in case of the applicants for social aid; the need for such guidelines has also been referred to by the Latvian Association of the Heads of Social Services, while the Social Service of Riga is recommended to review the income declaration filed by the person taking into account the actual income of such person in the capacity of self-employed person.

The Social Service of Riga replied, however, that they could not review the person's declaration as long as the administrative proceedings are pending. The Ombudsman is critical regarding their argument, given that the institution is authorized to repeal at any time an administrative act unfavorable for the addressee. Moreover, the judgment of the first instance court has been favorable for the applicant, yet the Social Service of Riga has disputed such judgment in accordance with the appellate procedure.

The Ministry of Welfare, on their turn, have committed to continue the work on drafting an explanatory material with the participation of the State Revenue Service.

1.6. Insufficient or Inferior Social Work

The Ombudsman, pursuant to a person's application, instituted in 2014 an inspection case concerning a potential infringement of the right to social security and adherence to the principle of good governance in the work of the Social Service of Riga and the Welfare Department of Riga City Council in respect of a large family.

It has been established in the inspection case that representatives of the family had made at least eleven appointments with the Social Service of Riga, however they could obtain no certain instructions and support in the solution of their social problems. The given situation can be assessed as contradicting with Section 45 of the Law on Social Service and Social Assistance,

since the social worker has the duty to provide assistance and support to a person in the solution of social problems, having assessed the relevant circumstances. A failure on the part of the Social Service of Riga to ensure the adherence to the principles prescribed by Sub-Paragraphs 8.6 and 8.7 of the Cabinet Regulations No. 291 of 3 June 2003 Concerning the Requirements to the Providers of Social Services Regarding the Assessment of Risks in case of Families with Unfavorable Conditions to Development of Children has also been established.

According to the Law on Social Service and Social Assistance, a municipal social service is entrusted with performance of social work with persons, families and groups of persons. Professional activity of a social worker and cariative social worker is aimed at ensuring and facilitating practical solution of the individuals' social problems and improvement of their quality of life, integration in society and ability to support themselves.

The Ombudsman has emphasized that provision of financial social assistance by municipalities is only one aspect of social work. The Social Service of Riga certainly had to assess the social situation of the family in question. Along with assessing the social situation, the staff of both the Social Service of Riga and the Welfare Department of Riga City Council subsequently had to adopt also a decision on further handling and management of the given social case thus finding the way to motivate the large family for finding, in cooperation with social workers, the solution of their situation that is the most effective and best appropriate to their needs.

In conclusion of the inspection case the Ombudsman established that the actions of the staff of both the Social Service of Riga and the Welfare Department of Riga City Council can be qualified as a breach of the principle of good governance through restricting the right of the family in question to social assistance and support.

1.7. On Substantiation of the Requirement for the Services of Assistant in Case of Persons with the 1st Group Disabilities Subject to Continuous Care

An inspection case has been instituted by the Ombudsman Office in relation to the information that, starting from autumn 2014, the services of leisure time assistant un case of persons with the 1st group of disability who are recipients of care allowance, would only be provided for a certain purpose or event that can be verified against a supporting document. No allowance shall be further granted for any events aimed at spending leisure time unless such events can be verified against supporting documents. The given change in the interpretation of legal norms has causes anxiety in persons with disabilities and their assistants who point out to infringement of the right to inviolability of private life in case of persons with disabilities.

The Ministry of Welfare pointed out that conditions in case of persons with the 1st group of disability who are recipients of care allowance and other persons with disabilities were not equal and commensurable in terms of availability of state-funded support, and therefore the procedure for and the scope of provision of the services of assistant for the said purpose could be different. Some leisure time activities, such as walk outdoors, are provided within the scope of other social guaranties available to persons with disabilities (for example, an allowance in case of a person with disability who needs care). At the same time the Ministry of Welfare noted that, given the existing uncertainties in application of the regulations, they have started work on drafting amendments to such regulations so that certain norms are clarified.

The Ombudsman draws attention to the fact that the services of assistant are aimed at facilitating social integration of persons with disabilities and their pursuits to living independently, and therefore the persons should have access to the services of assistant in performing certain outdoor activities that are not available to them because of disability.

Pursuant to Section 89 of the Satversme, when drafting the national regulations, including the regulations concerning the access to the services of assistant, and in the application of such regulations, the State shall be bound by the provisions of the international agreements binding upon Latvia. The Ombudsman draws attention to the fact that the UN Convention on the Rights of Persons with Disabilities is binding upon Latvia since 2010. Article 19 of the said Convention stipulates: "States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs."

The services of assistant have to be effective in order to facilitate full inclusion of persons with disabilities in social life, and therefore investigation of the inspection case continues.

1.8. On the Inspections Conducted by the Ombudsman at State Social Care Centers for Persons with Mental Impairments

The Ombudsman continued during the reporting period to conduct random inspection visits to the State Social Care Centers (hereinafter – SSCCs) for persons with mental impairments. Repeated visits were made insofar possible to ascertain whether or not any improvements could be observed in comparison with the previous inspections. Similar to the previous visits, the inspections conducted in 2014 were also addressing the overall living conditions, catering, social care, privacy, social rehabilitation, health care services, and access to environment for the persons accommodates in SSCCs.

The Ombudsman acknowledges in general that during the period from 15 February 2013 when the Ombudsman's report was issued on the State Social Care Centers for Adults with Mental Impairments[39], certain improvements can be observed in some areas. For example, establishing of medical units at SSCCs has started and their registration in the Register of Medical Institutions, expected to facilitate the availability of health care services as well as solution of the arrangement of medical records and the recommendation on providing regular blood tests by the customers with administered preparation *Leponeks*, since the practice is set to perform regular blood test in case of the customers taking the said medical preparations. In addition, the number of the SSCC customers taking the said medical preparation has notably reduced.

The Ministry of Welfare, pursuant to the Ombudsman's recommendation, has amended the Cabinet Regulations No. 60 of 20 January 2009 Concerning the Mandatory Requirements to Medical Institutions and their Structural Units, in order to enable registration of the medical units of SSCCs in the Register of Medical Institutions.

The Ombudsman still draws attention, however, to a number of unsolved issues that affect the quality of life of the SSCC customers:

1) the size of staff has to be assessed with due regard to efficient provision of the function of each institute in order to enable each customer to access to the services and care appropriate to their needs;

2) knowledge of the staff, in particular the care takers, has to be improved regarding, for example, the aspects of positioning of the customers, the auxiliary means, the catering process, and the causes of behavioral disorders. Further, separate guidelines should be developed to facilitate the improvement of social care and social rehabilitation work;

3) lack of information exchange between the executive staff if observed at certain institutions regarding the provision of objective needs of their customers;

[39] Available at: http://www.tiesibsargs.lv/files/zinojums_par_vsac_-_kopsavilkums_gala.pdf

4) the information relevant to the customers should be displayed on a special information stand in each unit, including information in simplified language to ensure that all customers have equal possibility to familiarize with such information;

5) daily outdoor walks are not provided to all customers of the institution;

6) the provided catering lacks diversity; no fresh fruits and vegetables are included in the menu;

7) the customers' clothes are poor and worn out;

8) according to the medical records, the practice to ordinate neuroleptic preparations in large doses to the customers is continued;

9) lack of purposeful, targeted activities;

10) the quality of drafting individual rehabilitation plans for customers has to be improved in order to develop self-care skills of the customers and to facilitate their further integration in society.

The Ombudsman appreciates the set of measures launched by the Ministry of Welfare that is aimed at ensuring the provision of society-based services tailored to the individuals' needs in order to facilitate the possibilities of self-care and independent living of a person, including the persons – recipients of the SSCC services who would potentially reintegrate in society as a result of targeted rehabilitation measures and de-institutionalization processes. Decent living conditions and high quality services by care institutions shall be provided for those who are dependent in their care on the application of specific technologies and continuous supervision by specialists. The above-mentioned is evident from the "Basic guidelines for development of social services in 2014-2020" approved by the Cabinet Decree of 4 December 2013, as well as the draft law on amendments to the Law of Social Service and Social Assistance presented currently for considering to the Saeima. The Ombudsman is going to follow up the progress of the above-described measures so that the initiatives do not remain on the level of policy-planning documents.

2. The Right to Housing

Most of the applications during the reporting period, similar to the previous years, concerning the right to housing, were filed by persons asking the Ombudsman to help them in solution of civil law matters. Large part of the applications contain complaints on the items of utility service or managerial fees unreasonably, in the applicants' opinion, included in the managers' invoices; on non-provision of accurate information; on behavior of neighbors, and similar. Tenants of multi-residential houses often point out to inability of the tenants to agree on

renovation of buildings and the efficiency of such, and they ask the Ombudsman to join in settling the dispute.

Nearly one fourth of all applications in the field of social, economic and culture rights has been related to housing matters, including one fourth of them regarding the management of housing.

The Ombudsman has explained earlier that he has no grounds to intervene directly in the handling of such disputes because of the private legal nature of relations between the tenants and the house manager, regardless of the ownership of the housing resources. The situation has been explained and advice has been provided to the applicants regarding their actions in each individual situation according to the applicable legal acts.

2.1. Assistance by Municipalities in Housing Matters

Ineffective performance of the autonomous function of municipality

In 2014, the Ombudsman instituted an inspection case pursuant to an individual's application concerning the continuous omission in providing residential space by the County Council of Sigulda, notwithstanding that the applicant had been awaiting for such space since 1987 already. No residential space has been offered to the applicant until present moment.

The Ombudsman established that the procedure for provision of assistance by the municipality was clear, and the persons registered as recipients of assistance on priority grounds are provided with residential space on priority basis, however no objective criteria were established for movement of the line, once a person registered with number three in 1987 in the common group has only moved ahead by one "place" in 26 years; namely, at the time of investigating the inspection case, the applicant was registered in the waiting line with number two.

Moreover, the said movement ahead had taken place with due regard to prompt assistance provided in 2009 to another person listed in the register. It can be therefore concluded that progress of the line during 22 years, that is from 1987 to 2009, is only one unit.

It is therefore concluded that the right of person to housing is restricted, because the period of 27 years in the register for municipal assistance without even a single lease agreement proposal being made by the municipality is incommensurately long. The Ombudsman Office applied to the Council for finding a reasonable solution in the matter of housing for the applicant.

In reply to the Ombudsman's recommendation, the County Council of Sigulda has drafted amendments to the binding regulations including the provision that a person who has been listed

in the register for assistance in the common group for 25 years shall be transferred to the priority group.

2.2. Quality of housing offered by municipalities

An inspection case has been instituted in the reporting period on the availability and quality of housing offered by municipalities. The Ombudsman's inspection case was aimed at identifying the condition of residential premises offered by municipalities and ensuring the residential premises in question meet the criteria prescribed by the law.

The inspection case included collecting information from all municipalities of Latvia about the municipal flats that are not let for lease, and about their condition and the number of persons registered for municipal assistance in solution of their housing matters. At the same time, a random on-site inspection of the non-let premises was performed visiting flats at 22 municipalities. Monitoring of certain other residential premises was also performed on the grounds of information received regarding unfit for residence conditions. Finalization of the inspection case is expected in 2015.

2.3. Waste Management Fees Charged in Multi-Residential Houses

2.3.1. On amendments to the Cabinet Regulations

As mentioned before, the Ombudsman is not settling any disputes related to house management; given, however, that human rights also mean clear, accurate and certain legal norms, and that functions of the Ombudsman include identification of shortcomings in legal acts and their application, as well as fostering elimination of such shortcomings in the matters related to human rights and the principle of good governance, the Ombudsman Office was also involved in settling a problematic situation because a number of applications had been filed by individuals dissatisfied with the applicable regulation.

In particular, as a result of amendments enacted on 1 October 2013 to the Cabinet Regulations No. 2013 of 9 December 2008 Concerning the Procedure of Payment by Apartment Owner in a Multi-Residential House for the Services Related to the Use of Apartment Estate, the previous practice of payment for the difference in water consumption and for removal of waste was changed.

203 applications in total including individual as well as joint applications, complaints, e-mails and telephone calls were received from individuals in relation to the said amendments, and opinions were also expressed during consultation.

The Ombudsman had no objections regarding the new regulation for the calculation of difference in water consumption, while the regulation for fixing the fee for household waste management was unfair, in the Ombudsman's opinion. In particular, upon enactment of the amended regulation, the fee for waste removal from the houses not taken into management by apartment owners or the houses where the meeting of tenants had not agreed on different procedure, the fee for waste management was based on the number of separate households, rather than on the number of persons in the household. It is objectively clear that the volume of waste would differ for one person households and a household with several persons, yet the fee charged for waste removal is equal on both occasions. Therefore, in the Ombudsman's opinion, the said amendments were unfair towards one person households. According to the contents of the received applications, the difference payable by one person household according to the new regulation, can even amount to 45 euro/year.

Taking into consideration the above-mentioned, the Ombudsman instituted an inspection case and asked the Ministry of Economics to provide explanation, pointing out to the need for amending the unfair regulation and to determine that the fee for household waste removal and garbage collection is charged in proportion to the number of persons declared in the household.

The Ministry pointed out to the following circumstances that prevented the application of the said criterion. In particular, the regulations stipulate the portion of obligations enforceable from each apartment owner in the absence of agreement by apartment owners. Therefore, the scope of obligation due from apartment owner depends on the criterion stipulated in the Cabinet Regulations. If the number of declared persons is selected instead of such criterion, it would contradict with Section 2 part Two of the Residence Declaration Law which stipulates that the fact of residence declaration alone does not create any civil law obligations, since declaration of residence means ensuring that the person is accessible for the purposes of legal relations with the State and municipality. Moreover, such criterion was included in the initial wording of the regulations, yet it was objected to by institutions on the grounds of Section 2 part Two of the Residence Declaration Law.

The criterion of charging fee for service depending on the number of declared persons would be unfair on a number of occasions, because the number of declared persons may differ from the actual number of household members, especially if no person (including the apartment owner) has declared residence in the given apartment yet the apartment is let out and used by several persons.

Accordingly, in the opinion of the Ministry of economics, there are only two criteria that meet the regulatory acts and that may be used for determining the fee for the respective proportion of service, that is, the number of households or the number of undivided share of the

apartment estate against the whole property, and the Ministry of Economics has selected to apply as criterion the number of apartments because it is tied to the number of votes held by apartment owner for decision-making by the body of apartment owners; in addition, payment for the provided service is an obligation binding upon all apartment owners.

The Ombudsman pointed out in the inspection case that, according to the Waste Management Law, waste is generated by each and every entity, whether natural or legal, generating waste from their operation (initial waste generation) or pre-processing their waste. Therefore, if an apartment estate is applied as the criterion for charging fee, such practice contradicts with the Waste Management Law, since waste is generated by a person, rather than by apartment estate.

Having reviewed the explanations and arguments provided by the Ministry of Economics regarding compliance of the norm with the principles of proportionality and equity, the Ombudsman concluded that, contrary to the Ministry's arguments, infringement of the fundamental rights guaranteed by the Satversme, namely, the right to property and the right to legal equality, can be observed in the existing regulation, and this should be considered in the context with Sections 105 and 91 of the Satversme.

The earlier applied regulation regarding payment for the services that are either unmeasurable or their consumption is not measurable from installed meters, in proportion to the number of persons in the household was more equitable; it did not impose so major restrictions on the persons' right to property and did not lead to different treatment. Taking into consideration the above-stated, the Ombudsman applied to the Cabinet asking to repeal the unfair legal norm by 1 June 2014 in the Cabinet Regulations No. 2013 of 9 December 2008 Concerning the Procedure of Payment by Apartment Owner in a Multi-Residential House for the Services Related to the Use of Apartment Estate, as well as in the Cabinet Regulations No. 999 of 12 December 2006 Concerning the Procedure of Payment by the Lessee and the Lessor of Residential Premises for the Services Related to the Use of Residential Premises.

The Cabinet has taken into consideration the recommendations made by the Ombudsman, and amendments have been enacted to the Cabinet Regulations No. 1013 on 6 November 2014, and to the Cabinet Regulations No. 999 – on 19 December 2014, respectively. Therefore, at present the fee for waste is charged according to the number of persons declared in the apartment.

2.3.2. On exceeding by municipalities of their authority

An inspection case was instituted in 2014 pursuant to a person's application regarding the actions of the County Council of Tukums in adopting decision regarding the calculation of fees

for waste removal, garbage disposal and consumption of electricity for common-use premises with the effect from 1 January 2014.

It has been established in the inspection case that, contrary to the Cabinet Regulations No. 2013 of 9 December 2008 Concerning the Procedure of Payment by Apartment Owner in a Multi-Residential House for the Services Related to the Use of Apartment Estate, the Council by their decision have imposed fees for waste removal, garbage disposal and consumption of electricity for common-use premises, that is still more differentiated than prescribed[40] by the Cabinet Regulations No. 1013, whereby fee for the management of waste and disposal of garbage is based on the number of separate properties. Further, the Council had applied water consumption factor up to 1.05 and the fee for rent of water consumption meters in the amount of 0.71 euro/month per each measuring unit.

Having reviewed the documents in the inspection case, the Ombudsman pointed out that, by deciding on different calculation criteria, the Council has acted in contradiction with the Cabinet Regulations and in breach of Section 41 of the Law on Municipalities. The Ombudsman further noted: the arguments of the Council Deputies that the method prescribed by the Cabinet Regulations No. 1013 was not proper, deserved criticism and could not constitute a legitimate objective for the application of different procedure, while analysis of the managed apartments could not be treated as an objective condition or grounds for fixing the payment criteria.

Also in the opinion of the Ministry of Economics, the said norm may not be so interpreted that the municipality has any right to fix the criteria for distribution of services to the residential houses that are not taken over, since the law strictly prescribes that such criteria are set either by the apartment owners or by the Cabinet.

The Ombudsman Office had access to the information where Chairman of the Board of SIA "Tukuma nami" and Chairman of the County Council of Tukums had expressed their opinion regarding the leveraging water consumption factor up to 1.05 pointing out that: "Such factor is applied because of difference between the readings of the meter for the whole building and the individual meters. Such different makes in average 13% thus causing loss to SIA "Tukuma ūdens", and therefore the regulations permit the application of leveraging factor." Some contradiction can be observed in the given situation, in particular, it is stated in the information provided to the mass media that fixing of a factor is stipulated in the Cabinet

[40] 17.4. For household waste management and garbage disposal – according to the number of separate properties. In case of separate property – non-residential premises where commercial activity is carried out, the fee is charged in accordance with the contract provisions;
17.6. For consumption of electric power for lighting of common-use premises and operation of engineering communications – according to the number of separate properties.

Regulations, while the Council acknowledges in the explanation provided to the Ombudsman Office that the introduction of such factor is not envisaged in the Cabinet Regulations No. 1013.

The Ombudsman draws attention to the fact that no paragraph of the governmental regulations prescribes the establishing or application of such factor. The introduction of such factor therefore contradicts with the regulatory acts. Such factor could only be applied if decided upon by the apartment owners.

The Ombudsman therefore applied to the County Council of Tukums for repealing of the unlawful decision and assessing in their future operation the compliance of their decisions with the regulatory acts and the overall principles of law.

In the reply initially received from the County Council of Tukums, the Ombudsman's recommendation was in fact ignored, and the Ombudsman requested the Ministry of Environment Protection and Regional Development to intervene in assessment of the unlawful decision of the municipality.

The Ministry shared the view expressed by the Ombudsman in his opinion that decision of the County Council of Tukums contradicted with the requirements of regulatory acts, and urged the Chairman of the County Council of Tukums to promptly ensure the compliance of their decision with the legal acts. Then only, pursuant to such request, the municipality has decided on amending the procedure for management of their residential houses, and the amendments would come into effect from 1 January 2015.

The actions on part of the County Council of Tukums in misleading the inhabitants about the requirements of regulatory acts and delaying the repealing of the unlawful decision should be treated as non-compliance with the requirements of good governance.

2.4. Balancing of the Rights of House Owners and Tenants

The continuously problematic relations between house owners and tenants became acute in the middle of the reporting year. The Ombudsman received alarming applications from individuals who pointed out to unlawful methods used by house owners to create unfit for living conditions, in particular through non-provision of the basic services: no sewage, heating, part of apartments had no power supply and cold/hot water, waste removal was not ensured in the required amount, and sewage pipes were dismantled. The above-described actions were targeted at making the tenants to vacate the apartments. Consideration of about 300 euro was offered to the tenants for vacation of residential premises. If the tenants did not accept such offer from the house owners, the means to influence their opinion included even illegitimate methods.

The episodes described in some applications include, for example, replacement of door lock or door, without providing a set of keys; boarding or welding up the tenants' door and

installing a padlock borders in arbitrariness and infringement of inviolability of a person's housing.

The tenants often complain that the above-described actions result in preventing their access to personal effects, documents, medicines and cash. In some of described episodes, a pet is left in the apartment or the entrance door is replaced while the tenant is in the apartment. Therefore, the tenants are in fact evicted without court ruling, they are forced to stay on street, in a shelter house or staircase, or ask their acquaintances for accommodation.

It should be also noted that such tenants frequently fail to meet the criteria for municipal assistance in their housing matters, yet at the same time they have not sufficient funds for renting another apartment at market price.

Initially it could be observed that police frequently abstained from reacting on such situations treating them as civil law disputes.

In the Ombudsman's opinion, no actions aimed at infringement of the fundamental rights guaranteed by the Satversme are permissible, regardless of the circumstances. What is important in such situations is the ability of the State to react promptly on the situations where illegitimate actions of house owners jeopardize the rights of tenants, or vice versa, because the mechanism for dispute settlement provided for in the Law on Lease of Residential Premises is not effective.

The Saeima Commission for Human Rights and Social Affairs has held repeated discussions of the above-described issue. It has to be appreciated that such discussions have resulted in change of the State Police's position: the police acknowledges that entry by the owner in a tenant's dwelling against the tenant's will constitutes infringement of inviolability of the person's housing, and that replacement of door locks or doors thus preventing the tenant from entry in the dwelling borders in arbitrariness on part of house owners that is subject to criminal penalty. The State Police have developed guidelines for police staff to ensure the protection of the rights of tenants against unlawful jeopardy on part of house owners; to restore the tenants' right to handle freely their movable property, and to ensure inviolability of housing, through establishing order by their presence and enable tenants to enter freely their dwelling.

Effectiveness of such guidelines in practice shall be proven by time, yet they can be expected to change the previous practice where police abstains from any actions treating such situations as civil law disputes, unless physical violence was identified.

It should be acknowledged, though, that no unequivocal assessment of such problem situations is possible. Quite often information is also received in such disputes about the manipulations by tenants, such as fictive tenancy agreements, agreements with retroactive date or with no fixed rent; tenancy agreements on non-residential premises (that are not subject to protection by the Law on Lease of Residential Premises).

The above-mentioned evidences that the former house (apartment) owners unable to meet their obligations towards creditors often use any methods to ensure that they or their relatives become fictive tenants before sale of the property and stay in their former estate as long as possible. This is also a situation where continuous litigation is the only legally possible way for the owner to protect their interests.

Much of the above-mentioned problem situations have been addressed in the Ombudsman's earlier opinion regarding the need for public register of legal tenancy relations, because a tenant then would not easily enter into a fictive tenancy agreement and the new owner would not disregard the tenancy agreements made earlier.

It should be further noted that involvement of police would probably enable a person to enter the dwelling and access to the personal effect, however it would not resolve the issue of non-provision of the basic services by house owners. The Ombudsman continues to believe that such problem would prevented by the institute of appointed manager as stipulated earlier in the Law on Management of Residential Houses so that the municipality could appoint a house manager on the occasions where the house owner fails to manage the residential house thus posing threat to human life, health, safety, property or environment, or the management could potentially cause threat.

The Ombudsman pointed out in the report on 2012 to the need for strengthening the effectiveness of the institute of appointed manager: accelerate the period of appointment; grant to the appointed manager the right to accept new tenants and their family members or lessees for the managed residential houses and non-residential premises; to make rent and lease agreements on occupation of the premises. In spite of the Ombudsman's recommendation, however, the said legal norm was deleted from the Law on Management of Residential Houses, and therefore there is no effective procedure available at present for ensuring that tenants of such houses have access to the basic services.

2.5. On compliance of the first sentence of Section 8 of the Law on Lease of Residential Premises with the Satversme

The case No. 2013-17-01 instituted with the Constitutional Court concerning the compliance of the first sentence of Section 8 of the Law on Lease of Residential Premises with Section 105 of the Satversme should be also mentioned in close relation to the above-described issue.

The contested norm stipulates: if the ownership to a residential house or apartment is transferred to another legal or natural entity, the agreements made earlier by the previous owner on lease of the residential premises shall be binding upon the new owner regardless of whether

or not they are registered in the Land Register. The claimant noted in the investigated case that the disputed norm restricted her right to gain full benefit from the sale of her real estate since she would be unable to sell the property in future at a price that corresponds with the actual value. Since the previous owner has made a lease agreement for indefinite term and the lessee refused to vacate the apartment, the lease agreement is binding upon the claimant according to the judgment of the first instance court. Therefore, the claimant's right to gain benefit from the sale of her real estate is restricted.

In early 90s, Latvia experienced a housing crisis. The Law on Lease of Residential Premises was enacted because of acute need to establish legal regulation of the relations between tenants and owners due to returning of building estates to their lawful owners and denationalization of houses. The legislator was pursuing the goal of balancing the interests of the lawful house owners and legitimate interests of tenants that had accrued prior to the reform.

A lease agreement is a type of agreements according to the Civil Law for a person to take into lawful use another person's property. Yet, unlike the civil legal obligations related to lease of any other item where the regulations of the Civil Law are sufficient, lease of residential premises is a special form of legal relations; and it performs nowadays in a developed country also the social function related to the need of population for housing. Therefore, the regulatory acts that govern apartment lease in general, impose restriction of the lessor's ownership and enable the State to control the use of property to serve the best public interests. The ECHR has concluded concerning the above-stated that "the State has the right to adopt any laws it finds appropriate to control the use of property to serve public interests. Such laws are of special relevance, and therefore they are widely common in the area of housing that forms an important part of social and economic policy of the modern society."[41]

In the Ombudsman's opinion, however, the goal in question may be also achieved by other means that are less restrictive to the rights of individual, in particular by supplementing the disputed norm with the provision that lease agreements shall be registered in a publicly available register and not necessarily in the Land Register. Such legal regulation would rather comply with the principle of public reliability and also less restrictive to the owners' rights, thus notably unburdening the new owner's reliance on encumbrances of the real estate, including the possibility to identify the lease agreements entered by the previous owner; at the same time it would better protect the rights of tenants.

The issue of availability and procedure for registration of lease agreements should be also discussed to avoid excessive economic burden on tenants.

[41] The ECHR award of 1995 in *Scollo v. Italy*. Cf. also the ECHR award of 1989 in *Mellacher et al v. Austria*.

On the other hand, the norm that a lease agreement on residential premises entered into by the previous owner and registered in the Land Register is binding upon the new owner, may not be considered as an effective mechanism for the protection of rights of either party, because, according to the Civil Law, entering of a lease agreement in the Land Register is subject to voluntary commitment of the owner and the tenant, and therefore it may not be imposed to the other party.

The Ombudsman argued that the first sentence of Section 8 of the Law on Lease of Residential Premises would comply with Section 105 of the Satversme if the party acquiring the real estate had the opportunity to verify encumbrances of the estate against a publicly available register, and it would also provide legal certainty and balance the legal relations between the owner and the tenant. The Constitutional Court held in their award of 7 July 2014, however, that the restriction of fundamental rights contained in the disputed norm complied with the principle of proportionality, and the disputed norm complied with Section 105 of the Satversme.

2.6. Rights of the tenants of denationalized buildings

The Ombudsman has repeatedly provided information to the tenants of denationalized buildings pointing out: the fact that, along with restoring the ownership of the lawful owners of denationalized buildings and returning the buildings to them, the lessor was replaced in respect of the tenants of such buildings, as such does not constitute an infringement of human rights. Provision of the right to housing was an important issue to keep in mind when organizing the denationalization process in our country.

The State had to expect that part of the tenants of denationalized buildings would be socially vulnerable, and therefore timely measures had to be taken to provide for the right of such persons to housing. Though the national denationalization process was launched in 1991, support to that category of persons was only provided in the second half of 1997 when amendments to the Law on Assistance by the State and Municipality in Handling the Housing Matters (at the present wording – the Law on Assistance in Handling the Housing Matters) were enacted. According to the said law, the tenants of denationalized buildings were included in a group of persons entitled to assistance by the State and municipality in handling their housing matters.

The maximum limit of rent in the denationalized buildings returned to their lawful owners or the so-called “rent cap” was fixed during the period from 1 January 2002 to 31 December 2006 in accordance with the Law on Lease of Residential Premises. The legislator therefore attempted to shift the duty of solving the problems of tenants in denationalized buildings to the owners of such buildings.

Tenants of denationalized buildings as a category of persons eligible to assistance in solving their housing matters were repeatedly included in the law on 2003. The amendments enacted on 11 September 2003 supplemented Section 14 of the Law on Municipal Assistance in Handling the Housing matters with part Seven, whereby the tenants of denationalized buildings formed a separate category eligible to assistance by municipality in the handling of their housing matters.

In spite of other forms of assistance available to socially vulnerable tenants of denationalized buildings, the scope of such assistance was insufficient to achieve the expected goal, and therefore it could be assessed as non-compliant with the provisions of the international human rights documents.

Therefore, the State organized active participation in solving the problems of tenants in denationalized buildings through amendments to the Law providing also for other forms of assistance to the tenants of denationalized buildings. The Law was supplemented with Sections $26.^{1}$ and $27.^{1}$ providing for new forms of housing assistance, in particular allowance for vacation of residential premises and assistance in acquisition or construction of residential premises, including innovative forms of assistance such as surety granted by the State or exemption, fully or partially, from interest payments on loans granted for acquisition of construction of residential premises.

The Law of 10 May 2007 on Amendments to the Law on Assistance in Handling the Housing Matters introduced two new forms of assistance: lease of residential premises from the municipality, and assistance in renovation and restoration of a residential building.

Apart from the above-listed forms of assistance, the tenants of denationalized buildings also could apply for the forms of assistance in handling their housing matters provided in the Law for all tenants regardless of ownership status of the estate, that is, lease of residential premises owned or used by the municipality on legitimate grounds; lease of social apartment; and provision of temporary residential premises.

Assessment of the forms of assistance available under the Law on Assistance in Handling the Housing Matters to the tenants of denationalized buildings and to other groups of persons leads to conclusion that the scope of assistance provided by the State in handling of the housing matters in general meets, at least formally, the provisions of the international human rights documents.

It should be noted, however, that low income status of a person is among the key criteria for eligibility to assistance provided by the State. The international instruments impose obligation on the States to implement housing policy, while in terms of social rights that arise from obligation of the State to provide assistance in housing matters, such policy is implemented

by the State to the extent of their financial capacities. The State has defined the level of income of a person as the key criterion for granting assistance, and each municipality as the delegated institution establishes the criteria for determining such level within the limits of their competence.

The favorable provisions of regulatory acts are reasonable and adequate in respect of the tenants of denationalized buildings with comparatively low income. The status of a tenant of denationalized building does not mean that the person is socially vulnerable and unable to solve their housing matters; therefore the income level of each person has to be taken into consideration when determining the tenants of denationalized buildings eligible to assistance in handling of their housing matters. In order to resolve the issue of tenants in denationalized buildings to the possible extent, however, such persons are included in the register for priority provision of leased residential premises. When performing the autonomous function prescribed by regulatory acts in the field of housing policy, the Municipality has to invest their resources and ensure their effective application to the practicable extent. It may concluded from the above-stated that a national mechanism has been established for the protection of rights of the tenants of denationalized buildings to provide assistance in the handling of their housing matters.

More than 20 years have passed since the launching of denationalization process, however the situation of tenants in denationalized buildings still awaits solution. In the Ombudsman's opinion, solving the problem of tenants in denationalized buildings is a political decision; it should be noted, however, that, according to the Constitutional Court, analysis of the matters related to land reform as an element of property reform leads to the following conclusion: "The State of Latvia can bear no liability for infringements of human rights, including nationalization of property, committed during half a century by the occupation power. The Republic of Latvia is neither capable of nor obligated to compensate full damage caused to persons as a result of actions of the occupation power". The Constitutional Court also emphasized that "the legislator, when restoring the law system of sovereign Latvia, had to follow the principles of law-based and to take possible steps for mitigating the damage caused by the former regime and restore equity. When deciding on the land reform procedure, however, the legislator had to pursue equitable balance between the contradicting interests of different members of society."[42]

It follows from the above-mentioned that the problem of tenants in denationalized buildings was addressed on national level; the effectiveness of solution, however, was

[42] Award of Constitutional Court of 25 March 2003 in case No. 2002-12-01, conclusion part, par. 1. Available at: http://www.satv.tiesa.gov.lv/?lang=1&mid=19

disputable. Yet in general the tenants of denationalized buildings have no reliance on continuous protection by the State in their housing matters. The State has to protect persons against destruction of their housing or arbitrary eviction. On the other hand, the right of persons to housing does not mean that the State is obligated to provide housing on their own account to all individuals corresponding to their demand and wish. An individual also has to seek the provision of housing through making agreement on lease of residential premises or acquisition of residential premises. The State has the duty to provide assistance to socially vulnerable persons unable to provide for themselves and to provide their housing for objective reasons.

The right to housing is a social right. Given that the exercising of social rights depends on economic situation in the country and the available resources, the mechanism for regulating the said right is left for administration by the legislator of each State, meaning that the State has wide discretion to decide on the matters of social rights.

3. The Right to Health

23 applications have been filed in total during the reporting year regarding the right to health. Unlike previous years, most of the applicants have complained in the reporting year on the quality of provided health care service or unfriendly treatment by medicinal professionals (14 applications); another six applicants have pointed out to non-availability of services and medicines, and three – to ineffective mechanism for health care control.

It should be noted that in early 2014 the Ombudsman objected to advancement of the draft Law on Funding of Health Care; in his opinion, the proposed regulation was non-compliant with Section 91 of the Satversme because individuals with irregular, seasonal income were left outside the scope of State-guaranteed health care.

Availability and equal availability are the two key aspects from the context of human rights when speaking about the right to health.

The Ombudsman pointed out that the objectives of such reform were not clear as well as efficiency thereof. The expected benefits are also unclear, once the experts of the industry have acknowledged that the new regulation would provide no additional funding to the industry as a whole. The quality (availability) of health care may not be improved on preventing certain part of population from access to such service.

The above-described legal regulation presents the risk that any medical aid including first medical aid is made subject to “quotas” and patient co-funding, and therefore obligation of the State to provide the minimum medical aid to everyone as guaranteed in Section 111 of the

Satversme can be jeopardized. The competence to determine the scope of first medical aid must not be delegated to the Cabinet. The primary health care services guaranteed to everyone by the State must be clearly prescribed by the law, and the legislator must not fully delegate constitutional values to the Cabinet without clearly defining the scope and availability of services.

Given that comprehensive availability to service is a key feature of health policy relevant to the public health and low co-funding of primary health care, the range of basic services should include, in the Ombudsman's opinion, the primary health care.

It has been identified in the course of discussing the draft law that nearly all non-governmental organizations of the industry have criticized the draft project and reasonability of its advancement, noting that, if the law is enacted in the proposed wording, the risk of neglected diseases and the sequential disability ratio will be high, as well as the number of calls for first medical aid, and the long-term costs for society shall also be much higher. The Ombudsman therefore abstained from supporting advancement of the draft law.

4. The Right to Property

4.1. On proportionality of the obligation imposed on house owners to keep clean the adjacent territory

An opinion has been issued during the reporting period to the Constitutional Court in case No. 2013-20-03 regarding the compliance of Paragraphs 4.3 and 4.4 of the Binding Regulations of Riga City Council No. 125 of 8 July 2008 "On the maintenance of territories and buildings in the city of Riga" with Section 105 of Satversme of the Republic of Latvia.

According to the constitutional complaint, the question in fact is about the obligations that can be imposed on a person in relation to their property, and whether or not the given obligation is proportional and not restricting the right to property.

It should be noted that binding regulations of several municipalities regarding the maintenance of the adjacent public territory have already been assessed within the scope of a number of inspection cases by the Ombudsman. The Ombudsman established in an inspection case in 2009 already that binding regulations or a number of municipalities (city of Ventspils, Riga) regarding the maintenance of the adjacent public territory contradict with the principle of proportionality and therefore with human rights. Such opinion has been issued in 2013 regarding the binding regulations of Liepāja City Council.

Given that a number of house owners in Riga are unable to ensure the maintenance of denationalized buildings and the adjacent territories by their own efforts because of old age or

health conditions, the Ombudsman proposed in another inspection case in 2011 that Riga City Council should see to facilitate the entering by such house owners into agreements on the maintenance of territory with the commercial municipal house management companies or to seek another solution, and to ensure further clarification of such regulations to the house owners.

The Ombudsman established in his opinion in 2012 that administrative penalty for failure to provide lawn mowing had been imposed on a person during her sick leave, and she learned about such penalty from an article in the local newspaper. The Ombudsman suggested that Rēzekne City Council should issue the original decision to the applicant and to seek facilitation of the maintenance of the adjacent urban territory in case of the applicant and other house owners unable to work, as well as exhaustively explain to them the obligations and rights stipulated in the binding regulations.

In assessing compliance of the disputed norm with Section 105 of the Satversme, it should be noted that the given obligation requires from a person not only personal work but also financial means, for example, for purchase of tools, sand, slip preventing materials, employment of a janitor, costs of waste and snow removal, and such costs constitute infringement of the person's right to property.

The right to property is not absolute, however: the property has to serve public interests, and the right to property may be restricted provided that such restrictions are provided by law, they serve legitimate purpose, and they are proportional. It is therefore important to find out, first, whether the restriction is imposed in accordance with the law; second, whether it serves legitimate purpose; and third, whether it meets the principle of proportionality.

(1) The given obligation or restriction of ownership rights has been prescribed by binding municipal regulations. The Constitutional Court has repeatedly noted that "the law" means an external regulatory act issued pursuant to the law and published or otherwise made available, and clearly formulated to enable the addressee to understand their rights and obligations; further, it has to meet the principles of a law-based state.[43]

The Constitutional Court has acknowledged in case No. 2003-23-01 the right of municipalities to impose the obligation of maintaining the public territory adjacent to the real estate. Therefore the given restriction to the right of property has certainly be imposed by the law.

(2) It may be acknowledge that imposing the said obligation on persons serves public interests: to ensure well-maintained urban environment and to prevent potential threat to human health and life presented by non-maintained public territories adjacent to the estate.

[43] Award of Constitutional Court of 20 May 2002 in case No. 2002-01-03, conclusion part. Available at: http://www.satv.tiesa.gov.lv/?lang=1&mid=19

Imposing the obligation to maintain the public territory adjacent to the estate certainly serves the purpose of such obligation. In the Ombudsman's opinion, such purpose can be therefore treated as legitimate.

(3) At the same time, the Constitutional Court has repeatedly noted that, apart from being imposed by the law and serving a legitimate purpose, any restriction of the fundamental rights also has to meet the principle of proportionality.

An encumbrance has to be assessed from three aspects to establish whether or not an encumbrance imposed on the right to property meets the principle of proportionality:

1) Whether or not any exemptions are provided for vulnerable groups of persons unable to perform the imposed obligations by their own means and at their own cost; whether or not any exemptions are provided on special occasions, such as continuous disease, natural calamity, or similar;

2) Whether or not the obligation imposed on a person to maintain relatively large public area adjacent to the estate is proportionate, without providing for exceptions or individual assessment;

3) Whether or not municipalities have the duty to provide support or cooperation (in terms of materials, labor force or otherwise, for example, by providing waste removal, supply of slip preventing materials, etc.) in the implementation of the given obligation.

Autonomous functions of municipalities certainly include maintenance and proper sanitary condition of their administrative territories; on the other hand, when imposing the given obligation in accordance with the contested norms, the municipality has to assume participation in performance of such obligation and provide co-funding.

The Ombudsman pointed out that no categories of persons exempted from the given obligations or eligible to any privileges, as well as no special occasions on which municipalities provide support to the owners in performance of their obligation were specified in the Binding Regulations of Riga City Council No. 125 of 8 July 2008 "On the maintenance of territories and buildings in the city of Riga." The Ombudsman therefore concluded that Binding Regulations of Riga City Council No. 125 of 8 July 2008 in the part concerning the maintenance of public territories adjacent to the estate fail to meet the principle of proportionality and, therefore, Section 105 of the Satversme.

The Constitutional Court also acknowledges that no participation mechanism has been established by Riga City Council to minimize the burden placed on the owners by the obligation prescribed by the disputed norms. Since no support is provided to the owners in the cleaning and maintenance of their adjacent territories, requirements of the disputed norms are not proportional to the public benefit. The Constitutional Court takes into account the fact that certain period of

time is required for municipalities to eliminate the shortcomings in normative regulation, and declared the contested norms invalid with the effect from 1 May 2015.

4.2. On the obligation posed on the owners of small HESs to pay nature resource tax

An opinion has been issued in the reporting period to the Constitutional Court in case No. 2014-11-0103. The case was instituted regarding the compliance of Section 3 part One para 1, sub-paragraph "f", and Section 19.[1] of the Nature Resource Tax Law and the Cabinet Regulations No. 27 of 14 January 2014 on Amendments to the Cabinet Regulations No. 404 of 19 June 2007 "Concerning the procedure for calculation and payment of nature resource tax, and the procedure for issuing a permit for use of natural resources" with Section 105 of the Satversme.

According to the disputed norms, nature resource tax (hereinafter – the NRT) is also imposed on the owners of hydro power stations (hereinafter – the HESs) with the total installed capacity of hydro unit under two megawatts (hereinafter – the small HESs). Obligation to pay nature resource tax constitutes a restriction to the applicants' right to property.

Restriction of the right to property as such is not infringing, since the right to property guaranteed by the State to private individuals in a democratic, law-based State is not absolute[44].

Having assessed constitutionality of the restriction of fundamental rights stipulated in the first sentence of Section 105 of the Satversme, the Ombudsman issued the opinion that the disputed norms had been properly adopted and they served a legitimate purpose – financial provision of environment-protection measures. The Ombudsman has concluded that, insofar operation of the small HESs is not declared contaminating, the principle of "the polluter pays" is not applicable to such HESs. The above opinion, however, does not constitute exemption from the obligation to pay nature resource tax for use of water resources and the resulting damage to the environment.

When assessing proportionality of the disputed norm, it should be taken into account that the formula applied for estimation of NRT may lead to a situation where the NRT exceeds 50% of the gross income gained by a small HES from the generated electric power. In the Ombudsman's opinion, the burden of NRT payment in such occasion is not proportionate. This gives raise to doubt whether the amount and social, ecological and economic consequences of the NRT payment have been properly considered in estimated in accordance with section 17 part Two para 4 of the Water Management Law. Moreover, any other considered means for achieving the legitimate purpose do not follow from the summary of the Nature Tax Law.

[44] Award of the Constitutional Court of 26 April 2007 in case No. 2006-38-03, para 12
Available at: http://www.satv.tiesa.gov.lv/?lang=1&mid=19

Also, in the Ombudsman's opinion, an important contradiction referred to by the applicants with the of promoting economically efficient use of nature resources; given the formula for calculation of NRT, it would mean increasing the difference of the existing flood rating. On the other hand, other Cabinet Regulations prescribe regulatory obstacles to the improvement of efficient operation of HESs, using the increase of water level to achieve higher decline.

Moreover, application of the disputed norms is not based on any rational, objective purpose-achievement considerations, because, if the NRT collected from the owners of small HESs has to serve the purpose of preventing damage to environment and promoting achievement of environment quality objectives, it is crucial to see to the application of funds collected from such tax. It is important to ensure that they reach the municipalities on the territories of which the HESs are situated. At present, according to Section 28 part Four of the Nature Tax Law, one fourth of the tax amount paid for use of water resources for generating electric power at a hydro power station with the total installed capacity under two megawatts is paid into the State budget. Such norm constitutes an exception of the overall principle stipulated in Section 28 part Two of the said Law: 40 per cent of NRT are allocated to the State budget, and 60 per cent to the special environment protection budget of the municipality on the territory of which the operation takes place. Efficient application of the funds collected from NRT is therefore questionable, given the purpose of NRT to prevent certain damage to the environment and to promote achievement of environment quality objectives of the given water objects, once the specific payment is not directly applied to prevent the resulting damage. The disputed norms can therefore be treated as disproportionate and non-compliant with Section 105 of the Satversme.

The case was heard by the Constitutional Court on 17 February 2015.

4.3. On imposing subsidized energy tax to the income gained from the mandatory procurement

Opinion has been issued to the Constitution Court in the reporting period on case No. 2014-12-01. The case was instituted regarding the compliance of Section 3 para 1, Section 4 para 1, and Section 5 of the Subsidized Electric Energy Tax with Sections 1 and 105 of the Satversme.

According to the disputed norms, tax will be imposed in future to the income gained from electric power sold within the framework of mandatory procurement. It means that the payers of subsidized energy tax (hereinafter – the SET) shall hereinafter include the producers of electric power entitled to sell the power under the mandatory electric power procurement, and the rate of tax impose on them varies from 5 to 15% of taxable income. In the opinion of applicants, the true purpose of SET is reducing the compensation payable to the merchants under the mandatory

procurement for the procured electric power, and the disputed norms therefore constitute infringement of the rights guaranteed in Section 1 and Section 105 of the Satversme.

There is no dispute in the given case whether or not the given restriction of the right to property has been properly adopted. The Ombudsman highlights the disputed norm from the aspect of proportionality of the legitimate purpose of subsidized electric power and the means selected to achieve such purpose.

The Ombudsman points out that the law serves legitimate goal – protection of public welfare and other persons through restricting the overall price increase of electric power and promoting competitiveness of the national economy.

As far as the fixed rate of SET is concerned, the Ombudsman is not competent to assess the actual effect on merchants, since this is a matter of economics and finance, rather than law. The Ombudsman has drawn attention to the contradictions between the information provided by applicants and that obtained from the Ministry of Economics. The applicants state in particular that SET poses the risk of insolvency to merchants. In the Ombudsman's opinion, once SET presents reasonable threat of insolvency it should be considered as an disproportionate burden for a merchant, and reasonable balance between the public interests and the right of person to property is not ensured.

No transitional period is envisaged by the law in respect of the introduction of SET. The failure to apply a transitional period means a failure to ensure sparing transition that would enable the merchants to review and/or change, where appropriate, their future commercial strategies with due regards to the obligations they have assumed when starting their commercial activities.

The Ombudsman concludes that the legislator has not considered any other, more sparing means for achievement of the given goal. It may be therefore concluded that the given restriction of the fundamental rights is imposed by the law and serves a legitimate purpose, however such restriction is not proportionate to the legitimate purpose. The given restriction of the right to property is therefore unconstitutional, and the contested norms do not comply with Section 105 of the Satversme.

Section 1 of the Satversme stipulates, on the turn, that Latvia is an independent democratic republic, and such stipulation give raise to principle of legal certainty and legal reliance. To identify infringement of the principle of legal certainty, the following has to be established:

1) Whether one had the right to rely upon non-alteration of the legal regulation;

2) Whether such reliance was reasonable and motivated;

3) Whether the legislator had granted spared transition to the new regulation when repealing the previous legal regulation. It should be established in the given occasion, when

assessing the right to rely upon the existing support to the producers of electric power, that the disputed norms and therefore the introduction of SET as such did not change the previously existing legal regulation. In particular, the State continues to provide support even after the enactment of the disputed norms, and the scope of support is not directly reduced. Therefore there are no grounds to state that the principle of legal reliance has been infringed.

Taking into consideration the above-stated, the Ombudsman holds the opinion that the disputed norms have been duly enacted by the law and they serve legitimate purpose of limiting the overall increase of price for electric power. It is not as certain, however, that the disputed norms are proportionate to the legitimate purpose, because the economic effect of SET has not been estimated and no transitional period has been granted, and no evidence shows that the legislator has considered any spared means for achievement of the goal.

Hearing of the case at the Constitutional Court is scheduled to May 2015.

4.4. On real estate tax at extra rate for non-cultivated agricultural land

An inspection case has been instituted by the Ombudsman Office pursuant several applications regarding real estate tax at extra rate applied to non-cultivated agricultural land.

The Ombudsman assessed at the inspection case whether or not restrictions are imposed on a person's right to property stipulated in Section 105 of the Satversme by application of real estate tax (RET) at extra rate to non-cultivated agricultural land in accordance with Section 3 of the Real Estate Tax.

According to the Real Estate Tax Law, the RET rate or rates of 0.2 to 3 per cent of cadastral value of the real estate are fixed by municipalities in their binding regulations published till 1 November of the year immediately preceding taxation. Municipalities can only apply RET at the rate above 1.5 per cent of cadastral value to real estate that is not properly maintained in accordance with the regulatory acts. If the municipality fails to publish the binding regulations by the due date, RET is applied to land at the rate of 1.5 per cent of cadastral value of the real estate.

According to the Real Estate Tax Law, extra rate of 1.5 per cent is applicable to non-cultivated agricultural land other than land with space under one hectare, or subject to restricted agricultural activity according to regulatory acts. The said extra rate is also applied if the municipality has fixed the rate of RET to non-cultivated agricultural land in their binding regulations.

It has been established in the inspection case that the State has a lot of discretion in developing the tax policy without assessment from the aspect of law. Moreover, the restrictions

imposed in the form of tax as such do not constitute infringement of rights, yet they have to be substantiated by objective and rational considerations, and payment of tax must not lay an disproportionate burden on the payer.

Analyzing Section 3 of the Real Estate Tax, the Ombudsman concluded that imposing RET at extra rate on non-cultivated agricultural land served legitimate purpose – keeping the land in proper condition according to the purpose of use. This is the purpose of the national policy of Latvia.

The Ombudsman further concluded that imposing of the above-mentioned restriction was substantiated by objective and rational considerations – specific statistic data regarding non-cultivated agricultural spaces in Latvia and the need to promote the involvement of land owners in the keeping of their lands in proper condition. Therefore, the Ombudsman could not agree that the extra rate of RET imposed on non-cultivated agricultural land contradicted with Section 105 of the Satversme.

On the other hand, the Ombudsman, analyzing the Cabinet Regulations No. 635 of 13 July 2010 Concerning the Procedure for Inspection, Recording and Notification of the Space of Non-cultivated Agricultural Land, established that, for the purpose of application of Section 3 of the Real Estate Tax Law, inspection of agricultural land was initiated by the Rural Support Service (hereinafter – RSS) on 1 September and the completion was scheduled till 20 November each year when the collected information is distributed to municipalities for calculation of the extra rate.

When inspecting agricultural lands, the RSS issues no notification to a private individual if their land is found non-cultivated. The individual learns about such fact upon receipt of the RET invoice from the municipality, that is, during the period from 1 January to 15 February of the following year. Therefore, the person can only dispute the results of RSS inspection by disputing and appealing against the RET invoice no later than 15 February of the following year.

The Cabinet Regulations No. 635 stipulate that a person disputing the RET invoice has the right to ask the municipality to check inspection of the information collected by the RSS and to ensure repeated inspection of the non-cultivated land where appropriate. The Ombudsman concluded that in fact a person may apply to the RSS for repeated land inspection in winter time or under conditions that are not identical to the actual conditions before 20 November.

Taking into account the above-stated, the Ombudsman acknowledged: notwithstanding that a person may dispute the RET invoice and apply for repeated inspection on the grounds of all information available regarding the land unit in question, the time of repeated inspection is objectively inappropriate for obtaining possibly reliable information.

Therefore, the Ombudsman recommended that the RSS and the Ministry of Agriculture should consider in six months the need for amending the Cabinet Regulations No. 635 supplementing them, for example, with the provision that, along with notification of the municipality, the RSS should also send information about identified non-cultivated agricultural land to the land owner.

The Ombudsman would not exclude other solutions as well; for example, persons would be notified with mediation of the respective municipalities, or similar.

4.5. On amendments to the Copyright Law

Amendments to the Copyright Law were adopted on 18 April 2013 and enacted on 22 May 2013. The amendments specifying the legal definition of public performance replaced the words "outside the common family circle" in Section 1 para 15 by the words "intended for several members of society with no personal relation to the performer or among themselves", and consequently the requirement for license would not apply to publishing of an author's work by several personally non-related members of society. Since the new formulation continued to raise uncertainty among society about what should be understood by "personal relation", the Ombudsman instituted an inspection case.

The Ministry of Culture explained within the framework of the inspection case that the adopted amendments were aimed at more detailed formulation of the term "public performance" and preventing replacement of autonomous performance by narrow interpretation of the term "common family circle" based on the concept of "family" in the meaning of the Civil Law. The Ministry of Culture noted that several criteria could be distinguished in the definition of public performance provided in Section 1 para 15 of the Copyright Law: intentional choice of the target audience; performance intended for several persons; lack of personal relations.

In the opinion of the Ministry of Culture, the said criteria meet the conclusions of the European Court in relation to assessment of the content of "public" nature, and they are sufficient to assess whether or not the use of specific work at any given time can be classified as public performance.

The inspection case also included requesting the opinion of Prof. Ingrīda Veikša who acknowledged that the effect of amendments was more specifically defined locations where a performance is not treated as public. These are locations where not only the family members of performers are present but also their friends and colleagues.

Opinion was issued within the inspection case also by the Latvian Society of Performers and Producers noting that, in their opinion, the new formulation of public performance was more certain and defined in more details the occasions when royalty is payable. The Ombudsman as additionally informed about the locations administered as public performance locations.

The amendments clarified the circle of the said persons and stated that an author's work may also be used without the author's consent by other persons related not only by kindred or affinity but also by other personal relations. Regulatory acts provide no clarification of the term "personally related", and therefore the range of persons tied by personal relations is not clearly set. Application of Section 1 para 15 can be therefore problematic.

The Ombudsman therefore requested the Ministry of Culture to develop uniform principles for defining the scope of personally related persons.

4.6. On proportionality of the prohibition to acquire ownership title to actually purchased land

The Ombudsman was applied to in the reporting year by a private individual (applicant) who had accepted for use in 1998 the land on which a residential house owned by him was situated. The private individual had actually performed redemption of the land in 1998 already by transfer of privatization vouchers to the Mortgage and Land Bank of Latvia, without however entering into land redemption (purchase) agreement with the Mortgage and Land Bank of Latvia till 30 December 2011.

Taking into account the above-mentioned fact, the County Council of Aizpute, pursuant to Section 26 part One para 3 of the Law on Finalizing the Privatization of State and Municipal Property and the Use of Privatization Vouchers, adopted the decision on terminating the right of use in respect of the given private individual and incorporated the land parcel in the land fund of the municipality.

Section 26 part One para 3 of the Law on Finalizing the Privatization of State and Municipal Property and the Use of Privatization Vouchers stipulates that, in respect of the owners of residential buildings (..) using the land with the right of construction, the right of use shall expire unless land redemption (purchase) agreement is entered into till 30 December 2011 with the State Joint-Stock Company Mortgage and Land Bank of Latvia, including if prepayment has been made before the entering into the redemption (purchase) agreement and before cadastral survey of the land.

An inspection case was instituted concerning the above-described legal situation. The Ombudsman assessed the following issues within the inspection case:

1. Whether or not the County Council of Aizpute, when adopting decision on terminating the right of use in respect of land parcel actually redeemed within the framework of privatization process, has acted in breach of the principle of good governance and restricted the person' s right to property without good cause?
2. Whether or not the legal regulation stipulated in Section 26 part One para 3 of the Law on Finalizing the Privatization of State and Municipal Property and the Use of

Privatization Vouchers constitutes an disproportionate infringement of the persons' right to property?

The Ombudsman concluded in the inspection case that, in spite of the fact that the County Council of Aizpute has made reference to improper Section of the Law on Finalizing the Privatization of State and Municipal Property and the Use of Privatization Vouchers, their actions have been legitimate and comply with the principle of good governance.

Assessing whether or not the legal regulation stipulated in Section 26 part One para 3 of the Law on Finalizing the Privatization of State and Municipal Property and the Use of Privatization Vouchers constitutes an disproportionate infringement of the persons' right to property, the Ombudsman acknowledged that, first, the said norm contains a restriction of the right to property. It has been adopted for a legitimate purpose – finalization of the privatization process thus ensuring legal certainty and integrity. The selected form of restriction, fixing a deadline for exercising by private individuals of their subjective rights, is appropriate for achievement of the legitimate purpose.

Second, notwithstanding that no more efficient means had been identified for achievement of the legitimate purpose, the Ombudsman concluded that the deadline for entering into the respective agreement had been repeatedly extended by the legislator to ensure obliging attitude and to ensure compliance with the principle of respecting the rights of private individuals.

Third, assessment of the proportionality of legal interests, namely the need to ensure of legal certainty and integrity and the private individuals' right to property, leads to conclusion that preference should be given to legal certainty and integrity, since the actions of the legislator have been continuously aimed at ensuring the principle of respecting the rights of private individuals, and the persons' right to property is preserved in regulatory acts, save that in the form of a different procedure (acquisition of property in accordance with the statutory procedure for alienation of the property of a public person).

4.7. Amendments to the Law on Privatization of Rural Land

Pursuant to a person's application filed in the reporting period, the Ombudsman assessed the Draft Amendments to the Law on Privatization of Rural Land drafted by the Ministry of Agriculture. The Draft Law contained a number of amendments regarding transactions with agricultural land and stipulated the procedure for reviewing transactions with agricultural land, the range of subjects entitled to acquire agricultural land; exceptions to the preconditions applicable to such subjects; the subjects of pre-emptive right, as well as exceptions to the transactions with agricultural land.

First, the Ombudsman drew attention to the fact that "land policy was the foundation of the whole national economic and social life and the whole body of environmental matters. Distribution of ownership has enormous impact on equitability and productivity. Unequal distribution of land, issues related to the use of land, and poor administration of land is likely to give raise to inequity and serious conflicts. Amendments to legal acts and changes in the distribution of title and administrative structures are likely to have lasting adverse effects on political as well as economic and social development and environment management."[45] Therefore, whenever amendments are introduced to legislative acts on land-related matters, it is still more important to identify the goal and assess the potential consequences of such amendments.

Second, according to the summary to the draft law, "Definition of horizontal regulatory conditions in legal acts is a viable solution to promote rational use of land as a long-term national active of Latvia and to ensure preservation of the space of agricultural lands and effective, sustainable use thereof, as well as to provide protection and availability of the land resources of Latvia to all inhabitants."[46]. The draft law is therefore aimed at sustainable, more effective use and ensuring availability of land to the population of Latvia.

The Ombudsman acknowledged in general[47] that the restriction of ownership and the right to freely select occupation contained in the draft law as well as the restriction of the right to equal treatment is proportional to the purpose of the legal regulation, given that the overall public benefit largely overweighs the eventual infringement and encumbrance of the fundamental rights of individuals, and it should be seen as an equitable balance between the requirements of general public interests and the potential infringement of fundamental rights of individuals; it also meets the principle of proportionality.

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[45] Communication from the Commission to the Council and the European Parliament "EU Guidelines to support land policy design and reform processes in developing countries" [SEC(2004) 1289] /* COM/2004/0686 final version */.
Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004DC0686:LV:HTML

[46] Assessment report on the initial impact of the Draft Amendments to the Law on Privatization of Rural Land (summary). Available at:
http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/DF90038E8F25363FC2257C68002461B9?OpenDocument

[47] The Ombudsman's Opinion No. 1-8/6 of 19 February 2014 concerning the Draft Amendments to the Law on Privatization of Rural Land.
Available at: http://www.tiesibsargs.lv/atzinumi-modulis/par-likumprojektu-grozijumi-likuma-par-zemes-privatizaciju-lauku-apvidos

5. The Right to Live in Favorable Environment

Individuals continued filing applications during the reporting period concerning the harmful effect of disturbing noise that has been complained on by five applicants, and on ineffective mechanism for control and elimination of noise. The Ombudsman has instituted an inspection case in this regard.

Comparatively smaller number of applications, only 3, have been received concerning the impact of harmful odors on the individuals' living conditions. Individuals frequently point out to unfair treatment by municipalities in relation to territorial planning that is uncomfortable and disturbing to population; they express discontent with lack of information about public discussion. It may be most often concluded here that public discussions have been organized by municipalities in accordance with the statutory procedure yet individuals learn about such discussion with delay because of their own lack of interest or awareness.

5.1. On restrictions to private traffic imposed by local planning of Mežaparks

Pursuant to the applications filed by several individuals of Pāvu iela in Mežaparks, the Ombudsman instituted an inspection case including analysis of the question whether or not the restrictions on private traffic imposed by local planning of Mežaparks adopted on 18 June 2013 with the status of binding regulations of Riga City Council can be treated as restrictive to the fundamental rights of inhabitants, including the right to favorable environment guaranteed by Section 115 of the Satversme.

The applicants most frequently expressed discontent in relation to the traffic restrictions in Mežaparks by the fact that Pāvu iela could only be accessed from Ostas prospekts, instead of the previous access from Atpūtas aleja, the central street of Mežaparks. The applicants were also concerned by the issues of security on the private traffic routes established in Mežaparks.

It was established in the inspection case that the restrictions stipulated in the local planning of Mežaparks have been imposed for a legitimate purpose to ensure the safety of people in Mežaparks and to make it accessible to high number of people.

The Ombudsman concluded that the access to Pāvu iela was defined in the regulatory acts, and it was also ensured in practice. The Ombudsman acknowledged in this respect that the private traffic access to Pāvu iela stipulated in the local planning of Mežaparks was proportional to the earlier practice, given the legitimate purpose of the restriction in question and the pursued public interests.

On the other hand, when assessing the safety of traffic routes established in Mežaparks from the context of Section 115 of the Satversme, the Ombudsman identified that traffic risks on

the currently established traffic routes were indirectly acknowledged by SIA "Rīgas meži", the management company of Mežaparks. SIA "Rīgas meži" pointed out in this respect to the need for installing speed ramps.

The Ombudsman appreciated the fact that SIA "Rīgas meži" had identified the problem and urged them to proceed with the solution, notifying the inhabitants and the Ombudsman of the progress. The Ombudsman drew the attention of SIA "Rīgas meži" to the fact that ensuring traffic safety at the currently established traffic route required urgent addressing; otherwise the provision of safety of the visitors as a key purpose of the local planning of Mežaparks would be made insignificant.

The Ombudsman also established in the inspection case that, prior to adopting of the Binding Regulations of Riga City Council No. 115 of 26 August 2014 Concerning the Management and Protection of Culture and Leisure Park "Mežaparks"[48], the procedure for obtaining a pass for entering Mežaparks was regulated from 1 January 2013 by the Internal Regulations of SIA "Rīgas meži" concerning the procedure for traffic and parking of transport vehicles on the territory of Riga Urban and Leisure Zone "Mežaparks".

The Ministry of Environment Protection and Regional Development had repeatedly pointed out to Riga City Council on the impermissibility of application of such regulations, because internal regulatory acts may not govern the public legal order. The Ministry had applied to Riga City Council for eliminating such situation. The above-described procedure remained applicable, however, until the enactment of the Binding Regulations No. 115, and Riga City Council substantiated the application thereof by Paragraph 10 of the local planning of Mežaparks and by the provisions of Road Traffic Law regulating the obligations of road managers.

The Opinion shared in his opinion the view of the Ministry of Environment Protection and Regional Development that the interpretation of legal norms provided by Riga City Council was unsubstantiated, because the management of Mežaparks had to be regulated by special binding municipal regulations, rather than the local planning.

The Ombudsman considered that the actions of Riga City Council in tolerating continuously the above-described situation failed to comply with the principle of good governance because it constituted direct infringement of the lawful interests of the residents of Pāvu iela. Notwithstanding that the issue of obtaining passes had been properly settled by the time of issuing the opinion, the Ombudsman recommended that Riga City Council should avoid similar situations in future.

[48] Available at: http://likumi.lv/doc.php?id=269269

5.2. On improvement of the mechanism for control of harmful, irritating odors

In October 2013, the Ombudsman issued his opinion in the inspection case No. 2012-50-22 instituted regarding the right to favorable environment, on the grounds of impact of the unfavorable, extremely poor quality air generated from professional activities of SIA "Getliņi-2" on the health and real estate of population.

The Ombudsman appealed in his opinion to the Ministry of Environment Protection and Regional Development for reviewing the Cabinet Regulations No. 626 of 27 July 2004 Concerning the Methods for Identification of Odors Generated by Contaminating Activities and the Procedure for Eliminating the Distribution of such Odors, with the view to effectively eliminate the effect of potential odors on the population of community; and to better identify any occasions of exceeding the permissible odor limits and eliminate them; and requested the Ministry as the holder of the State shares in the State Limited Liability Company "Latvijas Vides, ģeoloģijas un meteoroloģijas centrs" (hereinafter – LVĢMC) to assess the adjustment of working hours of the LVĢMC for prompt solution of problem situations.

The Cabinet Regulations No. 724 Concerning the Methods for Identification of Odors Generated by Contaminating Activities and the Procedure for Eliminating the Distribution of such Odors were adopted on 25 November 2014 at the Cabinet Meeting and enacted on 17 December 2014. The said Regulations are expected to eliminate the shortcomings identified in the previous legal regulations, the Cabinet Regulations No. 626, and solve the problems related to the control of compliance with the norms contained in such Regulations[49].

The Ministry of Environment Protection and Regional Development informed in June 2014 regarding the recommendation to adjust the working hours of the LVĢMC for prompt solution of problem situations that additional funding was required from the State budget in order to provide 24/7 operation of the LVĢMC.

In order to promptly react on complaints regarding odors, regional environment inspectors in charge are appointed to the problematic areas – the territory of Lielrīga Regional Environment Division, who is available for contacts on 24/7 basis. It should also be noted that, according to the Cabinet Regulations No. 724, the regional environment inspectors of the State Environment Agency performing organoleptic measurements have the right to assess the irritation caused by odors. The summary explains that such assessment is intended only for handling complaints, because no other solution is currently proposed for prompt reacting to complaints. It is also noted

[49] Report on assessment of the initial impact of the Draft Regulations concerning the Methods for Identification of Odors Generated by Contaminating Activities and the Procedure for Eliminating the Distribution of Odors (summary).

that inspectors act on such occasions as external parties to ascertain whether the information provided by persons is true and whether the odor is indeed troublesome[50].

The Regulations No. 724 prescribe that the State Environment Agency, where appropriate, shall enter into inter-industrial or cooperation agreement with the respective institutions in order to ensure that requirements of the regulations are also met outside the working hours. It is evident from the above-stated that the Ombudsman's recommendation has been acted upon by the Government.

[50] Ibid.

IV Observation of the Principle of Good Governance

1. Public Participation

The elements of good governance include public participation. The right to participation is derived from the right stipulated in Section 104 of the Satversme for every person to legally protect their interests through addressing submissions to the State and municipal institutions.

In order to foster public participation, the Ombudsman addressed the non-governmental organizations (hereinafter – NGOs) encouraging them to represent more actively their rights and interests.

Presentation of the annual national report on the implementation of the UN International Covenant on Economic, Social and Culture Rights in Latvia[51] to the Government for approval was scheduled in the end of the reporting period. The covenant covers a number of issues topical to the society of Latvia: the right to work, equitable and favorable working conditions; formation and operation of trade unions; the right to strikes; the right to social security and adequate living standards; the highest level of physical and psychical health; protection of a family; the right to participate in culture life and to enjoy the results of scientific progress, etc.

Civil society has a number of tools available to make politicians listen. Elections is only one tool. Non-governmental organizations, the institution of Ombudsman, international organizations are among other tools for protection of public interests. The goal of the Ombudsman is to encourage NGOs to be proactive in expressing their views and to use the opportunities available from the international organizations to serve the best interests of the population of Latvia.

In this respect, the Ombudsman organized during the reporting period a seminar where experience, cognitions and cooperation patterns with the international organizations were presented by the Ombudsman Office as well as by a number of NGOs: the Latvian Trade Union of Health and Social Care Professionals, the society "Latvijas Kustība par neatkarīgu dzīvi", the resource center for mentally impaired "Zelda", and the Family Planning and Sexual Health Association of Latvia "Papardes zieds".

At the annual conference the Ombudsman proposed to include in agenda a discussion of the legal and practical aspects of lobbying.

The possibility of individuals or organizations to influence the adoption of national scale decisions is a form or democracy expression in countries with long and strong democracy

[51] Available at: http://ej.uz/vzsz

traditions and a way to ensure the linkage of power with society and interest groups enabling them to influence decision-making in between elections.

As mentioned earlier, everyone has the right to lawfully protect their interests and to address submissions to governmental and municipal authorities in order to influence the adoption of desirable decisions. It is also called lobbying. Emphasis here is on the words “everyone” and “lawfully”.

Lobbying as such is not condemnable, yet it is only lawful to the extent it does not involve corruption or gaining of undue benefits or privileges. Experts of the World Bank identified Latvia in early 2000s as a country of transitional economy with most notable capture of power to serve the interests of a few.

In Latvia, unfortunately, the word “lobbying” has a negative meaning of something unpermitted, secret arrangements, abuse of political acquaintances for transaction of deals, and similar, and such practice is in no way compatible with good governance that requires clear, transparent, accessible and equality-based conditions of process.

The international Organization for Economic Cooperation and Development has issued on 18 February 2010 Recommendations (C(2010)16) encouraging the Member States to set uniform requirements to the regulation of lobbying and proposing certain principles of good governance, including clear definition of lobbying and lobbyists; ensuring transparency and openness of lobbying; providing equal rights to all lobbyists in their access to the subjects of lobbying or to the officials responsible for decision-making, and not only equal rights but also equal opportunities to pursue lobbying activities.

Tasks of the Ombudsman include identification of shortcomings in legal acts and their application in the matters related to the observation of the principle of good governance. Therefore, a discussion was arranged in 2014 with the view to establish:

1) The progress made by Latvia in the drafting and implementation of the legal regulation of lobbying,

2) Whether or not the expected results are achieved;

3) If there is no result, identify the reasons of failure and determine whether or not more stringent (and potentially more transparent and open) legal regulation is required; whether any changes are required in political culture and practice, and the ways to achieve such changes.

Participants of the discussion included representatives of the Ombudsman Office and of the competent governmental authorities (the KNAB and the Ministry of Finance), as well as independent researchers and lobbyists with practical experience.

Notwithstanding the failure to introduce the definition of lobbying in legislative acts, in spite of the proposed concepts and draft laws, and notwithstanding that the attempt to integrate

the regulation of lobbying in the Codes of Ethic of governmental authorities has also failed because a lot of such concepts contained in such codes are never implemented in practice, one would not deny certain improvements. Lobbyists with practical experience acknowledge that comparatively well-elaborated procedures are established in Latvia on the level of legal norms; transparency of the meetings of the Saeima and the Government is provided; participation at task forces and meetings is available; in practice, however, different shortcomings can be observed. These include, for example, the following:

1. Lack of information regarding the matters presented for considering is often observed, especially where opposition can be expected from representatives of the industry. Invitations to share opinions are received with delay, as a rule, and therefore representatives of the industry are unable to prepare motivated opinions and so they are deemed to have no objections. Representatives of industries expressed their willingness to join discussion of proposals in possibly early stage. It was also proposed to inform at least the most active representatives of the industry before amending legal norms or adopting any decisions that affect the industry.

2. Particular lack of information can be observed regarding the task forces of ministries and meetings on departmental level, so there is no knowledge about where and when any matters would be discussed in which the industries are interested. Calendar schedule of the Saeima meetings was mentioned among positive examples. In contrast to that, traceability of proposals at the Saeima received criticism. While the initial version of a draft legal act enables traceability of the grounds for forwarding the proposal in question, no clear grounds for presentation of any specific proposal for a draft law by any parliament deputy or a committee can be followed up in the study of draft discussion or in between the readings, and such grounds also do not follow from the minutes of committee meetings.

3. Representatives of industries are critical to summaries of legal acts noting that such summaries are often formally prepared and lack argumentation; they trend to contain analysis of impact of the State and municipal budgets, rather than impact of the decision in question on the national economy in general.

4. It was proposed to develop a concept document or brief summary of the key amendments for voluminous documents for use not only by representatives of the given industry but also by the officials who decide in point of facts on further presentation of the document.

5. It was acknowledged that better understanding would be achieved by means of methodic material and regular training for public administration staff and officials to enable them distinguish from lobbying and trading in influence.

6. The procedure for adopting the State budget also earned criticism in the context with good governance. The ability of parliament deputies to familiarize in a few days with a set of

document composed of several hundred pages and to vote for such document with full responsibility towards the electorate was reasonable questioned.

2. Development of Understanding of the Principle of Good Governance

The staff of the Ombudsman Office have conducted two seminars during the reporting period on contents of the principle of good governance and its application in daily work for the municipality of Salaspils and the State Medical Commission for the Assessment of Health Condition and Working Ability. The participants are most interested in practical examples, and therefore, when analyzing specific situations, the Ombudsman popularized at the seminar some examples of best practice observed in the work of other institutions or municipalities. It has to be admitted, however, that institutions often seek to justify their lack of good governance by insufficient funding.

The Ombudsman is frequently receiving information from individuals about impolite, injurious or incorrect treatment that is impossible to prove on most occasions. Sometimes it may be concluded that such treatment is perceived from the position and attitude of the individual, and still the Ombudsman trends to use each opportunity to remind that such treatment of individuals on part of institutions is intolerable.

The incorrect statements made by the Head of Social Service of the municipality of Madona addressed to a client of the Social Service and also to the Ombudsman Office defending such clients deserves separate mentioning. When the Ombudsman became aware of such attitude he asked the Chairman of Madona City Council to re-assess suitability of the Head of Social Service to the office. The municipality informed that Executive Director of the County Council of Madona had discussed the situation with the Head of Social Service and reprimanded him verbally emphasizing that a municipal institution, and Social Service in particular, should adhere to the principles of ethics and social equity in their work, and pointing out that individuals as well as officials of governmental and municipal officials should be treated with respect without permitting any abusive and insulting expressions.

3. The Duty to Inform the Population

The following problem situation has been identified by the Ombudsman Office when handling applications of individuals regarding the actions of the State Revenue Service (hereinafter – the SRS).

Pursuant to Section 23 part 5.[1] of the Law on Taxes and Fees, when dispatching notifications to tax payers on verification of data compliance, the SRS, among other things, shall request them to submit to the SRS either their tax returns or substantiated explanation of the identified discrepancies within 30 days from the date of notice.

The SRS also notifies that, should the tax payer fail to eliminate the discrepancies specified in the notice by the prescribed date, the SRS shall adopt decision on the results of verification of data compliance including recalculation of the amounts payable/repayable into the budget; determine the amounts to be collected for payment into the budget, and charge the late interest in the amount stipulated in Section 29 part Two of the Law on Taxes and Fees for the period from due date of the declared amount till the date of such decision.

The said notice clearly informs the tax payer about the consequences of failure to eliminate the data discrepancies specified in the SRS notice. we I the Ombudsman Office have never experienced, however, any occasion when a tax payer is notified in the respective SRS notices of the duty to pay late interest, should the tax-payer decide to voluntarily eliminate the discrepancies pointed out by the SRS.

Without questioning the obligation of a tax payer to pay late interest if any tax or fees are found overdue, it should be noted, however, that a private individual could misunderstand that liability for payment of late interest only accrues in the event of failure to eliminate the discrepancies specified in the SRS notice.

Such misleading can result in the situation where the tax payer, when making corrections to the tax return, only estimates and pays into the budget the principal amount of tax, and such amount, pursuant to Paragraph 4 of the Cabinet Regulations No. 149 of 18 April 2000 Concerning the Procedure for Allocation of Annual Tax Payments and Overdue Tax Payments to the Budget, shall not be applied towards full payment of the principal tax amount. It means that a debt shall accrue and continued late interest shall be charged.

A tax payer certainly has to be aware of the presumption commonly accepted in a law-based state that lack of knowledge of the law does not release an individual from liability; however it should always kept in mind that the principle of legal security is also important in a law-based state. According to the case-law of the Supreme Court, the principle of legal security requires that the provisions by which a tax payer is charged with any payments are clear and accurate so that tax payers certainly know their rights and obligation and behave accordingly. The principle of legal protection has to be especially strictly observed in respect of a legal regulation that is likely to have financial consequences[52].

[52] Award of Administrative Department of the Supreme Court made on 1 June 2011 in No. SKA – 107/2011.

It should be noted that neither Section 23 part 5.[1] nor Section 29 part Two of the Law on Taxes and Fees contain clear and accurate condition that tax payers are also supposed to estimate the due late interest and make the payment into the budget even if the discrepancies specified by the SRS are voluntarily eliminated. The principle of good governance in such situation requires from governmental authority an action that is aimed at observing the rights and lawful interests of private individuals and promoting of legal security (certainty).

A possible way to provide that from the aspect of good governance is including in the notices on verification of data compliance the information about liability for payment of late interest if the tax payer selects to voluntarily eliminate the discrepancies specified by the SRS.

The Ombudsman has recommended that the SRS in their practice should: 1) supplement their notifications on verification of data compliance with the above-stated information; 2) consider introduction of calculators for tax payers (whether or not users of the EDS) to enable estimation of their late interest; 3) inform the tax payer about indebtedness if the data discrepancies identified by the SRS are eliminated and only the estimated principal tax amount is paid into the budget.

4. Substantiation of Decisions, Actions and Replies of Authorities

It is crucial in adopting decision to consider and take into account all individual conditions of each case in the point of facts, bearing in mind the sense and purpose of the applied norm, and also to use the guidance of case law, in particular the findings of the European Court and Supreme Court.

Any reply or clarification issued to a private individual has to contain reference to the legal norm that substantiates the position of authority, as well as logically presented argumentation of the given action, based on substantiated and provable considerations.

4.1. The Practice of Road Traffic Safety Directorate

An inspection case was instituted at the Ombudsman Office pursuant to an individual's application concerning eventual infringements of the principle of good governance in the operation of the State Joint-Stock Company Road Traffic Safety Directorate (VAS "Ceļu satiksmes drošības direkcija", hereinafter – CSDD). The person pointed out in the application that she had applied to the CSDD for registration of a car imported to Latvia. When comparison of identification numbers at CSDD was completed, registration of the car was refused and the

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Available at: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/senata-administrativo-lietu-departaments/hronologiska-seciba/2011-hronologiska-seciba/

certificate of registration was taken into custody. An official of the Directorate explained that CSDD had the right to take the certificate of registration of a car into custody for the period of two weeks, and the certificate would be delivered to police for performing check within one month. The official did not explain, however, the reason of detaining the documents and, according to the person, did not listen to her opinion regarding the situation. The person repeatedly applied to CSDD in writing, however the Directorate, in her opinion, did not reply on the point of facts.

Failure on the part of CSDD to reply on the point of facts was ascertained in the inspection case. It was also established that provisions of the external regulatory acts are insufficient regarding the CSDD actions until receipt of information from the State Police to enable decision on registration of a transport vehicle, while the internal regulatory acts governing the actions of the CSDD staff have become null and void.

Given that the information provided by the individual and that obtained from CSDD regarding the actions of the CSDD staff is exclusive of each other, the Ombudsman was unable to issue unequivocal assessment of the actions of the CSDD staff from the aspect of the principle of good governance. The Ombudsman proposed that CSDD should apologize to the person for the failure to explain her rights and obligations, subsequent actions of CSDD following the receipt of information from the State Police, and for failure to reply on the point of facts. It was also recommended that, whenever registration of a transport vehicle is refused, documents are kept in custody and similar, the Directorate should clearly explain to the customer their rights and obligations right upon the detention of documents (for example, to clarify the circumstances and to follow up the progress with the State Police), as well as the obligations and actions to be taken by the CSDD. The Ombudsman also encouraged the Directorate to review and coordinate the external and internal normative regulations concerning the actions of CSDD.

CSDD informed the Ombudsman in reply to the above-stated that the Directorate had issued a written apology to the person for the failure to ensure that their explanation was insufficient to enable full understanding of the situation. CSDD stated that explaining the rights and obligations to their customers was a normal practice. CSDD also informed that they had drafted an instruction, since the applicable external regulatory acts did not prescribe the actions of CSDD in full details if, according to the register of transport vehicles, a transport vehicle or its parts bearing series numbers are announced in search, or if there are reasonable grounds to believe that series numbers of the parts or other registration data marked by the manufacturer on the transport vehicle, or the presented number plates are counterfeit, or the documents presented for registration are falsified. CSDD also informed that all executive staff has been notified of the said instruction.

4.2. Actions of the Office of Citizenship and Migration Affairs

The Ombudsman has reviewed during the reporting period an individual's application regarding the actions of the Office of Citizenship and Migration Affairs (hereinafter – the PMLP) that has not replied in accordance with the applicable procedure to three complaints of an applicant.

It was established in the inspection case that the PMLP had left without considering and accepted for information certain applications without notifying the applicant of their decision, given that the received applications were identical to those filed earlier by the Applicant and replied on point of facts by the PMLP.

The Ombudsman concluded that the PMLP had legitimate grounds to leave the applicant's applications without considering and to accept them for information in accordance with Section 7 part One para 5 and Section 7 part Three of the Submission Law. The PMLP, however, failed to inform the applicant of their action in contradiction with the principle of good governance.

The Ombudsman recommended that the PMLP should notify the applicant in writing about the progress of their applications, and to notify the applicants on similar occasions in future of the decision made by the authority. The Ombudsman's recommendation has been appreciated and implemented.

4.3. Actions of the State Joint-Stock Company VAS "Latvijas Pasts"

The Ombudsman identified on another occasion that VAS "Latvijas Pasts", when replying to an application, omitted reference to the legal norms from which the rights and obligations of the postal authority were derived on the occasions when the delivery address (including the recipient) has to be clarified, and has issued no reply to all questions posed by the applicant. The Ombudsman encouraged the postal authority to ensure that all questions posed in the application are answered in future situations including reference to the normative regulation on which actions of the postal authority are based.

4.4. Actions of the Health Inspectorate

An inspection case was instituted by the Ombudsman Office in the reporting period, pursuant to a person's application, concerning potential violation of Section 104 of the Satversme and breach of the principle of good governance on part of the Health Inspectorate.

The applicant had made an emergency first medical aid (hereinafter – FMA) call because his son's health had rapidly deteriorated. Information about the address for the FMA team was

specified during the telephone conversation between the applicant and the dispatcher. The address was clarified, yet the FMA team arrived two hours after the call because they had went to a different address. When the FMA team arrived the applicant's son had already passed away.

The applicant applied to the Health Inspectorate in relation to the accident and asked to investigate the described circumstances to prevent similar situations in future. The applicant also asked to provide information about the motives of action of the FMA team.

The Health Inspectorate refused any information to the applicant stating that, in his capacity of father of the deceased, he had no right to claim any information regarding medical care of his son. Such right is only granted to spouse of the deceased.

In the applicant's opinion, the actions on part of the Health Inspectorate were infringing of the right guaranteed in Section 104 of the Satversme to address submission to a public authority and to be replied on the point of facts. Further, in the applicant's opinion, he had listed a number of facts and circumstances in his complaint to the Health Inspectorate that evidenced ineffective actions on part of the FMA team, yet they were not directly related to the health, treatment and diagnosis of the applicant's son. The questions posed in the application directly concerned the applicant as the person who had called to and communicated with the FMA team.

The Ombudsman concluded in his opinion that the Health Inspectorate could impose restrictions on third parties' access to the information regarding the cause of death of a patient or the treatment provided before death. The Health Inspectorate can exercise vast discretion in deciding whether or not the information requested by a third party is related to the rights of patient. Theoretically, the FMA is free to interpret any question by third person regarding a FMA call as related to health care of the person for the interests of which the FMA team was called. As a rule, such approach would automatically mean prohibition to obtain reply from the Health Inspectorate whenever a person has been involved in any relations with the FMA in providing their services to a patient, regardless of the fact that, according to Section 104 of the Satversme, such persons have the right to obtain information about any events and circumstances they have been directly involved in. Further, a person acting pursuant to Section 104 of the Satversme may be acting as well for public interests: for example, to inform the competent authorities and the FMA management about the negative FMA practice likely to affect other members of society as well. So wide interpretation without reasonable grounds would border in breach of the principle of arbitrariness prohibition.

The Ombudsman acknowledged in the given occasion that the applicant, being directly involved in the occurrence, could partially have lawful interest in his own name and on behalf of public interests to ask the Health Inspectorate to issue assessment of the actions of FMA team and to receive a reply, insofar the right of patient is not concerned.

The Ombudsman acknowledged that the Health Inspectorate had not observed the provisions of Section 104 of the Satversme. The FMA has replied on their turn that development and introduction of a mobile application was launched, whereby the dispatcher has to send information about the destination address. The novelty shall be introduced in the work of FMA from 2015, and additional training of the staff shall be provided.

5. Clarification and Shortcomings in the Executing of an Administrative Act

The Ombudsman draws attention to the fact that for the purpose of protecting the interests of private individuals in administrative proceedings it is equally important to notify the individual of their rights and obligations and to ensure accurate executing of an administrative act so that in contains the required data.

5.1. Actions of the State SIA "Paula Stradiņa Klīniskās universitātes slimnīca"

A private individual applied to the Ombudsman Office pointing out that the staff of VSIA "Paula Stradiņa Klīniskā universitātes slimnīca" failed to provide any motivated substantiation when deciding on refusal to grant the status of a victim of the Chernobyl accident.

The Ombudsman reviewed the administrative act issued by the hospital and established that the act contained no reference to the available legal remedies, in particular the manner and time for disputing or appealing against the administrative act. So there are grounds to believe that on the given occasion the VSIA "Paula Stradiņa Klīniskā universitātes slimnīca" has issued an administrative act in contradiction with the requirements stipulated in Section 76 of the Administrative Procedure Law and committed a breach of the overall requirements to executing of an administrative act.

Instead of qualifying the administrative act as invalid, the Ombudsman, when analyzing the above-described occasion, emphasized that an administrative act must contain a clear and express reference to the appealing possibilities including the name of superior institution to which the adopted administrative act may be contested by the person.

The VSIA "Paula Stradiņa Klīniskā universitātes slimnīca" reacted promptly to the Ombudsman's notice regarding the shortcomings in the executing of administrative acts and informed such situations would not be permitted any more. The hospital further committed to contact the client and provide to him full information about the manner and timing for contesting the administrative act in question.

5.2. Actions of the State Land Service

On some other occasion it has been established that the State Land Service, when sending a prepayment invoice, failed to notify of the fact that, according to the Cabinet Regulations No. 20 of 11 January 2011 Concerning the Procedure of Payment for Services provided by the State Land Service, a private individual has the right to decline accepting the requested information and to pay the issued prepayment invoice, and such invoice has to be paid if the private individual selects to obtain the requested information.

The Ombudsman recommended that the State Land Service, when issuing prepayment invoices in future, should clarify the payment procedure to individuals including their right to decline accepting the requested information.

5.3. Actions of the State Language Center

An inspection case was instituted on the grounds of application stating that the applicant had paid penalty on the grounds of decision made by the State Language Center (hereinafter – the SLC) in administrative offence proceedings by transfer of the funds to the indicated account with the State Treasury. Three months later, the applicant received from the SLC a letter informing that the penalty in question should be paid within seven days, otherwise enforcement of the decision would be entrusted to a certified enforcement officer, and an executive action was initiated in this case.

The Ombudsman concluded in the inspection case that the problem had arisen from two causes. First, no automatic payment processing is provided at the Penalty Register of the Information Center unless the number of protocol is specified consisting of the series and number without break. Second, the SLC failed to enter the protocol in the register on the day next following to the date of decision. The principle of good governance also includes responsive treatment of private individuals by institutions.

The Ombudsman appreciated timely finalization of the executive case by the certified enforcement officer and therefore the applicant experienced no negative consequences. It should be further noted, however, that, notwithstanding that the SLC took part in resolving the situation, non-compliance with the principle of good governance can be observed in their actions due to the failure to timely enter date into the Penalty Register. Non-compliance with the principle of good governance can also be observed in the work of the Information Center due to unreasonably long delay in identifying the applicant’s payment.

The Ombudsman recommended that the SLC and the Information Center should agree on joint access protocol and application of uniform numbering of decisions, for example, by means of allocating in the said information system of the Information Center additional boxes for

entering numbers of protocols and decisions used by the SLC, such as BB No. 000000, or by means of altering the numbering of decisions and protocols by the SLC to correspond with the numbering used by the Information Center, for example BB000000, in order to prevent potential infringement of private individuals' right to good governance in future.

The Ministry of Justice informed the Ombudsman that the SLC was the only institution that used forms with recording system that does not comply with the Cabinet Regulations, and that SLC was already taking steps to prevent recurrence of similar situations in respect of which an inspection case had been instituted. The Ministry of Justice explained regarding the recommendation to amend Appendix 1 to the Cabinet Regulations No. 484 that the draft Administrative Offence Procedure Law would no more delegate the establishing of template forms to the Cabinet Regulations.

The SLC informed, on their turn, that they had ordered a vast stock of the forms of administrative offence protocols and decisions, and therefore no significant alterations could be made at present. The SLC committed, however, to inform individually each person called to criminal account about the information to be specified under "payment target". The relevant information is also published in section "Payment of penalties" on the SLC website.

6. Effectiveness of Operation of a Public Authority

When reviewing applications of persons in the context with good governance, the Ombudsman also assessed the effectiveness of operation of a public authority. Some applications enable the conclusion that the actions of public authorities has been ineffective to protect the interests of individuals, in particular such actions have been insufficiently clear, accurate and timely, and failed to meet the rights and interests of a private individual.

6.1. Duty of authority to obtain the information at disposal of the State

An individual applied to the Ombudsman Office during the reporting period and pointed out to requirement imposed by the state to present documents verifying the payment of adjudged penalty to the court chancery, along with the notice that otherwise enforcement of the ruling would be entrusted to a certified enforcement officer. The applicant explained that, when payment of adjusted penalty is made to the State Treasury, the number of civil case on imposing of the penalty has to be specified as a must. The requirement by court to present verification of payment is therefore unreasonable once the CPL neither prescribes such immediate obligation of a person nor authorizes the court to impose such obligation. Moreover, when payment of penalty is made with specification of the number of civil case, full information including the amount,

date of payment, the case on imposing the penalty, and identity of the payer, is made available to the public authority, that is, to the State Treasury.

The Public Administration Law prescribes the principle that public administration shall be organized with maximum comfort and availability for a private individual, and whenever any information necessary for administrative decision on regulating public legal relations with a private individual is kept by another institution, the authority shall obtain such information rather than request it from the private individual. Since administrating the payment of penalty is a matter or organizational nature, rather than adjudication on point of facts, the principle of good governance has to be taken into account when organizing the work of judicial authorities.

Pursuant to the person's application, the Ombudsman requested the Ministries of Justice and Finance to bring the normative regulation in accordance with the principle of good governance so that judicial authority is able to check, after the expiration of voluntary enforcement period granted by the court and prior to forwarding the court order to an enforcement officer, whether the payment has entered the State Treasury account, and such practice would also minimize the administrative burden.

The Ministry of Justice pointed out in their reply to the recommendation that work on improvement of the Court Information System was taking place, including the development of *E-billing* module which is currently undergoing tests for introduction scheduled to the second half of 2014. The *E-billing* model is expected to facilitate payment procedure for the persons applying to the court as well as enable identification of payments by courts, because the required information shall be automatically specified in the invoices, along with unique identification code so that specific payment can be tied to specific procedural action. The Ministry of Justice also pointed out that work on drafting amendments to the CPL in this context was continued.

6.2. Insufficient care exercised in serving public interests; ambiguous interpretation of legal norm

According to the Public Administration Law, public administration shall serve the public interests. This also includes proportional observation of the rights of private individual and the public interests. Neither public administration nor individual authority or official have their own interests when performing the public administration functions.

6.2.1. Actions of the State Chancery

An application was received in 2014 at the Ombudsman Office regarding the refusal by the State Chancery to remove private parking area of their staff at Tērbatas iela, Riga, next to the

Sakta Flower Market so that the parked vehicles do not obstruct access for the customers to the market. The State Chancery substantiated their refusal with reference to the Protective Area Law and stated that vehicles of their staff parked there were supposed to protect citizens against potential shock waves and terrorist attacks.

The Ombudsman contacted Riga City Council, Transport Department of Riga City Council and Security Police, and identified no factors preventing removal of the parking area; pursuant to Section 23.[1] of the Protective Area Law and Paragraph 2.4 of the Cabinet Regulations No. 1312 of 10 November 2009 On Restricted Activities at Protective Areas around Public Protection Sites and the opinions of Security Police and Riga City Council, recommended that the State Chancery should reach agreement with Riga City Council on removing the private parking area of the staff to another location with due regard to the interests of Sakta flower vendors and the customers so that vision to the flower market is not obstructed.

6.2.2. Change of CSDD practice

A natural entity filed an application with the Ombudsman Office informing about the action of CSDD – refusal to re-register ownership title to a transport vehicle purchased at a sale arranged by certified enforcement officer, until payment of the overdue transport vehicle tax and/or penalty for road traffic breaches by the former owner of the vehicle.

It followed from material of the application that neither CSDD nor the SRS collect overdue corporate transport tax from the debtor or former owner by the means of general compulsory enforcement. Therefore, where an individual seeks to re-register ownership of a transport vehicle purchased at sale, he or she is forced to pay the tax overdue from the former owner as well as administrative penalties, if any.

The Ombudsman established potential infringement of the right to property as well as breach of the principle of good governance and eventual shortcomings in the application of legal acts, and therefore an inspection case was instituted.

It was established in the inspection case that legal regulation regarding re-registration of a transport vehicle purchased at sale in the name of the new owner was incomplete. It was also established that CSDD indeed pursued the practice of refusing registration of ownership title to a transport vehicle purchased at sale from a certified enforcement officer in the name of the new owner unless and until the overdue tax and penalties for traffic breaches were paid; instead they formally apply Sections 6, 10, 11, 13 of the Transport Vehicle Exploitation Tax and Corporate Passenger Transport Vehicle Tax as well as Section 299.[1] para 3 of the Administrative Offence Law, thus imposing unreasonable restriction on a person’s right to property in breach of the principle of inevitability of penalty.

When the inspection case had been instituted, the Ombudsman established that, regardless of shortcomings in the legal regulation, CSDD had on certain occasions changed their practice and authorized registration of a transport vehicle purchased at sale in the name of the new owner without claiming payment of the debts of the former owner.

CSDD notified the Ombudsman in this regard in the course of the inspection case of amendments adopted to the AOL on 3 July 2014, whereby Section 299.[1] part two para 3 was excluded, and therefore CSDD had no more legal grounds for refusal to take registration actions in respect of the given category of transport vehicles. Further, CSDD did not object to the application of Transport Vehicle Exploitation Tax and Corporate Passenger Transport Vehicle Tax Law in such a manner that no overdue tax is claimed from the new owner who has purchased the transport vehicle at sale.

Taking into account the fact that CSDD had discontinued the unfavorable practice in respect of private individuals due to amendments to the AOL, as well as the changed position of CSDD towards interpretation of the Transport Vehicle Tax Law, the Ombudsman dismissed the inspection case and recommended that CSDD should consequently follow the presented interpretation of the Transport Vehicle Exploitation Tax and Corporate Passenger Transport Vehicle Tax Law until the relevant amendments to regulatory acts are adopted.

6.2.3. Actions of the Health and Sports Center of the Ministry of Interior in determining the amount of compensation for injury at service

Pursuant to application filed by official of the State Fire Fighting and Rescue Service, the Ombudsman instituted an inspection case regarding non-compliance if the actions of the Health and Sports Center of the Ministry of Interior with the principle of good governance.

On 8 November 2013, when performing the official duties, the applicant was involved in accident and injured in his head.

The said accident was investigated during the period from 26 November 2013 to 16 January 2014, and Accident Investigation Commission of the State Fire Fighting and Rescue Service executed a statement on the results of investigation and notified the applicant thereof on 17 January 2014.

On 17 February 2014, decision of the Health and Sport Center dated 11 February 2014 on granting an accident compensation was issued to the applicant. The Decision was based on Section 19 part Five para 2 of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities repealed on 1 January 2014 and on Paragraph 7 of the Cabinet Regulations No. 565 of 21 June 2010 Concerning Social Guarantees to the Officials and

Employees to Governmental and Municipal Authorities. No specific amount of compensation is stated in the Decision, yet it specifies the procedure for disputing the decision.

On 15 April 2014, the applicant was informed by notice of the Health and Sports Center dated 10 April 2014 that, pursuant to Sub-paragraph 9.2 of the Cabinet Regulations No. 565, accident compensation was granted to him in the amount of EUR 1 422.87.

The applicant pointed out to the fact that the amendments to Section 19 of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities enacted on 1 January 2014, the amount compensation was increased. The Health and Sports Center has therefore applied the norms that had been repealed at the time of accident, instead of those enacted on 1 January 2014.

The inspection case included determination of the legal norm applicable to the applicant in the given situation. Namely, whether the provisions of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities effective at the time of accident, that is, on 8 November 2013 (the repealed legal norm), should be applied or legal norms of the said Law effective as of the date of final decision-making by the Health and Sports Center, that is, on 1 April 2014 (the new, effective legal norm)).

The Ombudsman concluded that the legislator had intended to provide by Paragraph 24 of Transitional Provisions of the Law of 19 December 2013 on Amendments to the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities the legal base for granting increased compensation exclusively to the relatives of the fire-fighters killed in the Zolitūde tragedy. No other objective grounds can be identified for retrospective application of the legal norm.

It was therefore concluded in the inspection case that provisions of Paragraph 24 of Transitional Provisions of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities are subject to maximally narrow interpretation, that is, corresponding with the actual purpose of adopting such provisions: granting increased compensation exclusively to the relatives of the fire-fighters killed in the Zolitūde tragedy. Further, in the Ombudsman's opinion, the vague formulation of Paragraph 24 of the Transitional Provisions regarding other provisions of Section 19 of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities clearly provides grounds for acting in accordance with the cognitions of the theory of law concerning actions in case of doubt, and it may be concluded that in the given occasion the principle of immediate effect commonly accepted in public law (where the new legal norm is applicable to circumstances originating prior to and continuing after the enactment of the new legal norm) (initiated or

continued circumstances) is applicable to Section 19 part 2.[3] of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities.

Two preconditions that constitute a set of uniform legal facts had to be met for granting compensation to the applicant: the fact of accident, and documented degree of bodily injuries.

The first precondition was met on 8 November 2013, that is, during the effective period of the legal norm that provided lower compensations. Opinion of the Central Medicinal Expertize Commission in respect of the applicant was adopted on 1 April 2014 when the legal norm was enacted that provided higher compensations.

It was concluded from the above-stated that the set of preconditions (legally relevant facts) in the applicant's actual situation was met when the new legal norm had been enacted, and therefore, according to the principle of initiated or continued circumstances, the new legal norm was applicable to the applicant's situation (Section 19 part 2.[3] of the Law on Compensations to the Officials and Employees of Governmental and Municipal Authorities).

The inspection case also included assessment of the action of the Health and Sports Center in substantiating the administrative act, from the aspect of good governance.

The Ombudsman concluded that the administrative act was not properly substantiated and executed, and it contained misleading disputing procedure. The Ombudsman qualified the said action on part of authority as a material breach of the principle of good governance and recommended elimination of similar breaches in future.

For this purpose, the Ombudsman asked the Health and Sports Center to inform after six months about the implementation of the said recommendations as well as about progress in the drafting and adoption of amendments to the Cabinet Regulations No. 565 intended to eliminate shortcomings regarding uniform executing of an administrative act.

6.2.4. Action of the SRS in failure to discharge a person's debts upon completion of the insolvency proceedings, in contradiction with the court adjudication

An inspection case was instituted at the Ombudsman's initiative during the reporting period concerning the application of the Insolvency Law of 1 November 2007 and the Insolvency Law of 26 July 2010 in discharging overdue tax[53] obligations at finalization of the insolvency proceedings of a natural entity.

The inspection case was aimed at ascertaining whether or not the procedure for discharging tax indebtedness at completion (dismissal) of insolvency proceedings of private individuals

[53] For the purpose of our opinion, tax indebtedness means the principal tax amount and the related late interest and penalties.

envisaged in the Insolvency Law of 1 November 2007 is less favorable than that stipulated in the Insolvency Law of 26 July 2010[54].

According to the Insolvency Law of 1 November 2007, finalization of bankruptcy proceedings in case of private individual entails discharge of neither the tax indebtedness that remains due within the framework of such proceedings, not the related late interest or penalties.

According to Section 164 part Four of the Insolvency Law of 26 July 2010, where the debtor takes the actions stipulated in the schedule for discharging the obligations of a private individual, obligations of such person that remain due after completion of the said schedule (including overdue tax liabilities) shall be discharged, and the suspended executive proceedings for collecting the discharged obligations shall be dismissed.

Assessment of the legal norms contained in the above-mentioned laws enabled the conclusion that the legislator had established an alternative mechanism whereby, in case of insolvency proceedings initiated pursuant to the Insolvency Law of 1 November 2007, the private individuals have the option to "switch" to the insolvency proceedings on more favorable terms including in respect of discharging tax indebtedness, whilst preserving at their option the right to have the insolvency proceedings finalized pursuant to the Insolvency Law of 1 November 2007.

Notwithstanding the different legal norms of the Insolvency Law of 1 November 2007 and that of 26 July 2010 regarding the discharge of tax indebtedness in case of private individuals, as long as the above-described mechanism exists, there are no grounds to treat the norms of the Insolvency Law of 1 November 2007 as less favorable than the presently effective ones.

In addition to the above-stated, the inspection case also included assessment of whether or not the SRS was discharging tax indebtedness, that is, adopting decision on discharge of tax indebtedness when insolvency proceedings in respect of a private individual are finalized pursuant to the Insolvency Law of 26 July 2010.

The Ombudsman concluded as a result of the inspection: notwithstanding that a private individual is discharged from the obligations listed in the schedule for discharging of the private individual's obligations, eventually including tax indebtedness, by a court ruling rendered in accordance with the procedure prescribed by Sections 164 and 165 of the Insolvency Law of 26

[54] According to Paragraph 5 of Transitional Provisions of the Insolvency Law of 26 July 2010 in the effective wording, (..) in case of insolvency proceedings initiated during the period from 1 January 2008 to 31 October 2010, the norms of and regulatory acts adopted pursuant to the then effective version of the Insolvency Law apply. In case of insolvency proceedings initiated pursuant to the Insolvency Law of 1 November 2007, the norms of such Law apply regardless that the Law has been repealed from 1 October 2010. The insolvency proceedings initiated pursuant to the Insolvency Law of 26 July 2010 are subject to the norms of the Insolvency Law of 26 July 2010.

July 2010, such indebtedness is not discharged by the SRS in terms of Section 25 of the Law on Taxes and Fees, because the said norm contains no such stipulation.

In the Ombudsman's opinion, the above-described practice of the SRS is unfavorable to the rights and lawful interests of a private individual because of potentially adverse legal consequences.

The Ombudsman established in this respect that the Ministry of Finance has been addressing this issue and drafted amendments to the Law on Taxes and Fees, and the amendments have been presented for approval to the Meeting of Secretaries of the State.

The Ombudsman appreciated that the SRS and the Ministry of Finance had addressed the identified problem and had taken the necessary steps to resolve it on the level or regulatory acts. The Ombudsman therefore recommended that until enactment of the said amendments the SRS should apply the existing legal regulations with due regard to the principle of proportionality and the objective of the Insolvency Law.

6.2.5. Actions of the SRS in delayed handling of application

An inspection case concerning the actions of the SRS was instituted by the Ombudsman Office pursuant to application of a legal entity.

In particular, the applicant had filed an application with the SRS Customs Department for repayment of import and export customs tax according to the procedure stipulated in Article 239 of the Community Customs Code[55] (tax remittance).

In reply to the said application the SRS pointed out a month later that they had to perform detailed investigation of the circumstances stated in the application, and therefore the period for investigating the application was extended.

Nearly four months after filing of the application the SRS decided that the application would not be considered in point of facts because the applicant had exceeded the filing period.

The applicant noted that, instead of detailed analysis of the circumstances described in the application, the SRS unlawfully declined examination of the application without any justifying grounds. Such action on part of the SRS contradicts with the principle of good governance and constitutes infringement of the right to fair legal proceedings, in particular hearing within a reasonable period of time.

A formal precondition is prescribed in Article 239 of the Community Customs code – the period for initiating the procedure. From the view of legal methodology, before a person's application is examined in point of facts, the examiner must establish whether or not the

[55] Full name: Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

application is timely filed. Decision on examining the circumstances in point of facts is adopted depending on whether or not such precondition is met. In case of late filing, the authority has to decline examination in point of facts. Such approach is based on the need to observe the principle of legal stableness and protection of legal reliance in respect of one party to the proceedings.[56]

The Ombudsman established failure on part of the SRS to follow the above-described methodology, and processing of the application was started from assessment of circumstances in point of facts, thus misleading the applicant that substantiation of the SRS decision would contain considerations regarding the facts stated in the application. It was further concluded that the SRS had groundlessly extended the period for processing the application, while the applicant would have spent such time on other procedural actions, for example.

6.2.6. Actions of the Ministry of Defense in deducting debt from service pension without observing the minimum amount to be left at disposal of the person

The inspection case was conducted on assessing whether or not the Ministry of Defense, when deducting debt from military service pensions upon instruction of a certified enforcement officer should take into account the limit of minimum monthly wage to be left at disposal of the person, in addition to funds in the amount of state social security allowance for each minor dependent child.

In the opinion of the Ministry of Defense, the amount prescribed by the law was not binding since it was not contained in the special legal norm, namely, Section 12 of the Law on Military Service Pensions stipulating that the total monthly amount of deductions may not exceed 50 percent of the service pension.

Section 594 part One para 3^{57} of the effective CPL stipulates that deductions on the grounds of executive documents shall be made from the wages and similar payments due to the debtor until collection of the debt is completed, unless otherwise prescribed by law, in the amount of 30 percent, provided that wages and similar payments due to the debtor are left at their disposal along with funds in the amount of state social security allowance for each minor dependent child.

Section 595 part Two[58] of the effective CPL stipulates that, when recovery is applied to state pensions[59], state social insurance allowances and compensations, the norms governing

[56] See Comments on Administrative Procedure Law by group of authors under scientific edition of Dr. iur. J.Briede regarding the purpose of procedural timing. – Riga: Tiesu namu aģentūra, 2013, p.p. 449

[57] The said procedure is effective from 1 January 2014.

[58] The said procedure is effective from 4 January 2014.

recovery from wages shall apply unless different limits to deductions are prescribed by other laws.

The Ombudsman therefore concluded that in the given occasion compulsory recovery of debt in form of deductions from state pensions is concurrently governed by the general law, CPL, and a number of special norms, including the Law on Military Service Pensions. Therefore, this is the conflict of law situation[60].

According to the legal doctrine, the ways to settle conflicts of law include either interpretation of legal norms or application of conflict of law settlement norms[61].

Grammatical interpretation of Section 12 of the Law on Military Service Pensions leads to conclusion that deductions shall be made without preserving funds in the amount of minimum monthly wages or funds in the amount of state social security allowance for each minor dependent child. Interpretation with application of historical, systemic and teleological methods, however, leads to conclusion that the Ministry of Defense is bound to apply Sections 594 and 595 of the CPL thus preserving certain amount of funds for the person.

The Ombudsman shared the opinion of the Ministry of Justice that the given situation could be equitably resolved by means of conflict of law settlement norm prescribed by Section 15 part Nine of the Administrative Procedure Law, whereby in case of conflict between a younger general legal norm and an elder special legal norm with equal legal force, the elder special legal norm shall be applied insofar its purpose is not contradicting with the purpose of the younger legal norm (regulatory act).

The Ombudsman acknowledged that, once the purpose of Section 595 part Two of the CPL (a younger general legal norm) is to ensure that application of recovery to state pension is subject to the same criteria as recovery applied to wages and similar payments, and given that achievement of such purpose is not possible by means of Section 12 of the Law on Military Service Pensions (the elder special legal norm), the general legal norm shall be applied in the given situation.

The inspection case resulted in recommendation issued to the Ministry of Defense that, when applying Section 12 of the Law on Military Service Pensions, Section 594 and Section 595 part Two of the effective Civil Procedure Law should also be taken into consideration and

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[59] The term "service pensions" is not used in direct text of Section 595 part Two of the Civil Procedure Law; it follows, however, from the case law of the Constitutional Court that service pensions belong to the category of state pensions (see, for example, the award made by Constitutional Court on 15 April 2010 in case No. 2009-88-01, para 14). Such position in the inspection case is also shared by the VSAA and the Ministry of Justice.

[60] A conflict (competition) of law occurs if the text (legal content) of several legal norms corresponds with the same actual content. Cf. Iļjanova D. Tiesību normu un principu kolīzija. Juridiskās metodes pamati. 11 soļi tiesību normu piemērošanā. Rīga: Ratio iuris, 2003, p.p. 96.

[61] Ibid, p.p. 112

applied, so that provided that funds in the amount of minimum monthly wages are left at disposal of the recipient of service pension along with funds in the amount of state social security allowance for each minor dependent child.

6.3. Untimely action on part of authority

6.3.1. Groundless retardation of privatization process

An inspection case was instituted during the reporting period pursuant to a person's application regarding the actions of VAS "Valsts nekustamie īpašumi" and VAS "Privatizācijas aģentūra". The application pointed out to potential retardation on the part of VAS "Valsts nekustamie īpašumi" and VAS "Privatizācijas aģentūra" with privatization of the state-owned undivided shares in a construction project and alienation of state-owned undivided shares of land parcel.

It was established in the inspection case that the process of privatization and alienation was retarded by two years and seven months due to improper quality agreement between the VAS "Privatizācijas aģentūra" and owner of the land adjacent to the alienated parcel.

The Ombudsman concluded that the actions of VAS "Privatizācijas aģentūra" in the entering into legally imperfect agreement was not actually aimed at effective protection of the interests of the State and applicants to the privatization process, and this leads to presume non-observance of good governance.

6.3.2. Improper actions of the Construction, Energy and Housing State Agency

An applicant pointed out on another occasion to the failure on part of the competent public authorities to ensure the finalization of privatization process of a state-owned residential house in reasonable period of time and failure to properly perform the duties of house manager, that is, failure to take the compulsory house management steps, and as a result the apartment in the house was rendered unfit for residential purposes.

It was established in the inspection case that during the period of four years from adopting the Cabinet Decree on privatization of residential house no actions prescribed by the law and the decree for preparing the residential house to privatization. Therefore, omission on the part of the State Housing Agency, renamed after reorganization into Construction, Energy and Housing State Agency, is treated as contradicting with the law. It was established in the inspection case that preparing of the residential house for privatization was commenced and carried out no sooner than such actions were taken over by VAS "Privatizācijas aģentūra". No direct delay of

the beginning of privatization process was established on the part of VAS "Privatizācijas aģentūra".

The Ombudsman established in the inspection case that in general, the initiation of privatization process by the competent public authorities should be assessed as unreasonably lengthy procedure.

Investigation of the materials of inspection case showed that neither the Housing Agency nor the Construction, Energy and Housing State Agency as the legal successor had explained the reasons of delay in initiating the privatization process to the tenants, in breach of the principle of good governance prescribed by Section 10 part Five of the Public Administration Law.

6.4. Breach of the principle of legal reliance

6.4.1. The right of merchants who have acquired or seek to acquire the right to sell the produced electric power within the limits of the mandatory public procurement to rely on constant normative regulation

Several electric power producers applies to the Ombudsman Office – merchants who had acquired or seeking to acquire the right to sell the produced electric power within the limits of the mandatory public procurement. The applicants pointed out to groundless, in their opinion, restrictions imposed on sale of electric power within the limits of the mandatory procurement.

In 2011 and 2012, when adopting Cabinet Regulations, the government directed that no tenders would be announced by the Ministry of Economics during certain period till 1 January 2016 for acquisition of the right to sell the produced electric power within the limits of the mandatory procurement and the right to have fixed price paid for the installed electric capacities. Further, the Cabinet Regulations prescribed a limitation period of about 10 years in respect of continued governmental support to the merchants who has already obtained permits to sell the co-generated electric power in fixed volumes.

The applicants pointed out to what they believed infringement of the principle of legal equality, infringement of the rights stipulated in Sections 1, 105 and 91 of the Satversme, exceeding the statutory delegation, and non-compliance of the Cabinet Regulations with the Law on Official Publications and Legal Information.

The disputed norms:

1) Cabinet Regulations No. 604 of 28 August 2012 amending the Cabinet Regulations No. 221 of 10 March 2009 Concerning Generation of Electric Power and Fixing of Price for Cogenerated Electric Power;

2) 2) Cabinet Regulations No. 365 of 17 May 2011 amending the Cabinet Regulations No. 262 of 16 March 2010 Concerning Generation of Electric Power from Renewable Energy Resources and the Price Fixing Procedure.

When assessing compliance of the Cabinet Regulations with the principle of legal reliance, the Ombudsman established that the principal legitimate purpose of the said amendments was implementation of the requirements of the Directive 2009/28/EC. According to Annex I to the Directive 2009/28/EC, a binding objective was set for Latvia to ensure that net weight of energy generated from renewable energy resources in the gross end consumption of energy is increased from 32.6% in 2005 to 40% in 2020. Rapid increase of the end rate of electric power was mentioned among other key reasons for the need to amend the legal regulation.

It is concluded in the opinion that suspending of support would have long-term impact on the interests of electric energy users and stop rapid growth of end rates of electric power. The resulting public benefit would therefore exceed the potential restriction of the applicant's rights. Therefore, refusal of the right to sell certain volumes of electric energy within the limits of mandatory procurement during certain period does not constitute infringement of the principle of legal reliance and complies with Section 1 of the Satversme.

The opinion contains the conclusion regarding potential infringement of the rights stipulated in Section 105 of the Satversme that the restriction serves legitimate purpose, in particular to ensure gradual implementation of the Directive 2009/28/EC and to minimize rapid increase of the amount of mandatory procurement component that would lead to notable increase of the end rate of electric energy and present the risk of increased energy deficiency of the population. Therefore no infringement of the right to property stipulated in Section 105 of the Satversme can be established.

It was established regarding the Cabinet Regulations No. 365 that the applicants had acquired the right to sell certain volumes of electric power generated at their power station within the limits of the mandatory procurement. The fact that the electric power volumes actually generated by the applicants is much higher and they seek to sell it within the limits of the mandatory procurement does not constitute infringement of their right to property; it pertains rather to their non-acquired property.

It was concluded in the opinion that during the period with suspended right to the mandatory procurement is necessary to limit uncontrolled growth of the electric energy support volume that can have long-term effect on the end rate of the electric energy price, and to assess the mechanism and economic substantiation of the granted support, that is a key objective of the Electric Energy Market Law.

The Ombudsman therefore established that the delegation granted by the law was not exceeded since, pursuant to the Electric Energy Market Law, the Cabinet has certain delegation in terms of volume and procedure of implementation of the mandatory procurement, and such delegation is exercised by the Government when adopting the disputed Cabinet Regulations.

In the applicants' opinion, the principle of equality had not been observed in adopting the Cabinet Regulations No. 604 since a number of electric energy producers can concurrently qualify for the right (and have already acquired the right) to sell the generated electric energy in the form of volume subject to mandatory procurement under the Cabinet Regulations No. 221 and under the Cabinet Regulations No. 262. The merchants producing electric energy at cogeneration stations from renewable energy resources have only applied for support either under the Cabinet Regulations No. 221 or the Cabinet Regulations No. 262. Therefore all producers of electric energy at cogeneration stations from renewable energy resources are in similar conditions established according to uniform criteria, while subject to different treatment depending on the Cabinet Regulations under which they have applied for support.

The two groups of persons equally receive support from the State, however the form of support differs for producers of electric energy at cogeneration power stations and for producers of energy from renewable energy resources.

According to Paragraph 2.1 of the Cabinet Regulations No. 221, a cogeneration power station is a set of technologic equipment, structures and infrastructures intended for simultaneous generation of electric energy and heat energy, and therefore the possibilities of sale of the end product also differ from those available to producers of electric energy alone from renewable energy resources. It may be therefore clearly acknowledged that situation of the merchants producing electric energy from renewable resources and that of merchants cogenerating energy are neither equal nor comparable. Existence of different situation is evident from the fact that the legislator has distinguished between the two groups of merchants in the Law on Electric Energy Market, and the Cabinet has consequently established different legal regulation for determining the price of electric energy.

Concerning compliance of the adopted Cabinet Regulations with the Law on Official Publications and Legal Information, it has been established that the said legal norm is aimed at restricting the earlier acquired rights of applicants in future, rather than applied with retrospective effect, and therefore it may not be treated as retroactively applied.

6.4.2. On failure to grant transitional period upon amending legal regulation

It was established in the inspection case regarding potential infringement of the right to property and the principle of legal reliance that service pension had been granted to a person

from 2010 in accordance with the law on creative allowance to professional orchestra, choir, concert organization, theater and circus artists and ballet artists.

The person had entered into agreements since 2004 with a number of pension funds registered in Latvia and allocating part of monthly income to the 3rd level pension savings. Pursuant to Section 11 part Five of the Law on Private Pension Funds[62], stipulating that the pension age specified in pension plan may not be under 55 years except special pension plans for certain professions on the list approved by the Cabinet, and according to Sub-paragraph 9.1.1 of the Cabinet Regulations No. 155 of 28 April 1998 concerning the Occupations to which Special Pension Plans may be Provided in Private Pension Funds, the applicant as the former ballet artist can claim the funds accrued on his 3rd pension level at the time stipulated in the pension plan (from one week no several months, depending on the pension fund) upon achievement of the age of 38 years.

The accrued funds were urgently necessary for the applicant in September 2013, however he could was not allowed to withdraw them: the pension funds refused the disbursement due to amendments to the Law on Private Pension Funds. In particular, the Law adopted by the Saeima on 9 July 2013 and announced by the President of the State on 24 July 2013 on Amending the Law on Private Pension Funds was enacted on 7 August 2013. The said amendments included replacement of the wording of Section 11 part Five of the Law on Private Pension Funds to a new wording: "The pension age specified in pension plan may not be under 55 years except special pension plans for certain professions on the list approved by the Cabinet."

The said amendments to the Law entailed invalidation from 7 August 2013 of the Cabinet Regulations No. 155. On the other hand, no new Cabinet Regulations regarding the list of special professions were adopted instead when the person applied to the pension funds for withdrawal of the accrued supplementary pension. The transitional legal regulation on extending operation of the Cabinet Regulations No. 155 until adopting a new list of professions were also not adopted yet in the Law on Private Pension Funds.

The principle of good legislation has not been observed in the legislative process[63].

Neither the Finance and Capital Market Commission nor the Ministry of Welfare have drawn the attention of the Saeima Budget and Finance (Tax) Commission to the need for adopting transitional provisions due to potential lack of legal regulation and the eventual consequences thereof, notwithstanding that they were aware of such possibility.

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[62] In the wording effective before enactment of the Law of 9 July 2013 on Amendments to the Law on Private Pension Funds, that is, before 7 August 2013.

[63] Jānis Pleps. Pienācīgā kārtā pieņemts likums – saturs un izpratne. Seminar materials on constitutional law policy in Bīriņi on 2013. p.p. 106, 108, 111 (unpublished).

Other institutions involved in drafting amendments to the Law on Private Pension Funds (the Saeima reg. No. 645/Lp11) also have not paid attention to the need for adopting transitional provisions, though such need would follow from the supporting documents of the draft law.

Taking into consideration the above-stated, it was concluded that negligence error had occurred in the process of drafting amendments to Section 11 part Five of the Law on Private Pension Funds, resulting in infringement of the person's legal reliance and the right to property.

It was also concluded that neither the Finance and Capital Market Commission nor the Ministry of Welfare joined actively in solving the problem. They were involved no sooner than the problem had really occurred.

The Ombudsman acknowledged non-compliance of the said action on the part of authorities with the principle of good governance.

6.5. Inefficient performance of autonomous municipal functions

6.5.1. The actions of the municipality of Talsi and the municipal SIA "Talsu Ūdens" in collecting from tenants unjustified monthly subscription fee for water supply

Pursuant to a complaint filed by inhabitants of Talsi, the Ombudsman instituted an inspection case regarding the actions of the municipality of Talsi and the municipal SIA "Talsu ūdens", where collecting of fixed monthly payment (subscription fee) of LVL 0.72 or EUR 1.02 (without VAT) was continued along with the rate for water supply and sewage services, in contradiction with the provisions of regulatory acts.

Such actions were qualified in the opinion as contradicting with the law, and as a result of such actions about 130 000 Latvian lats or 184 974 euro were unlawfully collected from tenants during the period from 1 August 2008 to 1 March 2013. SIA "Talsu ūdens" and the County Council of Talsi have committed a breach of a number of legal acts as well as the principle of good governance causing financial damages to the tenants.

In order to eliminate the consequences of Decree No. 2-9/14 issued by the County Council of Talsi on 18 June 2008, the Ombudsman asked to take the following steps:

1) The County Council of Talsi shall promptly notify the population (in the newspaper and on websites of the Council and of SIA "Talsu ūdens") of the collected unjustified monthly subscription fees for water supply service and of the procedure for application by tenants for repayment of the overpaid funds;

2) The Ministry of Environment Protection and Regional Development shall:

2.1. Provide assessment of the actions of the County Council of Talsi in performing their autonomous water supply function, whereby fixed portion of fee for water supply was unlawfully collected from the population during the period from 1 August 2008 to 1 March 2013;

2.2. Provide assessment of the current actions and liability of the municipality in repayment of the unlawfully collected amounts to the population;

2.3. Request the explanation provided for in Section 94.[1] of the Law on Municipalities from the Council Chairman of the municipality of Talsi County.

No reply to the Ombudsman's recommendation has been received from the County Council of Talsi. The Ombudsman shall follow up the implementation of the recommendation.

6.5.2. Non-provision of municipal transport in city of Riga in the area of Kanāla iela

Inspection case No. 2012-4-27L was instituted regarding the fact that Riga City Council had discontinued from 1 January 2009 the municipal transport routes on the territory of Kanāla iela (Bukulti), so that a number of inhabitants including children and school children have to cross the railway and a four-lane highway or to walk extra 2.5 to 2.8 km to the nearest municipal transport stop. The Ombudsman established that, by improper performance of the functions stipulated in the Law on Municipalities, the municipality of Riga has also infringed the public administration principles stipulated in Section 10 parts Three and Five of the Public Administration Law: public administration shall operate for public interests and observe in their work the principle of good governance including the taking of equitable procedures in reasonable time, and other provisions aimed at ensuring that the rights and lawful interests of private individuals are observed by the Government.

The municipality has replied that the coverage of municipal transport network in general is very good, while in some underpopulated locations on the territory of Riga City (Trīsciems, Mūkupurvs, Lucavsala, Dārziņi etc.) the coverage of municipal transport is not optimum. The municipality noted to repeated assessment of the technical condition of the given street for including in a municipal transport route of Riga city, and construction of a new transport stop has been considered, however technical condition (width) of the street is not suitable for municipal transport vehicles owned by Riga municipal SIA "Rīgas satiksme"; it was also established that construction of a new transport stop would require voluminous construction works. Provision of minibus services in the said area has been considered, yet the experimental drive showed that width of the street did not correspond with the dimensions of minibus, so that the risk of collision was involved. In the opinion of the municipality, the problem can only be solved within the scope of development of the Northern transport corridor project. Riga City Council has recommended to inhabitants that they should seek solution of the said issue by applying to the

Municipal Transport Council, and the situation has been improved, yet the access to municipal transport for inhabitants of the counties of Priedkalne, Garkalne has not been resolved.

The Ombudsman pointed out in relation to another application to the non-availability of municipal transport on the territory of Dārziņi where minibus route No. 276 was operated till 26 August 2013. In reply to the above-mentioned, the municipality explained that the said service had been discontinued that, according to regulatory acts, passengers may only step on/off at municipal transport stops, and there were no such stops on the territory in question. Construction of transport stops on the given territory of Dārziņi would require complex reconstruction of the street infrastructure, while construction of a temporary stop is not possible because such option is not provided in the normative regulations. The municipality also pointed out to certain tasks included in Riga Development Program 2014-2020 aimed at addressing the infrastructure problems of Dārziņi, subject to the available funding, including gradual construction and reconstruction of traffic infrastructure objects.

6.5.3. On the duty of municipality to ensure legitimacy of construction process on their administrative territory

The Ombudsman noted in 2011 in his opinion No. 2011-343-27L to illogic and impermissible existence of normative regulation according to which the duty of municipality to ensure legitimacy of construction on their administrative territory ceases if the construction company has completed construction work.

The Ombudsman recommended that the Ministry of Economics should specify the normative regulations to ensure that inaccurate norms that can be confusingly interpreted do not release municipalities from the duty to ensure the legitimacy of construction process on their administrative territories.

The Ministry of Economics informed the Ombudsman in October 2014 that the new construction regulations had been enacted on 1 October 2014. Recommendations made by the Ombudsman in the inspection case No. 2011-343-27L had been taken into consideration when drafting the normative regulations for construction of internal engineering networks. The procedure for construction of internal engineering networks is governed in the new construction regulations by the Cabinet Regulations No. 551 of 16 September 2014 Construction Regulations for Hydro-technical, Heat Energy, Gas and Other Port Engineering Structures not elsewhere classified. According to Sub-Paragraph 12.2.2 of the said Regulations, the initiator of substation construction shall present to the Construction Board the authorization card for renovation, installing, demolition or reconstruction of internal engineering network of the building (with the exception of electric power or electronic communication network) if there is co-funding

available for such purpose from the European Union, the State or municipality. Further, according to Paragraph 13 of the Cabinet Regulations No. Nr.551, an authorization card is also required for restoration or reconstruction of internal engineering network of a multi-residential house. In addition, an agreement was reached in course of drafting the Regulations No. 551 that exception from the common procedure would only be authorized if renovation or restoration of the network has no effect on availability of the service in question.

It follows from the above-stated that the Ministry of Economics have eliminated the shortcomings in normative regulations identified by the Ombudsman, and therefore recommendation of the Ombudsman Office has been implemented.

6.5.4. Actions of the Municipality of Riga in permitting privatization of a basement of multi-residential house as separate non-residential premises

The application contains discontent with the actions of Riga City Council in alienating non-residential premises, namely basement of house, separately from the apartment in the multi-residential house, without notifying the tenants of such fact, and therefore the tenants' access to the commonly used communication systems located in the alienated basement is rendered difficult. Riga City Council explained that their actions in alienation of the basement correspond with the regulatory acts.

The Ombudsman established in the inspection case that not only the sewage systems, cold and hot water mains but also the valves for closing such mains were situated in the basement. It was established that engineering communications located in the basement were necessary for use of the housing, and therefore the basement was functionally related with the apartments in the building. According to Section 1 para 9 of the Law on Privatization of State and Municipal Residential Houses, basement may not be treated as non-residential premises and it does not constitute separate real estate.

Given the above-described circumstances, the municipality of Riga was not entitled to alienate the basement as separate property, according to Paragraph 30 of Transitional Provisions of the Law on Privatization of State and Municipal Residential Houses. Taking into consideration the above-stated, the given decision of Riga City Council was declared non-compliant with the regulatory acts.

V Legal Equality and Prohibition of Discrimination

1. Statistics and Overall Review

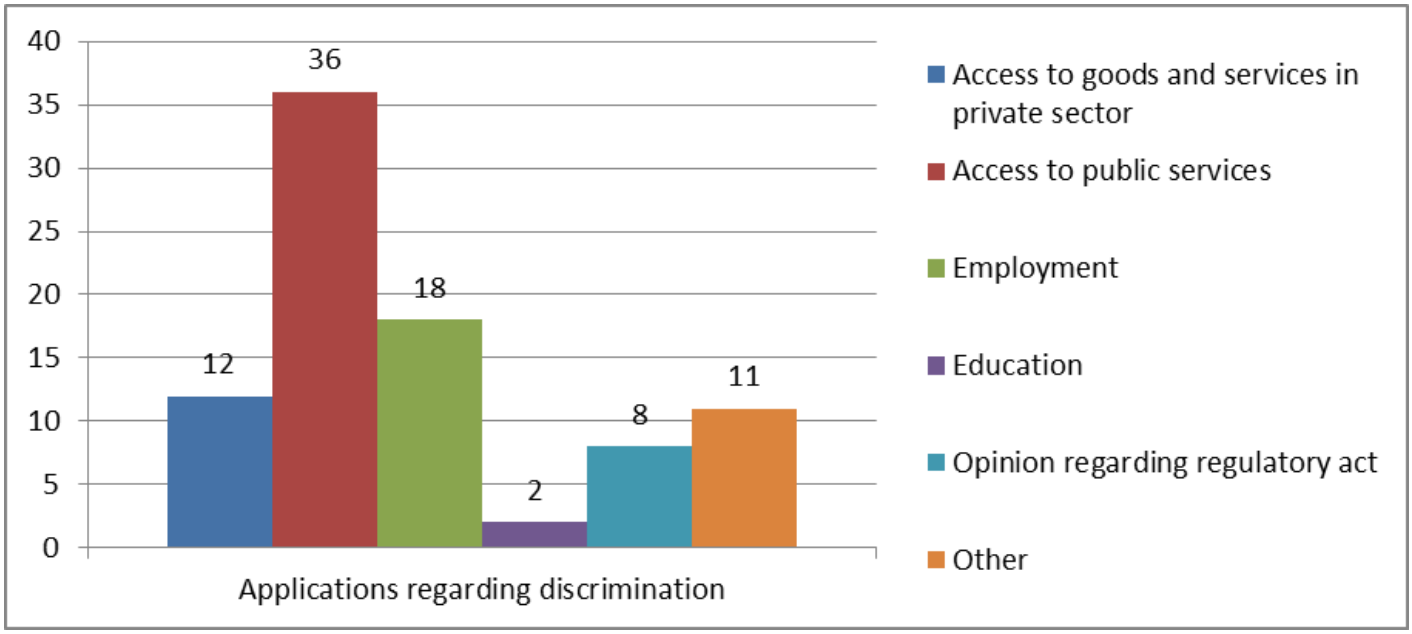
1.1. Handling of applications

The Legal Equality Division (hereinafter LED) has examined 87 applications in 2014 from private individuals and legal entities. 38 persons have attended for consulting, and 146 replies have been issued to electronic enquiries. 22 inspection cases have been instituted for detailed investigation upon applications of persons as well as one case at the Ombudsman's initiative.

Persons point out in their applications to inequality in the provision of public services: on 36 occasions, for example, regarding participation at road traffic with a transport vehicle registered abroad; regarding the right of woman to choice of the manner of child delivery; regarding child care allowance, etc. Another topic of equal importance in 2014 has been observation of the principle of equality and prohibition of discrimination in the field of employment – 18 applications, for example, regarding discrimination of young mothers and regarding psychological terrorism at workplace, as well as access to goods and services in private sector – 12, for example, regarding breach of the prohibition of different treatment in distribution of promotional material; regarding the right of assistants, and regarding private legal transactions in case of persons with disabilities.

Several persons – 8 in total – have applied to the Ombudsman Office for issuing opinion regarding regulatory acts and their compliance with the principle of equality stipulated in Section 91 of the Satversme.

Applications regarding discrimination



1.2. Participation in drafting regulatory acts

The issue of legal protection of the young parents in legal employment relations was brought to focus in 2013 already regarding the fixing of average wages for unused paid annual leave in case of persons resuming employment after child care leave. Compensation for annual paid leave is estimated in accordance with Section 75 part Three of the Labor Law, that is, in case of persons who have been absent from job duties 12 months and more (child care leave) the compensation is calculated on the basis of minimum monthly wages.

The Ombudsman concluded that two comparable situations could arise where an employee is entitled to paid annual leave and such right is exercised either prior or after the child care leave with different legal consequences in terms of compensation of the paid annual leave and in terms of restricting the person's right to take the leave right after the end of child care leave. It was further concluded that such different treatment achieved no legitimate purpose, because no other fundamental rights are thereby protected on the basis of the principle of proportionality.

The Ministry of Welfare was notified of the identified breaches upon completion of the inspection case. Four meetings with the Ministry were arranged for discussing the issue brought to focus by the Ombudsman and the possible solutions. The Ombudsman participated in drafting the amendments to Section 75 of the Labor Law (the average wages), and the said Section was adopted in the wording of 23 October 2014 stipulating that calculation of the average wages is based on the period before the justified absence. The breach of the principle of equality identified by the Ombudsman is therefore eliminated.

1.3. Cooperation with NGOs

The Ombudsman Office continued cooperation in 2014 with the Association of Disabled Persons and their Friends "Apeirons", and the Ombudsman made personal visit to check the environmental access at the new block of the Latvian Academy of Arts put into operation in 2012. The Ombudsman established that it was not equally accessible by persons with disabilities. This is again a problem in Latvia where, in spite of existing regulation regarding the requirements to environmental access of public buildings and structures, like on the given occasion, in practice the norms are not observed. The association "Apeirons" representing the rights of persons with disabilities applied with the above-described issue in 2014 to the administrative court where case No. A420291913 was instituted.

Further, in response to the situation noted by "Apeirons" that not all postal offices are accessible by persons with disabilities and that VAS "Latvijas Pasts" is charging extra fee for delivery of mail to a postal office accessible to person, the Ombudsman promptly applied to the management of VAS "Latvijas Pasts" and to the supervisory body asking to eliminate

infringement of the rights of persons with disabilities. The Ombudsman emphasized that proactive and respectful treatment of all persons includes selection or adjustment of premises accessible by everyone. According to the UN Convention for the Rights of Persons with Disabilities, where any premises are not accessible by all persons, the costs of forwarding mail to an accessible postal office must be borne by “Latvijas Pasts” since their omission is the reason that prevents persons with disabilities to receive mail at the nearest postal office on equal grounds with other persons.

Equality experts of the Ombudsman Office were responsive in 2014 to the encouragements by non-governmental organizations to inform about the work of the Ombudsman and listen to the problems faced by persons with disabilities and other vulnerable groups. The actions included a lecture to the society “Saule”, to the continuous cooperation partners “Apeirons”; participation at “Unassisted living class” for persons with disabilities organized by “Apeirons" and society “Klubs "Verte"; participation at regional events organized by NRC “Vaivari” and at conference “Working places for persons with special needs” arranged by Liepāja Diaconate Center; participation at the discussion organized in Cēsis by society “Latvijas pilsoniskās sabiedrības atbalsta centrs” on the rights of and social support to persons with disabilities. Equal focus was made on the issues related to national diversity in Latvia, and the experts of the Ombudsman Office have participated at the discussion organized by the Baltic Institute of Social Sciences regarding the analysis of integration process of the non-citizens of Latvia and at the Minority Forum.

2. Actual Topics and Research

2.1. The study “Bilingual education”

The Ombudsman has set among priorities investigation of the situation with provision of the right to education. A couple of years ago when free education was discussed, individuals pointed out to deeper problems in the education system, separation of Roma children in special classes without minority education programs, and failure to pursue bilingual education program in accordance with the regulation. To perform the task prescribed by Section 12 para 10 of the Ombudsman Law, the Ombudsman studied the international regulations and the practice of the ECHR and other countries, as well as the normative regulation of the Republic of Latvia and conducted monitoring of practical implementation of bilingual education.

Monitoring was also conducted at schools where minority programs were provided, including Polish, Ukrainian, Belorussian, Hebrew, Russian, Lithuanian, and Estonian. The monitoring included visits by the staff of the Ombudsman Office to 49 schools implementing

minority education programs: in Riga 33, in Jūrmala (2), in Jelgava (2), in Rēzekne (4), in Daugavpils (4), in Liepāja (4). The questions of structured interview were answered by heads of 49 educational establishments. The staff of the Ombudsman Office monitored 215 lessons in total at grades 6, 9 and 12, and asked questions to teachers regarding the control over bilingual education. 3 272 school children also filled in the questionnaires.

The basic conclusions: implementation of the legal regulation in practice is incomplete. Education system is supposed to ensure observation of the best interests of children from regulatory aspect as well as in fact.

According to the normative regulation, education at secondary school in the official language has to be provided in practice. Section 9 of the Education Law on the language of education stipulates that: (1) Education at state and municipal educational establishments shall be provided in the official language. (2) Education shall be available in other language: 2) at the state and municipal educational establishments providing minority education programs [..]. Section 9 part Three of Transitional Provisions of the Education Law stipulates that: "Section 9 part One and part Two para 2 shall be gradually implemented: 3) From 1 September 2004, state and municipal general secondary education establishments providing minority education programs shall provide learning processes in the official language, starting from the tenth grade, in accordance with the national general secondary education standard [..]." Section 9 part Three of Transitional Provisions of the Education Law complies with the Framework Convention for the Protection of the Rights of Minorities, stipulating in Article 14 part Three that "no requirements of this article shall impose any restrictions on the learning of the official language or pursuing education in the official language".[64]

Explanatory report to the Framework Convention on the Protection of National Minorities emphasizes that "the right to learn the minority language is the means to demonstrate and preserve the identity for representatives of national minorities".[65] The Third Topical Comment of Advisory Committee of the said Convention states that: "Education in the minority language ensures equal access to education and fosters wholesome and effective integration in society. It is equally important, however, to properly master the official language, otherwise the possibility of effective involvement in social life may be notably limited thus preventing the pursuing of higher education. There should never exist exclusive choice between learning the minority

[64] Award made by the Constitutional Court on 14 September 2005 in case No. 2005-02-0106, Conclusion Part, para 8.2.
[65] Text of and Explanatory report to the Framework Convention on the Protection of National Minorities. Strasbourg, February 1995, p.p. 23.
Available at: http://www.coe.int/t/dghl/monitoring/minorities/1_atglance/PDF_Text_FCNM_lv.pdf

language or the official language, and public administration bodies should foster multi-lingual and dual secondary education models"[66].

At the same time, the Second Comment on Latvia by Advisory Committee of the Convention for the Protection of National Minorities states that: "According to a representative of national minorities, many disciplines taught according to the official documents in Latvian language are in fact taught in combination of Russian and Latvian languages, especially in the region of Latgale. This situation puts school children into unfavorable conditions because their access to the learning of Latvian language is restricted and effectiveness of education in general is compromised"[67].

The Cabinet Regulations No. 281 of 21 May 2013 Concerning the National General Secondary Education Standard, Syllabic Discipline Standards and Model Education Programs" also had to be assessed from the context of the given topic. Paragraph 7 of the said Regulations stipulates that: "Education programs for national minorities shall ensure that at least syllabic disciplines in each academic year are taught in Latvian language. Such disciplines shall not include Latvian Language and Literature", and Paragraph 8 stipulates that: "Provision of the content of education in minority languages may reach two fifths of the total load in any academic year".

Teaching of minority literature, culture and language shall be provided on adequate level so that national minorities treat the learning of the official language as a value, rather than a threat to their identity.

Education system for representatives of different language has to be aimed primarily at uniting, rather than separating. All national minorities shall have equal right to learn their minority language with special focus on Roma people as historically excluded minority who have neither adequate teaching aids available at present nor a properly registered bilingual education program.

Further, no equal access is provided for all national minorities to the passing of examinations. At present, the schools providing national minority program in Russian language receive special treatment. Paragraph 20 of the Cabinet Regulations No. 1510 of 17 December 2013 Concerning the Procedure of Qualification Examinations stipulates that: "A graduate of grade 9 under minority education program has the right to select the examination language,

[66] The Third Comment of Advisory Committee to the Framework Convention on the Protection of National Minorities "The right of national minorities to language in accordance with the Framework Convention", p.p. 24. Adopted on 24 May 2012. Available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_CommentaryLanguage_lv.pdf

[67] The Second Comment on Latvia by Advisory Committee of the Convention for the Protection of National Minorities, p.p. 34. Council of Europe, ACFC/OP/II(2013)001, 2013. Available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_lv.pdf

Latvian or Russian (except examinations in language disciplines)", and Paragraph 21 of the said Regulations stipulates that "A student under minority education program has the right to select the language of examination work, the learning language or Latvian language (except examinations in language disciplines)".

A uniform syllabic discipline standard for learning Latvian language at secondary school is introduced from 2009/2010 academic year. Starting from 2011/2012 academic year, the content of centralized examination in the syllabic discipline "Latvian Language" is identical for all graduates of grade 12, that is, for those taught under minority education program as well as for those taught in the official language. To avoid infringement of the rights of national minorities, it is crucial to ensure that the number of academic lessons and the content in Latvian language at secondary schools is similar at schools providing national minority programs and at schools providing education in the official language. Once uniform requirements are set, equal access to the mastering of the content of education also must be ensured. This is also true regarding the availability of equal, proper quality teaching aids and educational materials at schools. It is also crucial to ensure that the education content mastered in the stage of basic education places the national minorities in disadvantageous situation.

The Ombudsman draws attention to the fact that improperly prepared transition to the official language has been noted already by the by Advisory Committee of the Convention for the Protection of National Minorities in their Second Comment on Latvia. "The Advisory Committee appreciates the positive overall approach by representatives of national minorities to the centralized examinations in Latvian language in the beginning of 2011/2012 academic year. Attention is drawn, however, to the concerns expressed by representatives of national minorities that disproportional emphasis was made in the examination to the knowledge of Latvian grammar and the word stock, rather than analytic skills, and therefore the examination was not appropriate to the level of secondary school. While supporting the need for centralized examinations in general, representatives of national minorities still point out to the official statistic that shows: graduates from national minority schools demonstrate results that are not as good as those of graduates from Latvian language schools, especially outside Riga. This shows that children in a number of schools are not adequately prepared to the transition from minority language to Latvian language, and most of them would need more time."[68]

Ensuring of the quality of education process is the primary focus today. To ensure the compliance with the applicable regulatory acts, the State supervision should be increased in case of national minority education establishments in terms of the use of the official language and the quality of educational process. Control over the implementation of syllabic curricula including

[68] Available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_lv.pdf

the application of bilingual approach is exercised by administration of the school. Public authorities have conducted control only at three educational establishments out of 49. The comparatively low external control and negligence on part of principals to compliance with regulatory acts entails the result that teachers lack knowledge of the official language on the level prescribed by regulatory acts, and normative regulation is not observed in routine work when teaching the material, including in terms of language selected for teaching the syllabic discipline. The monitoring revealed that at schools with strict position of the management towards compliance with the regulatory acts the syllabic discipline was taught in accordance with the program. The Ombudsman notified the SLC of seven occasions when the teachers have been unable to answer in the official language the questions asked by the staff of the Ombudsman Office.

The State Language Center conducted an inspection and revealed that six teachers did not adequately use the official language for performance of their professional duties, and one teacher was on sick leave at the time of inspection. The SLC also informed[69] that similar breaches are fixed periodically and show the systematic nature of the problem.

The quality of education and pedagogic work must be checked regardless of the number of languages used in educational work. Therefore, a breach of Section 50 para 3, stipulating that a person may not be a pedagogue in a state or municipality formed educational establishments unless such person holds a document issued in accordance with the procedure prescribed by the Cabinet that certifies knowledge of the official language on the highest level, with the exception of academic staff of higher educational establishments – foreign nationals and stateless persons participating at the implementation of certain education programs on the basis of international agreements, as well as pedagogues employed by educational establishments of foreign countries or their branches, can be established.

According to Section 20 part One of the Education Law, control over compliance with the education-related regulatory acts is exercised by the Education Quality State Agency. The regulatory acts prescribe no specific mechanism for control of education quality, including for ensuring proportional use of the official language and minority language at bilingual lessons.

The Ombudsman therefore finds it necessary to develop methodology for establishing whether or not the official language and minority languages are proportionally used at bilingual

[69] The State Language Center noted that one principal, one headmaster, 21 teachers, 13 pre-school teachers and 31 assistant teachers as well as two principals of pre-school education establishments have been called to administrative account in 2013. The persons called to administrative account are instructed to improve their use of language. Also, the State Language Center has include in the plan for the 4th quarter of 2013 an inspection of the official language knowledge of the staff of pre-school education establishments that provide national minority education programs.

lessons. Adequate resources should be allocated to the Education Quality State Agency for conducting periodic scheduled inspections.

The Advisory Committee of the Convention for the Protection of National Minorities also notes in their Second Comment on Latvia: they are concerned with repeated reports showing that education quality at national minority schools is notably weaker compared to other schools due to the lack of appropriate teaching aids and deficit of properly trained pedagogues.[70] The schools should be provided with appropriate free teaching aids in proper quality, including those pertaining to bilingual methodic. The required funding should also be provided for training of national minority teachers in the use of Latvian language and minority language in order to improve bilingual methodic and ensure competitive salaries.

Bilingual education needs improvements. The provisions of regulatory acts must be actually implemented in practice. Full text of the study, conclusions and proposals is available on the website of the Ombudsman Office[71].

2.2. Monitoring of the UN Convention for the Rights of Persons with Disabilities

The UN Convention of 13 December 2006 for the Rights of Persons with Disabilities was enacted in the Republic of Latvia on 31 March 2010. Fulfillment of the obligations envisaged by the Convention is coordinated by the Ministry of Welfare, and the Ombudsman ensures the monitoring of implementation pursuant to Section 2 of the Law on the Convention for the Rights of Persons with Disabilities and Article 33 para 2 of the said Convention.

Taking into consideration the above-stated, the Ombudsman launched monitoring of implementation of the Convention in 2014. Several polls of opinion were conducted within the framework of the monitoring in order to assess the actual situation.

1. Public opinion poll for identifying the public opinion regarding the participation by persons with disabilities in social life, their right to give birth to children, the rights of children with disabilities, the assumptions regarding the quality of life in case of persons with disabilities, social distance, assistance to persons with disabilities, and infrastructure solutions.

The poll included quantitative research method and direct interviews within the framework of the Ombinus Poll (PAPI). 1 033 respondents were interviewed in the age range of 18 to 74 years.

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[70] Second Comment on Latvia by Advisory Committee of the Convention for the Protection of National Minorities, p.p. 32. Available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_lv.pdf

[71] Available at: http://www.tiesibsargs.lv/sakumlapa/saeimas-izglitibas-kulturas-un-zinatnes-komisija-iepazisies-ar-tiesibsarga-biroja-petijumu-bilingvala-izglitiba/

2. Opinion poll of persons with disabilities to identify the awareness of persons with disabilities of actions to be taken in the event of breach of the prohibition of discrimination and participation at social activities, the assessment of their quality of life, environment access and availability of information as well as assessment of infrastructure solutions. Persons with disabilities also provided information about public treatment of such persons.

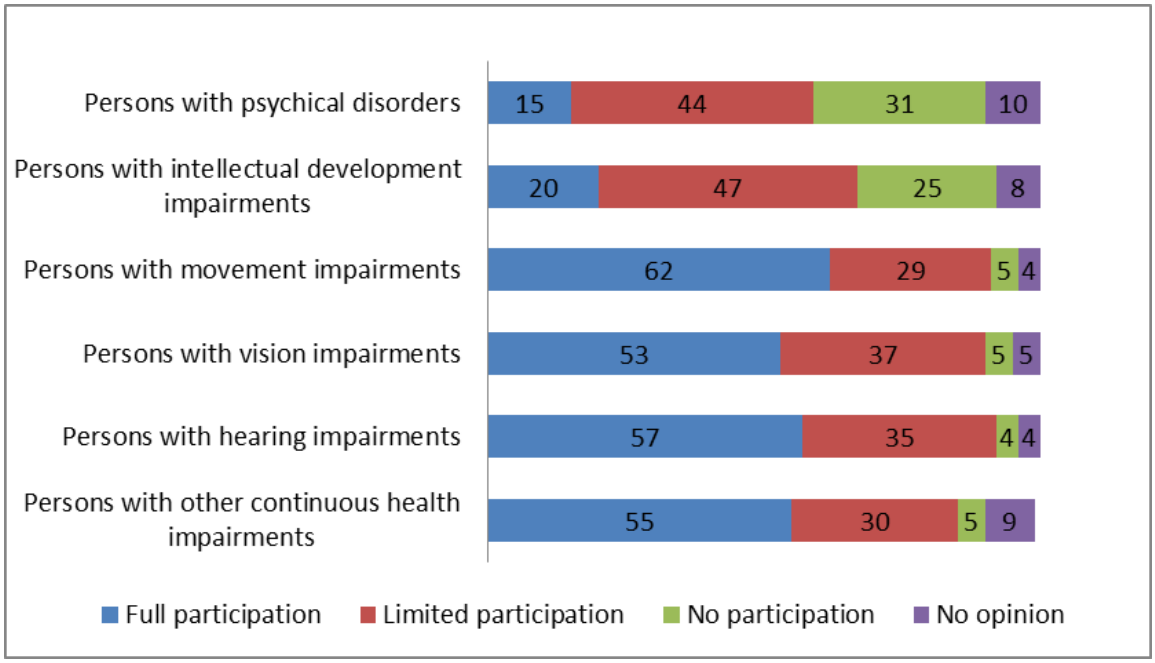
The poll included quantitative research method, and data were obtained by means of multi-modal approach with the key methods including computer-based interviews on the Internet (CAWI) and/or computer-based telephone interviews (CATI). 266 respondents were interviewed.

3. Opinion poll of municipalities asked to provide information about the implementation of the Convention, with special focus on certain areas including the availability of information and environment, cooperation with the non-governmental organizations that represent persons with disabilities, social services and social assistance, measures addressing employment of persons with disabilities, the priority areas of employment for ensuring the rights of persons with disabilities, and information about the examples of good practice.

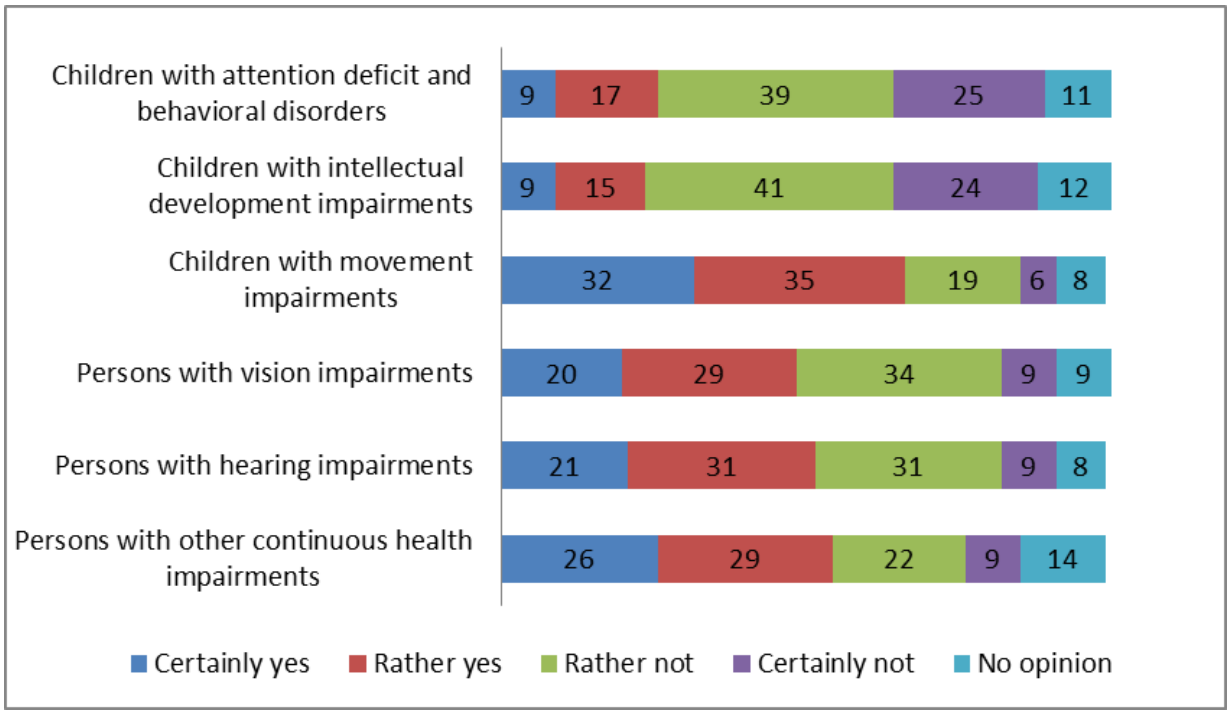
Information was provided by all 119 municipalities.

The Ombudsman continued work till the end of 2014 and also in 2015 on monitoring of the Convention,, and presentation of the document is scheduled to the first half of 2015, therefore this report shall contain brief information about the results of public opinion poll:

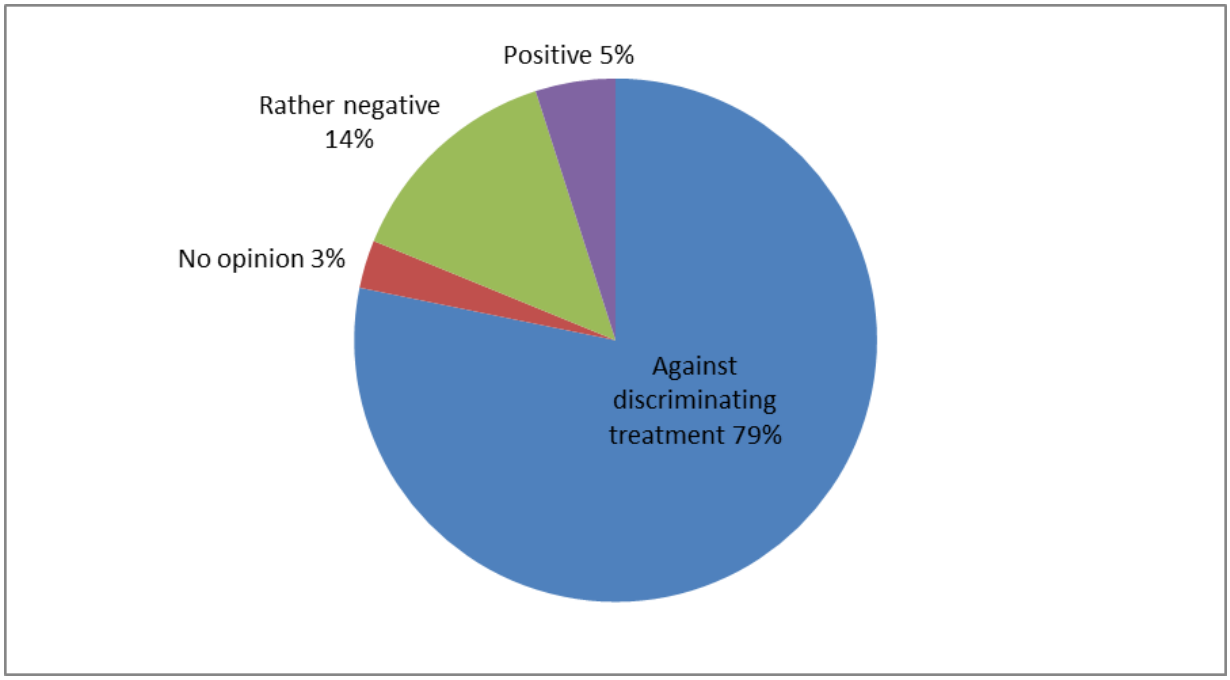
1. *Your opinion on the extent of participation at social life by persons with various forms of disabilities?*



2. Do you believe children with disabilities should learn together with children without disabilities, including your children?



3. Your opinion on discriminating treatment of persons with disabilities?



Taking into consideration the above-stated, it may be concluded that, even though public opinion regarding discriminating treatment of persons with disabilities is negative, people do not identify discriminating treatment of persons with disabilities in their own behavior, by noting, for example, that they should take limited or no part in social life.

It may be also concluded that persons with intellectual development impairments and persons with psychical disorders are exposed to public discrimination to higher extent than persons with other disabilities.

2.3. Breach of the prohibition of discrimination on the grounds of disability and health condition

Along with voluminous work on supervision of implementation of the convention, the LED addressed certain specific issues concerning the protection of the rights of persons with disabilities and breaches of the prohibition of discrimination.

2.3.1. On granting different bonuses to sportsmen with disabilities

Breach of the prohibition of discrimination was investigated on the grounds of application regarding the granting of monetary awards for sport achievements to persons with disabilities. In particular, Cabinet Regulations No. 26 of 3 January 2012 on the Granting of Monetary Awards for Outstanding Achievements in Sports and the Amount of Monetary Awards prescribe four categories of contest where the sportsmen winning awards and their coaches and the sportsmen attendance staff can apply for monetary awards for outstanding achievements in sports including the Olympic Games, the World Games, the Paralympic Games, the Deaflympics, and the World Youth Olympic Games as a single level of contest category.

According to summary of amendments to the Cabinet Regulations No. 26[72], "the Ministry of Education and Science, [...] having repeatedly discussed the amount of monetary awards for achievements by sportsmen with disabilities, and guided by the principle of equity, proposes to treat achievements in sports by persons with disabilities in terms of the amount of monetary awards to the achievements of sportsmen without disabilities in order to prevent any eventually unequal treatment."

At the same time, Section III of the Cabinet Regulations No. 26 prescribes the maximum amount of monetary awards for outstanding achievements in sports, along with the possibility to consider smaller monetary as well. According to Paragraph 10 of the Regulations, the National Sports Council of Latvia, when drafting proposals to the Cabinet for granting monetary awards, is authorized to determine the importance of contest, the number of participant countries and the number of sportsmen or teams, prescribing in addition that the said information has to be prepared by secretariat of the said Council.

[72] Amendments to the Cabinet Regulations No. 26 of 3 January 2012 on the Granting of Monetary Awards for Outstanding Achievements in Sports and the Amount of Monetary Awards

The Ombudsman established that participants of Deaflympics were treated equally and comparably with the participants of the Olympic Games, the World Games, the Paralympic Games and the World Youth Olympic Games. Since, however, the Cabinet Regulations No. 26 also provide for granting smaller monetary awards, specific criteria are established for reducing the awards. The Ombudsman therefore asked the Ministry of Education and Science to issue their opinion where the granting of smaller monetary awards to participants of the Deaflympics is substantiated according to the criteria prescribed by the cabinet Regulations No. 26.

The Ministry of Education and Science admitted that no assessment prescribed by the Cabinet Regulations No. 26 was available to them to reflect the criteria considered when deciding on granting monetary awards in the amount of specific rate.

The Ombudsman therefore established a breach of the principle of equality.

2.3.2. On refusal to exempt of a left-hander who had lost her left hand from the written part of naturalization examination

Reconciliation was achieved during the reporting period on certain disputes, The Ombudsman investigated, for example, a disability situation because of the loss of left hand, where exemption from passing the written portion of naturalization examination was refused to a left-handed person who had lost her left hand. The Ombudsman asked the State Medical Commission for the Assessment of Health Condition and Working Ability to assess repeatedly and to adopt prompt decision on exemptions available to a person in passing the language tests of naturalization examinations. The State Medical Commission for the Assessment of Health Condition and Working Ability ordered repeated examination by experts and granted the 2nd group of disability to the person in question, along with issuing the opinion on exempting the person from passing of the written naturalization examination.

2.3.3. On invasion of the rights of a person with disability in using minibus services

The Ombudsman investigated an inspection case against the General Partnership "Rīgas mikroautobusu satiksme" regarding invasion by a driver of the partnership of the rights of a person with disability in using the minibus services by her. The other party denied the facts stated in the application, however the Ombudsman's recommendation was followed, and "Rīgas mikroautobusu satiksme" ensured preventive information of their minibus drivers about their behavior towards persons with disabilities. The drivers' understanding and treatment of persons with disabilities has therefore been improved and the potential misunderstandings have been minimized.

2.3.4. On the granting of disability pension upon change of the group of disability

Investigation of the granting of pensions to persons with disabilities who have changed the group of disability and therefore subject to recalculation of pension was completed in 2014 (compliance of the wording of Section 16 part Four of the Law on State Pensions effective from 7 January 1997 till 30 September 2013, with the principle of equality stipulated in the first sentence of Section 91 of the Satversme).

The Ombudsman established a breach of the principle of legal equality and noted that granting of the group of disability not always entails reduced income, and therefore the formula applied for recalculation of disability pension contradicts with the principle of legal equality. The Ombudsman issued an opinion upon request to the Valmiera Court House of Administrative District Court, where legal proceedings were suspended and handed over to the Constitutional Court. The Ombudsman in person notified the Saeima Social and Employment Commission of the findings contained in his opinion. Further, as mentioned before, the Ombudsman informed the Constitutional Court about such findings in the form of opinion, and the Constitutional Court acknowledged that the disputed norm did not achieve the legitimate purpose, and that there was no justification for different treatment of comparable groups of persons. The Constitutional Court concluded that the disputed norm, namely the wording of Section 16 part Four of the Law on State Pensions effective from 7 January 1997 till 30 September 2013 did not comply with the first sentence of Section 91 of the Satversme.

2.4. Breach of the prohibition of gender discrimination

The Ombudsman received a number of applications, both substantiated and unsubstantiated, regarding discrimination by gender in legal employment relations. Breaches of the prohibition of discrimination have been established in some of the investigated inspection cases. Such breaches have been identified in legal employment relations where employers were legal entities subject to private law.

The Ombudsman conducted in 2013 the study "Observation of the prohibition of discrimination towards the young mothers in legal employment relations", and he has also repeatedly[73] emphasized in mass media[74] the need for respecting the rights of young mothers in

[73] The Ombudsman: 43% of young mothers have experienced discriminatory treatment at work because of their family status.
Available at: http://www.diena.lv/latvija/zinas/tiesibsargs-43-proc-jaunas-maminas-saskarusas-ar-diskriminejosu-attieksmi-darba-gimenes-stavokla-del-13997638

[74] The Ombudsman: The groups exposed to discrimination include young mothers. Available at: http://www.tvnet.lv/zinas/viedokli/522055-tiesibsargs_viena_no_grupam_kas_tiek_diskrimineta_ir_jaunas_maminas

legal employment relations. The Ombudsman points out that, as a result of such publications, the young mothers are seeking more actively to protect their rights, and this deserves appreciation. At the same time the Ombudsman notes that the fact of recurrence of similar breaches deserves criticism.

2.4.1. On dismissal of a woman during the post-delivery period

The applicant pointed out to discrimination by gender in the given situation where the employer had terminated legal employment relations with the breast-feeding woman.

The employer's termination notice was substantiated by Section 101 part One para 9 of the Labor Law. According to Section 29 part Three, the burden of proof in discrimination disputes lays on the employer.

The Ombudsman pointed out that, according to Section 109 part One of the Labor Law, termination of employment agreement with a breast-feeding woman by employer is prohibited throughout the lactation period, except in cases listed in Section 101 part One, paragraphs 1, 2, 3, 4, 5, and 10 of the Labor Law.

The Labor Law does not provide for termination of legal employment relations with a breast-feeding woman on the grounds of Section 101 part One para 9 of the Labor Law. Therefore, the employer's termination notice contradicts with the provisions of the Labor law, and it is therefore invalid.

The employer, however, presented no evidence, in spite of the Ombudsman's repeated requests, that the employee's qualification had been assessed prior to the termination of legal employment relations.

The Ombudsman therefore established a breach of the prohibition of discrimination by gender, and recommended to restore the applicant to the previous post with corresponding remuneration, and to pay moral compensation to her as well as the average wages for the whole period of compulsory absence.

2.4.2. On termination of legal employment relations during maternity period

The Ombudsman investigated during the reporting period a case where the applicant had indicated to breach of the prohibition of discrimination by gender: she had been dismissed from work during her child care leave. The applicant noted that the employer's termination notice has not been available to her and she had not been informed about it.

According to Section 29 part Three of the Labor Law, the burden of proof in discrimination disputes lays on the employer.

The Ombudsman pointed out that Section 109 part One prohibited termination of employment agreement by employer with a women during her post-delivery period of up to one year, except in cases listed in Section 101 part One, paragraphs 1, 2, 3, 4, 5, and 10 of the Labor Law.

The Ombudsman repeatedly applied to the employer for providing information about the circumstances of the inspection case. The employer failed to provide such information, and the Ombudsman established a breach of the prohibition of discrimination by gender because the employer was unable to demonstrate, according to Section 29 part Three of the Labor Law, that the unequal treatment had been objectively substantiated.

2.4.3. On prohibition to visit shopping center by a mother with child in pram

Young parents are among protected groups in any type of legal relations. The Ombudsman, however, has to address again and again from year to year the issues of young parents, their access to goods and services.

A complaint was also received in 2014 regarding prohibition to do shopping if a person wanted to enter the shop with a child in pram. The shop acknowledged the existence of such prohibition and pointed out to corresponding warning on the entrance door of the shop.

A restriction imposed by a merchant to enter the shop with a child in pram constitutes a breach of the prohibition of discrimination, whereby certain group of population, on most occasions women, is prevented from access to goods and services. The fact that child care leave is used in Latvia mostly by women results in indirect discrimination by gender. The VSAA informed the Ombudsman that the persons receiving parental allowance[75] and child care allowance[76] in Latvia (the persons in actual care of infants who also need to use prams) are mostly women. Following the Ombudsman's recommendation, the warning was removed from

[75] Data received by telephone from the VSAA: 12 539 persons in total were recipients of parental allowance in August 2014, including 11 741 women and 798 men. The right to allowance is available to a socially insured person in care of a child or several children born from the same delivery under the age of one year, provided that such person is employed as of the date of granting of the allowance (an employee or self-employed person in accordance with the Law On State Social Insurance): a parent of the child in child care leave if no income is gained from self-employment; an adoptive parent if the adoptive child is placed in such person's care and custody prior to the approval of adoption by court according to decision of custodian court; a member of foster family who has entered into agreement with the municipality, or a guardian or other person if the child is actually placed in such person's care and parenting by decision of custodian court, provided that such persons are on unpaid leave because of the need to take care of a child, and provided that they gain no income from self-employment.

[76] Data received by telephone from the VSAA: 6 509 persons in total were recipients of child care allowance in August 2014, including 6 219 women and 290 men. The right to child care allowance is available to a person taking care of a child, provided that such person has not been employed as of the date of granting of the allowance (neither employee nor self-employed person in accordance with the Law On State Social Insurance): a parent of the child, a guardian or other person if the child is actually placed in such person's care and parenting by decision of custodian court.

the shop entrance door, and the merchant confirmed that parents with children in prams shall be allowed to enter the shop and do the shopping.

2.5. Breach of the prohibition of discrimination by racial, national or ethnic origin

The Ombudsman received complaints in 2014 regarding breaches of the prohibition of discrimination among the Latvian and Russian nationals living in Latvia. Sharp, even abusive discussions have taken place on racially oriented media, in comments on Internet portals, however no discrimination by Latvian or Russian nationality can be observed in day-to-day life, labor market or access to goods and services.

The competent officials, however, should increasingly focus on the consolidation of European public and legal opinion in Latvia. For this purpose, availability of TV channels from most of the European countries should be increased and analytical journalism should be strengthened, as well as the proportion of programs on the topic of rights and their composition.

The Advisory Committee on the Framework Convention for Protection of National Minorities has noted in their report on Latvia: "A number of channels broadcasting mainly in Latvian and Russian languages still prevails in the overall mass media environment in Latvia, providing good access to those who speak such languages. The Electronic Mass Media Law adopted in 2010 to replace the Law on Radio and TV of 1995 has reduced the mandatory duration of radio and TV broadcasting in the official language to 65%. The TV channel "TV5" and radio channel "Latvijas Radio 4", informally also known as "integration channels" continue broadcasting programs basically in Russian, as well as in some minority languages. Technical upgrading of the Russian language channel "Latvijas radio 4" has resulted in improved coverage and, according to reports, it also covers the region of Latgale. The Advisory Committee notes that, notwithstanding the still high number of mass media operating in Latvia, the environment in general can be described by presence of two parallel systems in Latvian and Russian languages with quite different content. The Advisory Committee is concerned about the separation of audience between the two above-described mass media spaces: information is presented to such audience groups from often highly different geopolitical positions, and their interaction is very small. According to a representative of national minority, mass media broadcasting in Latvian language provide hardly any information about national minorities and their specific problems, thus still more aggravating the gap between the two language groups, because national minorities are prevented from access to mass media broadcasting in Latvian. The Advisory Committee further notes that, in the opinion of the Communities, the quality of state-operated mass media programs in minority languages is still poor: they mainly report on sport or folklore topics and provide little information about political actualities in the Latvian society. Additional attention is

drawn to reports stating that the coverage of Latvian mass media in the eastern part of Latgale region is still problematic, so that part of population can only watch the news of neighbor states or entertaining programs"[77].

The principles enshrined in Preamble to the Satversme, namely: "Latvia's identity in the European cultural space is shaped by Latvian and Liv traditions, Latvian historical life experiences, the Latvian language, universal human and Christian values", should be appropriately implemented in life, with the help of content of TV broadcasts, as well as in day-to-day communication.

It should also be added that ethnic discrimination in Latvia has been experienced in 2014 by individual representatives of Roma and Turkish nationality. The Ombudsman expressed the opinion in relation to such incidents that vandalism, like in the case with the car of the "Kebabi" owner, was impermissible, as well as any other attempts to create violent, intolerant environment in Latvia.

Tolerance is the teaching to be learned by everyone. The Ombudsman shares the conclusion expressed at the National Minority Forum that disrespect and abusive treatment of the nationalities that live there should not be tolerated, however such position should be presented without violence, within the scope stipulated in the Satversme and identity of Latvia as a part of Europe and the European legal and social space.

It should also be noted that not all occasions of discrimination referred to by persons have found confirmation. An application was received, for example, concerning discrimination of a Moldavian national, however investigation carried out in the inspection case approved that compulsory work had been imposed in accordance with the treaty.

The Ombudsman continued cooperation with Roma ethnic community in 2014 addressing in practice the possibilities to prevent discrimination and to improve the welfare of Roma nationals in Latvia. Roma Advisory Council of the Ombudsman worked on solutions to the employment problem for Roma people because, according to the council members, in spite of the fact that Roma nationals have been participating at the competitiveness improvement events and professional continued education and qualification improvement programs organized by the Employment State Agency, they face discriminating treatment and refusal as well as employers see who is the applicant.

Several meetings have been held at the Ombudsman Office to reach agreement with the Ministry of Welfare and Employment State Agency on development of creative approach and

[77] The Second Opinion on Latvia by the Advisory Committee on the Framework Convention for Protection of National Minorities. Available at:
http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Latvia_lv.pdf

organization of training that would guarantee subsequent employment to the representatives of Roma nationality. Such measures would include, for example, targeted training, agreement with an education establishment where people can improve their filming skills and media work. Singing and playing is very dear to the Roma nation, and therefore such training would be highly appreciated.

2.6. Discrimination by age

Even though persons at pre-pension age constitute a risk group, given the ageing of population and increased retirement age, the number of complaints filed by individuals in 2014 regarding breach of the prohibition of discrimination by age is small. A complaint has been received regarding the retirement age escalation threshold (yet no breach of Paragraph 8.[1] of Transitional Provisions of the Law on State Pensions has been established), as well as individual electronic applications regarding advertised vacancies available, for example, to 30-45 years old woman – office manager or manager assistant (a breach has been established).

According to Section 32 part One of the Labor Law, a job advertisement or announcement of vacancies by employer may not be addressed specifically to men or to women, except if gender is an objective precondition to the job or occupation in question. Section 32 part Two of the Labor Law stipulates that a job advertisement may not state age limits, except unless the job is subject to statutory age limits. Publishing of the discriminating announcement was discontinued upon the Ombudsman's recommendation.

2.7. Breach of the prohibition of discrimination by religion

The issues of religion remain acute every now and then. Representatives of the Seventh Day Adventist Parish applied to the Ombudsman Office during the reporting period pointing out that piano admission test for their member had been scheduled to Saturday, which is the day when participation at similar activities is prohibited by religious directions. Having assessed the individual occasion, experts of the LED contacted the educational establishment to identify whether it was possible to schedule examination of the talented student at other time convenient to the school, and to ask them consider such possibility. The school found it possible to let the student pass the exam on Saturday after sunset, yet expressing discontent with such solution. The student successfully passed the exam and was enrolled to budget group with high score.

Even though the individual occasion was successfully solved, lack of understanding was observed among society regarding the content of such rights, and therefore the Ombudsman issued explanation of the given situation.

The essence of the prohibition of discrimination, if the key Western philosophic concepts of human nature and in particular of individuality and equal value of all people are accepted and taken as a basis, is therefore achievement of legal and also actual (social) equality, insofar possible, of all people divided into certain groups according to specific criteria, so that legally and also actually, to the possible extent, different treatment of them is prohibited. Application of the principle of legal equality, for example, should be based on the core meaning, the essence, without formal treatment of the principle of legal equality as a uniform time and space for everyone, but rather as equal opportunities for everyone, with maximum tolerance towards individuals, insofar the rights of other individuals are not disproportionally restricted.

Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights, Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 10 of the Charter of Fundamental Rights of the European Union, as well as Section 99 of the Satversme all guarantee the freedom of thought, conscience, and religion. Section 99 of the Satversme expressly stipulates that: "Everyone has the right to freedom of thought, conscience and religion. The church shall be separate from the State".

The freedom of religion is based on dignity of human person that is a corner stone of the human rights. The freedom of religion is composed of two key aspects: the right to believe, and the right to practice religion as an expression of such freedom. Expressing of one's thoughts, world outlook and religious beliefs includes also the right to live in concordance with one's manifested beliefs. Such beliefs may be manifested either individually or jointly with other people who share the same beliefs. On both occasions, such manifestation may be either private or public.

The right of person to believe is subject to no restriction, while the right to practice religion may be restricted by the virtue of Section 116 of the Satversme, like in case of other constitutional freedoms. In a country declared as democratic one has to accept that manifestation of the freedom of religion may be subject to proportionate restrictions, where a number of religions exist parallel to each other. Interference by the State in the freedom of religious practice should be viewed in the context with the principle of proportionality. Such interference is necessary to balance the interests of different religious groups and to ensure respect of every person's beliefs.

Restriction of the fundamental rights corresponds with Section 1 of the Satversme if the restriction of the freedom of religion is substantiated by law and legitimate objective. It must be proportionate with the legitimate objective and serve specific purpose: protection of other constitutional values or vital interests the protection of which necessitates such restriction.

Section 4 part One of the Law on Religious Organizations stipulates: "Direct or indirect restriction of the rights of individuals or granting privileges to individuals shall be prohibited, as well as insulting individuals' feelings or hatred against them on the grounds of their religious beliefs. The persons guilty of breach of the above provision shall be held liable in accordance with the statutory procedure."

The Education Law, on the turn, primarily guarantees the right to education for all members of society. Section 2 of the Education Law stipulates that: "The objective of this Law is ensuring that each inhabitant of Latvia has the opportunity to develop their mental and physical potential to form an independent and developed personality, member of the democratic State and society of Latvia." Further, Section $3.^1$ part One of the Law stipulates that: "The persons listed in Section 3 of this Law shall have the right to education regardless of their financial and social status or racial, national or ethnic origin, or gender, religious and political beliefs, health condition, occupation, or place of residence", and Section $3.^1$ part Two stipulates that "different treatment of persons on the grounds listed in part One of this Section is permitted if objectively substantiated by legitimate purpose, provided that the proportionate means are selected for achievement of such purpose."

Section 46 part Two of the Law on Higher Education Establishments stipulates that: "Admission to studies shall be governed by the Regulations for Admission. Regulations for admission to higher educational establishment and college study programs shall be established by the higher education establishment or college in question, with due regard to the Cabinet Regulations regarding the requirements, criteria and procedure for admission to study programs. The student shall sign a written study agreement with the higher education establishment or college. The mandatory provisions to be stated in the study agreement shall be prescribed by the Cabinet."

Paragraph 2 of the Cabinet Regulations No. 846 of 10 October 2006 concerning the Requirements, Criteria and Procedure for Admission to Study Programs stipulates that: "The higher education establishment or college may not grant any privileges, direct or indirect, to any person for admission to the study program in contradiction with the regulation for admission of the higher education establishment or college, regulatory acts or general principles of law." Paragraph 8 of the said Regulations stipulates that: "The higher education establishment or college shall organize admission for study program in form of open and equitable competition. Such competition is aimed at selecting the most suitable applicants for the chosen study program."

Taking into consideration the above-stated, Regulations for Admission should be drafted and examinations should be scheduled to ensure that all entrants have equal rights and also actual

opportunities, insofar possible, to apply for studies, including budget-funded studies, with due regard not only to formal concurrent timing of admission tests but also to equal opportunities. Tolerant approach based on human rights requires respecting of the prohibition on Hebrews and the Seventh Day Adventists to perform any job on Saturdays, and this prohibition also extends to passing admission tests; therefore it should be ensured that such students can take their exams on a weekday, concurrently with or separately from other entrants, so that religious beliefs of a person do not prevent him or her from demonstrating their knowledge and pursuing their studies.

Scheduling alternative timing of admission tests for Hebrews and the Seventh Day Adventists on any weekday so that it does not contradict with the persons' religious habits, or postponing an individual admission test where assessment of knowledge is based on objective criteria constitutes no infringement of the rights of society, and no special privileges are granted to persons on the grounds of their religion, as long as the assessment is based on objective criteria.

The term "open and equitable competition" should be understood as existence of equal requirements and objective assessment of knowledge, rather than formal approach exclusive of special treatment where appropriate. The loss caused to a person through non-provision of equal opportunities, that is, lost opportunity to pursue studies, exceeds the public interest in holding admission tests at specific certain time. The argument of slightly shorter or longer preparatory period to examination in case of individual treatment of a person does not withstand criticism, especially in case of individual admission tests where a person separately demonstrates their skills to objective, impartial commission in accordance with the procedure prescribed by the Regulations for Admission.

If scheduling of an admission test to a weekday entails disproportionate burden, the higher education establishment may be excused for refusal to reschedule an admission test scheduled on Saturday where requested so by one or more entrants. Postponing of an admission test may also be refused for the sake of protecting any other constitutional values. Such excuse should be subject to thorough investigation in case of dispute, and therefore the Ombudsman recommends that higher education establishments, when drafting the Regulations for Admission and scheduling admission tests, should see that the right to studies is not subject to groundless restrictions.

In the USA and Canada, for example, whenever *Law School Admission Test* is scheduled on Saturday, there is always an alternative provided for those practicing Sabbath to pass the test on Monday.[78] Discussions have taken place in other countries as well regarding the test sessions

[78] Available at: https://continue.utah.edu/prep/lsat_registe; r http://www.humboldt.edu/testingcenter/welcome; http://www.oxfordseminars.ca/LSAT/lsat_information.php

in the study process. Management of the Hertfordshire University in Great Britain declined the request of a Hebrew student to reschedule the test from Saturday to Friday. Representatives of the applicant pointed out that: "Scheduling the test to Saturday creates disadvantage to the applicant and other Orthodox Hebrews." Yet after discussions with representatives of the students, the university agreed to rescheduling of the test.[79]

At the same time, normative regulation prescribes no obstacles to study programs held on weekends. Admission tests and exams in such study programs may be scheduled to Saturdays or Sundays, respectively, because the entire study program is oriented on such days. If a student has signed an agreement with specified rights and obligations, he is bound, just like in employment relations, by terms of agreement regarding the respective study program. On the other hand, inclusive approach with respect to human rights would require provision of similar alternative programs on weekdays so that higher education is also available to persons who cannot spend weekends on studies, regardless of reasons.

There have been precedents in Latvia when inclusive approach has been applied upon request of religious organizations: in 2011, the election hours were extended to enable Hebrew nationals to participate at the elections. The Hebrew religious community had applied in 2011 for extending the election hours given that the elections took place on Saturday, 17 September, which is the Sabbath for Hebrews. The Hebrew Non-Governmental Organization pointed out that polling stations would be closed at 20:00, while the Sabbath ended at 20:36, so at least 20 Hebrew believers would be prevented from participation at the Saeima elections, because on Sabbath all members of Hebrew parishes are prohibited according to the Jude cannon to perform any work, including to vote.[80]

Summary to the draft law on Amendments to the Saeima Election Law No. 489/Lp10 stipulates that: "The Saeima Election Law prescribes that elections shall take place from 7 AM to 7 PM. It was already identified at the elections of the 9th Saeima that closing of polling stations at 8 PM prevented several groups of believers from participation at elections. Already then, a reasonable solution was promised to enable such persons to participate at the Saeima elections.

Available at: http://www.memphis.edu/law/currentstudents/services/barinfo.php; http://www.mwsu.edu/testing/lsat

[79] Available at: http://www.thejc.com/judaism/judaism-features/lawyers-help-student-avoid-shabbat-exams; http://www.timeshighereducation.co.uk/news/jewish-students-exam-shifted-after-legal-threat/402150.article

[80] Cf. Cimdars: vēlēšanu pagarināšana nav tikai pakalpojums ebrejiem. BNN, 2 September 2011. Available at: http://bnn.lv/cimdars-velesanu-pagarinasana-nav-tikai-pakalpojums-ebrejiem-40922; Hebrews object to the Saeima elections on Sabbath. Leta, Diena, 1 September 2010. Available at: http://www.diena.lv/sabiedriba/politika/ebreji-iebilst-pret-saeimas-velesanu-sabata-751121; Upon Hebrews' request, working hours of individual polling stations shall be extended to 10 PM. Available at :http://www.delfi.lv/news/national/politics/pec-ebreju-pieprasijuma-pagarinas-atsevisku-velesanu-iecirknu-darbibas-laiku-lidz-plkst22.d?id=40134639#ixzz36rJHHxBI

The draft law proposes that one polling station should be appointed in each city, with the exception of Riga, Daugavpils and Liepāja, and each county with working hours till 10 PM, instead of 8 PM. In Riga, Daugavpils and Liepāja there would be more than one such polling stations. The proposed solution would facilitate participation at the Saeima elections for several groups of believers and for other electorate of Latvia. The procedure proposed in the draft law was only applicable to the elections on 17 September 2011. Other solutions shall be considered in future to enable as much electorate as possible to participate at the elections".[81]

To summarize the above-stated, it may be concluded that inclusive approach to education is a value in tolerant, democratic society, and regarding admission tests on Saturdays, as far as disproportionate burden is created to the higher education establishment, and as far as the rights of other students and general society are not infringed, the issue of scheduling admission tests to Saturdays should be solved, either by avoiding appointment of admission tests on such days or by enabling individual applicants upon their request to demonstrate their knowledge and skills on any weekday. The above recommendations were also presented to the higher education establishments of Latvia.

2.8. Breach of the prohibition of discrimination by sexual orientation

Several applications were filed with the Ombudsman Office in 2014 regarding breaches of the prohibition of discrimination by sexual orientation, and legal regulation of partner relations was also discussed.

2.8.1. Restriction of the rights of a child because of parents' sexual orientation

An application was filed with the Ombudsman Office in the reporting period regarding infringement of the rights of a child because of the parents' sexual orientation. The Ombudsman initiated investigation of the notified circumstances, however no confirmation was obtained to the allegation that the person retained by municipality for the provision of the services of nurse had refused to undertake performance of the services because of sexual orientation of the child's parents. In spite of the lack of evidence, the Ombudsman pointed out to the respective municipality to the need for taking the following preventive steps:

1) The norm of nurse services including prohibition of discrimination should be included in the agreement with parents of the child;

2) The nurses involved in the implementation of Section 15 part One para 4 of the Municipality Law should be informed about the prohibition of discrimination when entering into,

[81] Website of the Saeima. Available at: http://titania.saeima.lv/LIVS10/SaeimaLIVS10.nsf/webSasaiste?OpenView&restricttocategory=489/Lp10

performing or terminating agreements with parents of children on performance of the functions of municipal nurses;

3) Information about the prohibition of discrimination should be included in the training of nurses in the municipality-arranged programs, or alternative training programs other than those provided by municipalities.

The Ombudsman pointed out that failure to take preventive actions by municipalities to eliminate prohibition in the educational function can lead to risk that children with disabilities, children of different racial or national origin, or children of parents with non-traditional sexual orientation or religious beliefs different from those of the nurse, or in other occasions the services of nurse may be not duly provided in case of nurse with different beliefs or prejudices. A child may be therefore unable to exercise the right to preschool education or services of nurse. It may be therefore concluded that on such occasions the municipality has been unable to implement the provisions of Section 15 part One para 4 of the Municipality Law.

The Ombudsman's recommendations were taken into consideration by the municipality.

2.8.2. On the position of police

Repeated applications were received by the Ombudsman regarding breach of the prohibition of discrimination by the State police, in applying, for example, inadequate penalties on the grounds of sexual orientation of a person. The Ombudsman reviewed such applications and established no breaches of the prohibition of discrimination; the penalties imposed for offences by the State Police were adequate with the judicial practice in analogous cases.

2.8.3. On legal regulation of partner relations

Discussion of the legal regulation of partner relations was brought into focus in late 2014. The Ombudsman applied in 2012 already to the Saeima and the Cabinet[82] regarding the issue of legal regulation of partner relations. No reply was received from the Saeima, while the Cabinet found no grounds for improving regulatory norms in the field of partner relations.

The Prime Minister issued on 1 February 2012 the resolution No. 90/TA-219 instructing the Ministers of Justice, Health, Welfare, and Finance to familiarize with the Ombudsman's letter and to issue their replies. The draft reply was discussed at the Cabinet meeting on 6 March 2012.[83] The meeting was chaired by the Prime Minister V.Dombrovskis, and participants of the

[82] The Ombudsman's letter No. 1-8/4 of 26 January 2012 to the Saeima and the letter No. 1-8/3 of 26 January 2012 to the Cabinet.
Available at: http://www.tiesibsargs.lv/par-mums/konsultativas-padomes/par-partnerattiecibu-tiesisko-regulejumu

[83] Minutes No. 12 19.§ TA-219of the Cabinet Meeting held on 6 March 2012.

meeting included the Minister of Defense A.Pabriks, the Minister of Foreign Affairs E.Rinkēvičs, the Minister of Economics D.Pavļuts, the Minister of Finance A.Vilks, the Minister of Education and Science R.Ķīlis, the Minister of Culture Ž.Jaunzeme-Grende, the Minister of Welfare I.Viņķele, the Minister of Justice G.Bērziņš, the Minister of Health I.Circene, and the Minister of Agriculture L.Straujuma.

The Cabinet noted in their reply to the Ombudsman that protection of the rights of persons in partnership relations other than marriage could be achieved by method of interpretation. The Ministry of Welfare noted that: "In the opinion of the Ministry of Welfare, interpretation of Section 74 part One para 4 of the Labor Law may well presume that family members include any person with whom the employee has close relations and stable contact, including persons in partnership relations other than marriage".[84]

The Ombudsman was not satisfied with the reply indicating to omission, and on 26 March 2012 he applied repeatedly[85] to the Cabinet with objection to the given conclusion that the principle of legal equality could be provided by means of interpretation. According to the Ombudsman's experience in the investigation of inspection cases, the entities applying legal norms have repeatedly demonstrated the trend to narrow interpretation, thus arriving at incorrect conclusions that result in infringement of the concerned person's rights.

The Ombudsman also pointed out to the award rendered by Civil Department of the Supreme Court Senate on 1 February 2012 in case No. SKC-4/2012, where the court concluded that the actual spouse was not treated as a family member of the tenant in the meaning of the Law on Lease of Residential Premises. The Senate argued in paragraph 12.2 of the Award that: "clear definition is required from the legislator whether or not partnership should be treated as legal, namely, whether or not actual cohabitation by two persons entails the legal consequences of marriage". The Ombudsman pointed out that, given the above-stated, active work is required to draft the required amendments to the law and to ensure their further discussion.

Draft reply to the Ombudsman was discussed at the Cabinet meeting on 24 April 2012. The meeting was chaired by the Prime Minister V.Dombrovskis with participation of the minister of Defense A.Pabriks, the Minister of Interior R.Kozlovskis, the Minister of Education and Science R.Ķīlis, the Minister of Transport A.Ronis, the Minister of Justice G.Bērziņš, the Minister of

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Available at: http://tap.mk.gov.lv/mk/mksedes/saraksts/protokols/?protokols=2012-03-06

[84] Reply No. 18/TA-219 issued on 16 March 2012 by the Cabinet to the Ombudsman's letter No. 1-8/3 of 26 January 2012.

Available at: http://www.tiesibsargs.lv/par-mums/konsultativas-padomes/par-partnerattiecibu-tiesisko-regulejumu

[85] Reply by the Ombudsman No. 1-5/77 of 26 March 2012 to the Cabinet letter No. 18/TA-219 of 16 March 2012.

Available at: http://www.tiesibsargs.lv/par-mums/konsultativas-padomes/par-partnerattiecibu-tiesisko-regulejumu

Environment Protection and Regional Development E.Sprūdžs, and the Minister of Agriculture L.Straujuma[86].

The Cabinet pointed out in their reply to the Ombudsman[87] that they shared the view expressed by Civil Department of the Supreme Court Senate in their Award rendered on 1 February 2012 in case No. SKC-4/2012: the issue of rights available to persons cohabitating in relations other than marriage should be resolved in legislative form, rather than left for deciding by the court.

The Cabinet noted that the legislator, when adopting amendments to the Satversme on 15 December 2005 and accepting Section 110 with the following wording "110. The State shall protect and support marriage – a union between a man and a woman, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence", has adopted political decision that partnership other than marriage may not be treated as marriage, namely a union of a man and a woman.

As noted in paragraph 1 of Summary to the Law of 15 December 2005 on Amendments to the Satversme of the Republic of Latvia, the said amendments were required to include the definition of marriage in the Latvian laws given the traditional views of marriage and family established in Latvia in the course of cultural and historical development, as well as the persistent threat to the traditional value.[88]

Taking into consideration the above-mentioned, the need for active work on drafting the relevant laws in the field of legal regulation of partner relations should be considered.

The Ombudsman, seeking to follow up the discussion, applied on 29 May 2012 to the Minister of Justice G.Bērziņš and asked him to provide information about the legal regulation of actual cohabitation. The Ombudsman pointed out that no active steps were observed on part of the Ministry to establish clear legal regulation or clarify the legal consequences of actual cohabitation if the persons have not registered marriage.

Parliamentary Secretary of the Ministry of Justice Jānis Bordāns noted during the discussion arranged on 16 May 2012 by the public policy portal *politika.lv* and K.Adenauers "Legal regulation of partnership in case of unisexual partners" that there were no problems in this field. J. Bordāns presented the position of the Ministry in his media interview on 17 May

[86] Cf. Minutes No. 22 37.§ TA-219 of the Cabinet meeting held on 24 April 2012.
Available at: http://tap.mk.gov.lv/mk/mksedes/saraksts/protokols/?protokols=2012-04-24#37
[87] Cf. reply No. 18/TA-219/5175 of the Cabinet dated 3 May 2012 to the Ombudsman's letter No. 1-5/77 dated 26 March 2012.
Available at: http://www.tiesibsargs.lv/par-mums/konsultativas-padomes/par-partnerattiecibu-tiesisko-regulejumu
[88] Available at: http://helios-web.saeima.lv/bi8/lasa?dd=LP1400_0

2012 noting that "the Ministry of Justice has analyzed the situation and identified no material infringements of human rights in the Latvian laws from this aspect". In reply to a journalist's question: "No material infringements, but how about infringements n general?" J.Bordāns replied that "now infringements have been established in any legal proceedings"[89].

The Ombudsman asked to provide clarification of the legal regulation of actual cohabitation including the rights available according to regulatory acts to cohabitating persons who have not registered marriage, and whether or not such regulation is complete and meets the needs of society.

On 29 June 2012, the Ombudsman received from the Ministry of Justice their reply[90] noting that adequate protection of the rights and lawful interests is provided in Latvia in case of cohabitating persons who have not registered marriage, just like the rights and lawful interests on any other person without any discrimination, and therefore there is no need for developing special legal regulations for additional legal protecting of such persons.

The Saeima Deputy Ilze Viņķele argued at the program "Krustpunktā" of the Latvian Radio on 10 November 2014 that she would propose a law on registration of partner relations; alternatively, criteria for establishing cohabitation could be defined if the draft law receives no support from the Saeima. The draft law could be prepared by summer, I.Viņķele noted[91].

Regarding the register of partner relations, the Ombudsman draws attention to the conclusions made by the ECHR in their award of 7 November 2013 in *Vallianatos un citi pret Grieķiju (Vallianatos and Others v. Greece*)[92] that the trend to recognize unisexual relations was observed. Lithuania and Greece are the only two countries that only apply recognition of partner relations to male and female unions, out of 19 countries recognizing registered partner relations other than marriage. The Member States of European Union extend new regulation of registered partnership alternative marriage to unisex partners. This is according to the Recommendation of the Committee of Ministers CM/Rec(2010)5 to the Member States on the actions to be taken against discrimination by sexual orientation or sexual identity. The fact that a country has isolated position in spite of gradual increase, as such presents no conflict with the ECPAK. The court holds, however, that the Government has presented no convincing and serious grounds to

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[89] Available at: http://www.diena.lv/diena-tv/tieslietu-ministrija-viendzimuma-paru-cilvektiesibas-netiek-parkaptas-13947632

[90] Reply No. 1-17/2448 issued by the Ministry of Justice on 29 June 2012 to the Ombudsman's letter No. 1-5/145 of 29 May 2012.
Available at: http://www.tiesibsargs.lv/par-mums/konsultativas-padomes/par-partnerattiecibu-tiesisko-regulejumu

[91] Available at: http://www.lsm.lv/lv/raksts/latvija/zinas/vinjkjele-piedavas-partnerattieciibu-likumu-vai-vismaz-kopdziive.a105760/

[92] Available at: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-128294#{%22itemid%22:[%22001-128294%22]}

substantiate the exclusion of unisex partners from the scope of Law No. 3719/2008 that regulates registration of partnerships other than marriage. The court therefore has established a breach of Article 14 of the ECPAK along with breach of Article 9 in the given case.

The ECHR has held regarding marriage of unisex partners in their Award rendered on 24 June 2010 in Schalk and Kopf v. Austria that marriage has deeply rooted social and culture connotations that may be very different in certain societies. The Court reiterates they should not hurry with deciding for public authorities that are best capable of assessing and reacting to the public needs (cf. the Award in *B. and L. v. the United Kingdom*, quoted above, para 36). The ECHR concluded that Article 12 of the ECPAK imposes no obligation on the respondent State to enable a unisex couple of applicants to register their marriage[93].

So due regard should be paid in discussions hold in Latvia to the national social reality, with respect to the constitutional values and the right of adults to shape their private life according to their own preferences.

2.9. Breaches of Legal Equality

2.9.1. On restriction on the use of a transport vehicle registered abroad

In 2014, the Ombudsman investigated, among other problems noted by private individuals (five applications) the restriction imposed by the legislator on the right of citizens or non-citizens of Latvia, or by persons who have obtained a certificate of registration issued in Latvia, a temporary residence permit or term residence permit, to drive on the territory of Latvia the passenger cars permanently registered abroad.

The applicants pointed out to infringements of human rights in the Cabinet Regulations No. 1341 of 24 November 2009 Concerning the Procedure for Granting and Canceling the Permits to Participate at Road Traffic on a Passenger Car Permanently Registered Abroad, where the second sentence of Paragraph 3 and Paragraph 4.[1] prescribe that participation at road traffic in Latvia on a transport vehicle permanently registered abroad is limited to 92 days in a year.

The Ombudsman, having reviewed the case law of the Court of the European Union and the Satversme, established that the restriction prescribed in the second sentence of Paragraph 3 and Paragraph 4.[1] of the Cabinet Regulations No. 1341 that use of a transport vehicle registered abroad is limited no 92 days in a year, complies with Section 91 of the Satversme and it is not covered by Sections 97 and 98 of the Satversme, and no restriction of the right provided in Section 106 has been established.

[93]The ECHR award in *Schalk and Kopf v Austria*, conclusion part, para 62 and para 63
Available at: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99605#{%22itemid%22:[%22001-99605%22]}

Given, however, the number of applicants and the acute nature of the issue, the Ombudsman recommended to the Ministry of Transport that 1) the competent institutions should establish a control mechanism to ensure that owners of all transport vehicles, regardless of their citizenship, cause registration in Latvia of their transport vehicles registered abroad on equal terms; 2) the Ministry of Transport should take all steps to draw the attention of the Parliament of Europe and the Commission to the need for uniform regulation regarding registration of transport vehicles in the Member States of the European Union.

2.9.2. On the rights of civil servants in access to life-long education programs

The Ombudsman assessed during the reporting period an application pointing out to unequal treatment of civil servants who are prevented from access to life-long education programs. In particular, educational programs aimed at involvement of adults in life-long education are pursued on the basis of the Cabinet Regulations No. 75 of 25 January 2011 Concerning the Procedure for Organizing and Funding of Active Measures for Promoting Employment and Reducing Unemployment, and the Principles for Choice of Implementing Bodies, and the Cabinet Regulations No. 1213 of 20 October 2009 Concerning the Sub-Activity 1.2.2.1.2 "Support to the Implementation of the Key Concepts of Life-Long Education Policy" supplementary to the Action Program "Human Resources and Employment" providing for more specific involvement of the target audience of life-long education within the scope of the educational project.

According to Paragraph 2 of the Cabinet Regulations No. 1213, the purpose of the said activity is support to increased access to life-long education by employed and self-employed persons, other than civil servants, who have reached the age of 25 years.

The Ombudsman pointed out that, according to the construction of Section 112 of the Satversme, the term "education" also extends to any aspects of life-long education.

The Ombudsman pointed out to the following sectors of employment and number of employees in Latvia in 2010:

a) Private sector – employed 480 802 or 64%;

b) Municipalities and subordinated institutions – 103 132 or 14%;

c) State and municipal commercial companies – 87 097 or 12 %;

d) Ministries, central public authorities and subordinated institutions – 74 230 or 10%.

According to the data provided by the Ministry of Finance, employees of the authorities funded from the national budget include the Saeima Deputies, civil servants, justices, prosecutors, court and prosecution officials, medicinal professionals, pedagogues, militaries, special rank officials (in the entities of the Ministry of Interior and Prison Administration) and

other staff. Therefore participation at life-long education programs is available to justices, prosecutors and other officials of public authorities, but not to civil servants

The Ombudsman established that the regulatory norms contain no objective and reasonable substantiation of the prohibition for civil servants to participate at life-long education programs, and no clarification could also be obtained from the competent Ministry.

2.9.3. On non-provision of equal access to kindergarten

The Ombudsman received in 2014 an application from a person regarding the restrictions imposed to the right of a child to be admitted to municipal kindergarten on the grounds of the parents' occupation.

The Ombudsman established that norms of the disputed binding municipal regulations prescribe different treatment of children if their parents represent certain professions or medicinal and educational institutions. The Ombudsman identified that it practice certain categories of children were admitted to preschool educational establishments on privileged basis. The need for establishing privileged groups is dictated by inability to provide free access to certain services by all persons. It may be therefore concluded that establishment of privileged groups in preschool educational establishments results from inability of municipalities to implement Section 15 part One para 4 of the Municipality Law.

The Ombudsman pointed out that in case of shortage of certain professionals the municipality may and even must take steps to attract such specialists, for example, by offering motivating remuneration, good working conditions, company car and other benefits. Such attracting, however, may not be based on the provision of certain primary functions imposed on municipalities by the law as a kind of special fringe benefits. Moreover, municipalities are bound to respect the rights of other persons and to comply with the above-mentioned regulatory norms that prescribe equal treatment of children. Therefore, the goal of attracting new specialists can also be achieved by other means without groundless placement of certain groups of persons in disadvantageous situation.

It has to be explained that a subject of private law (a business) may grant special support system to their employees, for example, by establishing a child care institution exclusively for their staff. Such obliging attitude may be treated as a model of good practice, since no external regulatory acts impose such obligation on the subjects of private law and it only depends on their own good will.

On the other hand, a subject of public law may only act within the limits of their competence prescribed by regulatory acts, moreover such competence has to extend equally to all persons affected by such competence.

Assessing the problems noted in the applications in general and the willingness of competent institutions to solve such problems, the Ombudsman emphasizes that those drafting regulatory acts should assess them more carefully and provide more detailed information in the summary or assessment report on the initial impact. At present, summaries are not used to their full potential, especially if the regulatory act prescribes any exceptions from the overall procedure, and the summary contains no clarification of the need for such exceptions or their compliance with Section 91 of the Satversme. Therefore, there are obstacles created to the application of such regulatory acts in practice.

3. Cooperation with the Constitutional Court

3.1. On prohibition to fund home parturition from the State budget

The LED drafted and presented to the Constitutional Court in 2014 an application for institution of legal proceedings. According to Section 22 part Two of the Law on Constitutional Court, requests to the Ombudsman for issuing opinion were processed by the LED, within with the framework of the LED on one occasion, and in cooperation with other divisions of the Ombudsman Office on two other occasions.

As mentioned before, an application was drafted and presented to the Constitutional Court in 2014 for institution of proceedings for declaring Paragraph 555 of Appendix No. 16 "Pricing of health care services and funding procedure" to the Cabinet Regulations No. 1529 of 17 December 2013 On the Organizing and Funding of Health Care, insofar such norm prescribes no rate for scheduled parturition outside an institution, as non-compliant with the first sentence of Section 91 of the Satversme (case No. 2014-08-03).

The disputed norm stipulates that physiologic parturition constitutes a general out-patient service funded from the State budget.

Application to the Constitutional Court was drafted with due regard to the opinion issued on 10 July 2013 in the inspection case No. 2012-297-5D. The Ombudsman applied to the Prime Minister upon completion of the inspection case and proposed that the identified shortcomings in legal norms should be eliminated within one month and that funding from the State budget should be also extended to home parturition. The Cabinet argued in their letter No. 18/TA-1667 of 14 August 2013 to the Ombudsman that they could not support the findings made in his opinion of 10 July 2013, and therefore they had no legal obligation to allocate assets from the State budget for funding home parturition.

The Constitutional Court adopted on 12 March 2014 the decision to institute legal proceedings. The case was tried in written proceedings on 13 January 2015, and on 12 February

2015 the Constitutional Court rendered their award in case No. 2014-08-03 "Regarding the compliance of Paragraph 555 of Appendix No. 16 "Pricing of health care services and funding procedure" to the Cabinet Regulations No. 1529 of 17 December 2013 On the Organizing and Funding of Health Care, insofar such norm prescribes no rate for scheduled parturition outside an institution, with the first sentence of Section 91 of the Satversme of the Republic of Latvia".

The Constitutional Court held that the disputed norms complied with the first sentence of Section 91 of the Satversme and noted that the State had provided availability of free parturition services, and it had no obligation to guarantee the provision of such service at any other place or form preferable by a person beyond the scope of state-funded health care system.[94]. The Constitution Court further noted that the State could select, within the limits of economical capacities, to extend the scope of State0funded health care services, including in the field of sexual and reproductive health care.

3.2. Opinion issued regarding compliance of the norm of Deposit Guarantee Law with the Satversme

The LED issued an opinion during the reporting period on the case No. 2014-02-01 tried by the Constitutional Court "Regarding the compliance of Section 17 para 4 of the Deposit Guarantee Law with the first sentence of Section 91 of the Satversme of the Republic of Latvia".

The disputed norm stipulates that the guaranteed compensation may not be disbursed to the deponents who are also members of the Board of the depositary in question.

According to the opinion issued on the given matter, the disputed norm complies with the first sentence of Section 91 of the Satversme.

Having investigated the above-described issue, the Ombudsman concluded that the different treatment prescribed by the disputed norm served a legitimate purpose and it was proportionate. The legitimate purpose of the disputed norm was preventing members of the Board of the credit institution from taking any actions that potentially could have adverse effect on the credit institution's solvency. Insolvency of a credit institution, on the turn, could lead to compromising the financial stability of the State. It can be therefore concluded that the disputed norm had been adopted for the protection of public welfare and the rights of other persons. The restriction prescribed by the legislator to the right of members of the Board to the guaranteed compensation constitutes an appropriate measure to make each member of the Board treat with special responsibility the deposits attracted by the depositary in question. The disputed norm imposes stricter liability on members of the Board and ensures stability of the national financial

[94] Award rendered by the constitutional Court on 12 February 2015 in case No. 2014-08-03. Available at: http://www.satv.tiesa.gov.lv/upload/spriedums-2014-08-03.pdf

system. The benefit gained by society from the existence of the disputed norm also exceeds the disadvantages of an individual. In a law-based state it is impossible that the deponent who has been taking part in the planning, management and control of the depositary and facilitating, directly or indirectly, non-availability of deposits, could expect legal protection on equal grounds with any other deponents. Such a situation would increase the insolvency risk of credit institutions and compromise the right of other deponents to the availability of their deposits.

The Constitutional Court held in their award rendered on 13 June 2014 that Section 17 para 4 of the Deposit Guarantee Law complies with the first sentence of Section 91 of the Satversme.

3.3. Opinion regarding the compliance of the norm of the Law on State Pensions with the Satversme

The LED issued their opinion in 2014 on the case tried by the Constitutional Court in case No. 2014-05-01 "On compliance of Section 16 part Four of the Law on State Pensions (in the wording effective from 7 January 1997 to 30 September 2013, and in the wording effective from 17 July 2013), insofar the formula is concerned for recalculation of disability pension upon change of the group of disability, where the recipient of disability pension has been employed before change of the group of disability and a payer of social contributions, with Sections 91 and 109 of the Satversme of the Republic of Latvia."

The disputed part of the law stipulates recalculation of disability pension upon change of the group of disability.

In this respect, the Ombudsman has presented to the Constitutional Court his opinion made on 17 January 2014 in the inspection case No. 2013-144-26K, with the conclusion that the disputed norm fails to comply the first sentence of Section 91 of the Satversme.

According to the opinion presented to the Constitutional Court, the purpose of the disputed norm is to protect the right to social security in case of persons who have their income reduced in comparison to that prior to the granting of disability, regardless of continued employment. The presumption of correlation between the loss of working ability and the loss of income is not always confirmed. Such presumption is only true if the person is unable to develop and use his or her professional potential. If, however, the person's income does not change upon granting of disability, legitimate purpose of the disputed norm is not achieved. It was also noted to the Constitutional Court that the current wording of Section 16 part Four and Section 25 part Five of the Law on State Pensions has the effect of minimizing, rather than eliminating the infringement.

The Constitutional Court held in their award of 11 December 2014 that the disputed norm in the wording effective from 7 January 1997 to 30 September 2013 and in the wording of 17 July 2013 fails to comply with the first sentence of Section 91 of the Satversme.

3.4. Opinion regarding the compliance of the Protective Zone Law with the Satversme

The LED, in cooperation with the Social, Economic and Culture Rights Division, presented to the Constitutional Court their opinion in case No. 2014-16-01 "Regarding compliance of Section 36 part Two para 1 of the Protective Zone Law with Sections 91 and 105 of the Satversme of the Republic of Latvia".

According to the disputed norm, the following restriction applies to the coastal protective zone of the Baltic Sea and Gulf of Riga: "Apart from other encumbrances listed in part One of this Section, no new buildings or structures may be build, and no existing buildings or structures may be extended on the coastal dune protective zone and on the beach, except the following occasions:

1) Subject to approval by the competent regional environment division of the State Environment Agency, and subject to the local municipal territorial planning, the following actions are performed:

a) Renovation or restauration of the existing buildings or structures;

b) Reconstruction of the existing buildings and structures without exceeding the existing building capacity; in case of reconstruction of the existing residential buildings with the space under 50 square meters, the total space after reconstruction may not exceed 150 square meters".

According to the opinion issued in the given matter, the concerned legal issue should be solved through interpretation of the legal norm so that proper construction of the disputed norm is provided, and legal proceedings in the case No. 2014-16-01 should be dismissed.

The case was tried by the Constitutional Court in written proceedings, and the Constitutional Court adopted on 2 March 2015 the decision to dismiss proceedings in the case No. 2014-16-01 "Regarding compliance of Section 36 part Two para 1 of the Protective Zone Law with Sections 91 and 105 of the Satversme of the Republic of Latvia". The Constitutional Court concluded in particular that the applicant had not exhausted the legal methods for solving the dispute in question. Application of legal norms in compliance with the Satversme includes, among other things, identification and interpretation of the applicable legal norm as well further development of the law. Where any shortcoming is identified in a law, all efforts need to be taken to seek elimination thereof within the scope of such law. If, for example, the law prescribes no regulation of a certain situation similar to those regulated in such law, and regulation should

extend to the given situation according to the purpose of the law, the legal consequences of the similar situations should extend also to the non-regulated situation. The Constitutional Court concluded that, on the given occasion, the identified shortcoming could be eliminated within the scope of the law, taking into consideration also the general principles of law, and the principle of legal reliance in particular. The Constitutional Court therefore found no grounds for continuing legal proceedings in the given case.

3.5. Opinion regarding the compliance of a norm of the Civil Procedure Law with the Satversme

The LED, in cooperation with the Politic and Civil Rights Division, issued in 2014 an opinion to the Constitutional Court on the case No. 2014-31-01 "Regarding the compliance of Section 44 part 1 of the Civil Procedure Law (in the wording effective as of 29 November 2012) with Sections 1, 91, 92, and 105 of the Satversme of the Republic of Latvia."

The disputed norm prescribes the amount of litigation costs subject to compensation in civil proceedings for the services of attorney.

According to the opinion issued in the given case, the disputed norm contradicts with the principle of legal reliance stipulated in Section 1 of the Satversme. The Ombudsman, having established the non-compliance of the disputed norm with the principle of legal reliance contained in Section 1 of the Satversme, and with due regard to the conclusions contained in the awards of the Constitutional Court, found no grounds for further assessment of compliance of the disputed norm with Sections 91, 92 and 105 of the Satversme.

Hearing of the case by the Constitutional Court in written proceedings is scheduled to 31 May 2015, and the award shall be rendered by 30 April 2015.

VI Information of the Ombudsman Office

1. Financial Resources and Results of Operation

The Ombudsman Report is funded from the State budget. The amount of planned funding to the Ombudsman Office in 2014 from the State budget is EUR 1 157 884.

The actual uptake of funds during the reporting period amounted to 1 131 770 thousand euro including 67.3 thousand euro for implementation of the projects co-funded or funded from the instruments of European Union policies and other foreign funding. The amount of expenditures has increased by about 15.5% in comparison with 2013, mainly because of increased costs for the provision of effective performance of the functions and tasks by the Ombudsman Office, as well as the increase of the minimum monthly wages to 320 euro and leveraged monthly wages, starting from 1 January 2014.

Part of the financial resources required to meet the costs form from lease of premises, in the amount of 29.9 thousand euro in 2014, and the funding allocated by foreign partners for the implementation of projects and events in the amount of 5.5 thousand euro.

The Ombudsman Office participated in 2014 for the second time already at the Northern – Baltic project of Mobility and Cooperation Network program. Topics of the project in this year covered included the mechanism of impartial investigation of violence by officials and observation of the UN Convention on the rights of persons with disabilities in Sweden and in Finland.

Funding from the State budget and its application in 2014 (euro)

Item No.	Financial items	Previous year (actual uptake)	Reporting year	
			Approved by the Law	Actual uptake
1.	Financial resources required to meet the costs (total)	993 628	1 157 884	1 131 770
1.1.	Grants	952 939	1 126 296	1 126 296
1.2.	Services for charge and other own income	27 136	31 588	5474
1.3.	Foreign support from abroad	–	–	–
1.4.	Donations and gifts	–	–	–
2.	Costs (total)	980 075	1 157 884	1 131 770
2.1.	Maintenance costs (total)	977 702	1 155 260	1 129 146

2.1.1.	Current costs	975 182	1 152 510	1 126 396
2.1.2.	Interest costs	–	–	–
2.1.3.	Subsidies, donations and social allowances	–	–	–
2.1.4.	Periodic payments to the budget of the European Communities and international cooperation	2520	2750	2750
2.1.5.	Transfers of maintenance costs	–	–	–
2.2.	Costs of capital investments	2373	2624	2624

Implementation of the project "Development of mechanism for supervision of persons subject to compulsory deporting" in respect of which the Ombudsman Office had reached agreement with the Ministry of Interior in 2013 was continued in 2014. Implementation of the project takes place within the project of the framework program "Solidarity and Management of Migration Flows" of the European Return Fund. Activities under the project shall continue till mid-2015.

The number of maximum authorized staff units of the Ombudsman Office in 2014 was 42 including 10 units performing support functions required for provision of the primary functions, including clerical, secretarial and logistic function, property management and maintenance, finance management, accounting, international cooperation, and communication.

Information about the results of operation of the Ombudsman Office in 2014

Operational results	**Plan for reporting period**	**Performance in reporting period**
Operational result: public awareness and timely prevented offences		
Inspections arranged at public and municipal institutions (closed and partially closed type facilities, custodian courts, educational establishments, etc.)	40	53
Arranged educational seminars, discussions and other events	30	53
Participation at the events arranged by other institutions – lectures on the topics within the Ombudsman's competence	12	14
Prepared media releases	2 000	2 041

Operational result: principle of good governance observed		
Opinions issued to the Constitutional Court	15	17
Opinions issued to public authorities regarding draft legal acts	45	35
Participation at task forces and committees	150	105
Operational result: increased effectiveness and authority of the Ombudsman		
Receives (processed) applications	2 600	1 877
Replies to applications prepared	1 720	2 081
Declining of applications prepared	600	392
Inspection cases instituted on the grounds of applications	280	91
E-mail replies prepared on the topics within the competence of the Ombudsman Office	550	726
Oral consulting provided:	6 000	6 176
➢ in person	1 600	2 055
➢ by telephone	4 400	4 121
Inspection cases instituted at the Ombudsman's initiative	25	4

Due to the notably increased scope of work and insufficient staff resources of the Ombudsman Office in the reporting period, a decision was adopted to participate only in the task forces and meetings of committees for discussing a prepared draft regulatory act or issuing opinion upon request.

The Ombudsman Office was only issuing their opinion on draft legal acts if the risk of infringement or restriction of human rights was present, or upon special request to issue the opinion.

The operation result item "Replies to applications prepared" is closely related to other items – the number of received (processed) applications and the number of inspection cases instituted on the grounds of applications. Taking into account the level of complexity of the issue referred to in an application, a reply is often issued to the applicant instead of instituting an inspection case that involves requesting information from other institutions and investigation of the issue. The number of inspection cases has therefore decreased.

The number of applications has also decreased during the reporting period because a number of applicants prefer consulting in person or prompt e-mail replies, as evident from the high number of oral consultations.

It may be concluded from the results of work of the Ombudsman Office that informational campaigns and informing of society has achieved the desired result, and people increasingly pay attention to the observation and preventing infringement of human rights. In 2013, for example, the number of received applications was 2 563, while in 2014 it was only 1 877, or by 686 applications less than before.

The Ombudsman Office has been actively informing and educating the society about their rights in relation to various publicity activities and media cooperation. 2 063 publications in media in 2014 dealt with the issues within the Ombudsman's competence including 22 press releases prepared by the Ombudsman Office.

2. The staff

The staff of the Ombudsman Office is composed of 42 staff units including the Ombudsman. There were no vacant staff units in the reporting year.

31 staff members are engaged in legal analysis and consulting, six in administration, record management and provision of human resource and financial management; two in logistic and managerial activities, and another two in communication and international cooperation matters. The staff of the Ombudsman Office is composed of seven men and 36 women.

The staff of the Ombudsman Office is distributed by the level of education as follows: one Doctor, 31 MA degrees, five BA degrees, one staff member with completed first-level professional education, and four students in BA study programs.

The staff of the Ombudsman Office is distributed by the following age groups: 6 employees are 20-30 years old, 24 employees in the age range between 30 and 40, 7 employees are 40-50 years old, and three 50 to 60 years old; two staff members are older than 60 years. The average age of the staff is 37 years.

3. Communication with Public

With the view to meet the obligation stipulated in the Ombudsman Law to promote public awareness and understanding of human rights and the mechanism of their protection, the role, functions and performance of the Ombudsman, the Ombudsman Office has developed active communication with public in 2014. The Ombudsman not only engaged in clarification of opinions but also expressed his opinion on many occasions regarding the processes of public importance. For example, the Ombudsman presented his report to the UN Committee for Human Rights on implementation of the UN International Covenant on Civil and Political Rights in

Latvia during the period from 2009 to 2013, supplementing the governmental report already at disposal of the UN.

The previous practice was continued in 2014 to actively inform the society about the rights of children and their protection mechanism, with special focus on security of children at educational establishments. The Ombudsman Office therefore prepared in cooperation with the Justice Councler of Estonia the informative educational material "Violence-free school". The material was prepared in different formats for school children and for their parents and teachers.

The information materials contain advice of professional psychologists, education specialists and lawyers on preventing violence at school and on the actions to be taken in case of violence. The developed materials provide information about how to react on violence towards a school child, including specific examples and advice what to do if violence towards another person is observed at school. The material designed for parents explains what parents should do if they reveal violence in the actions of their child. The material for teachers, for children and their parents are available on the Internet, in section "Informational material" on the website of the Ombudsman Office.

Representatives of the Ombudsman Office have participated at several public discussions. These included amendments to the Law on Change of Name, Surname and Nationality Entry; access to legal remedies by children with mental impairments; the rights in the field of health, including the rights of children; security of children on the Internet, etc.

Several discussions have also been organized by the Ombudsman Office including the discussion organized in late 2014 on the topic "Freedom of speech and public interests from the

aspect of security" with participation of representatives of the Office, the Stradiņa University of Riga, and the Security Police. The key topics of discussion included the importance of the freedom of speech in a democratic state; public interest (information reflected on the Internet) and the competence of law enforcement institutions (topical issues of the freedom of speech and investigation of hate crimes).

The seminar cycle launched earlier for social pedagogues, class-mistresses, social science pedagogues, principals and other subjects of protection of the rights of children was continued in the last year. Seminars were organized on topics such as security of children at educational establishments and preventive work; rights and obligations of children and pedagogues; and preventive work with children by social pedagogues.

A separate full-day seminar was organized for Riga Methodic Association of Social Pedagogues. The seminar included presentations by legal counsellors of the Rights of Child Division of the Ombudsman Office (on activities of the Ombudsman Office and on the UN Convention for the Rights of Children and its Principles) as well as discussions and practical exercises (situation analysis) for social pedagogues

Students of several educational establishments had the opportunity in the reporting year to familiarize in more details with the issues of human rights in form of lectures held at the Ombudsman Office; the Office is cooperating with higher educational establishments and professional capacity improvement establishments with the view to increase public awareness. Such establishments include the State Police College, the Albert College, The Stradiņa University of Riga, and the Law School of Riga.

The Ombudsman Office participated in 2014 at training cycles including lectures on human rights. Representatives of the Office participated at the seminar for the Latvian Association of the Heads of Municipal Social Services "On inviolability of the clients' privacy in the practice of social services" presented lectures on the legal aspects in communication with media, politicians and public authorities. A seminar was organized for assistant attorneys "Application of inspection cases of the Ombudsman Office in administrative procedure of an establishment and in criminal procedure". A guest lecture on the rights of persons with disabilities was organized to students of the Faculty of Law of the University of Latvia.

The Ombudsman Office in cooperation with the Justice Training Center of Latvia welcomed in the reporting year a delegation of justices and prosecutors from abroad visiting Latvia within the framework of European Post-Diploma Law Education Network Exchange Program. The program included presentation on the Ombudsman Office and their activities; the topical issues of the legal division in relation to judicial work; the topic of denationalized

buildings, as well as adjustment of the rights of owners and tenants. Participants of the exchange program represented Austria, Germany, Hungary, Poland and Romania, to mention a few.

On the International Day of Human Rights the annual Ombudsman conference was also held in 2014 from 10 to 12 December. The conference covered seven discussion topics: [1] Legal solutions of lobbying: the concept and implementation; [2] Lobbying in practice: advantages and disadvantages; [3] Provision of the right of children to efficient development at municipal institutional care: regulations and reality; [4] Support to guardians and foster families: current practice and future expectations; [5] Access of children to parents in prison; [6] Mechanism of governmental responsibility in Latvia, the international standards and requirements; [7] Future prospects of Latvia in the area of governmental responsibility.

The Ombudsman conference was supported by live video broadcast available on the Ombudsman Office website *www.tiesibsargs.lv* and on the portal *www.tvnet.lv*. The conference material and video is available on the Ombudsman Office website.

67 educational seminars, visiting consultations, discussions and other educational events were organized in 2014 in total.

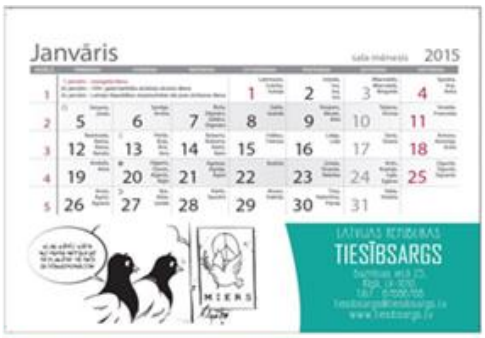
A campaign "Titbit" for improvement of public awareness was organized in October 2014 in cooperation with the association "Shelter "Safe house"" with the view to minimize human trafficking and to notify of threats and available assistance. The primary target audience of such campaign was young people, with the view to oppose the misleading presumption that adults only can become victims of trafficking in humans. Moreover, when they grow up and start seeking employment opportunities, especially abroad, the risk of becoming a victim of trafficking still increases. The secondary target audience was nearly each member of society because, according to the global experience, everyone can become a victim of trafficking: old and young, women and men. An informational clip/banner was especially designed for the campaign and published on the portals *draugiem.lv*, *ask.fm* and *kasjauns.lv*, as well as on the Internet websites of the Employment State Agency, the Ministry of Foreign Affairs and a number of embassies; the Ministry of Interior; the Office of Citizenship and Migration Affairs, and the State Police.

Representatives of the association “Shelter “Safe House”” invited media and young people to participate within the framework of the Human Trafficking at a simulation game in Olaine aimed at training the participants to recognize the early signs of trafficking in humans. The game enabled them to live the victims’ part and to understand that such problem is also actual in Latvia. Along with the said activity, the inhabitants and visitors of Olaine had the unique opportunity to watch the informational anti-trafficking trailer of the Association “Shelter “Safe House”” with updated exposition and to get personal advice from experienced experts of the organization.

In December 2014 the Ombudsman Office launched another informational campaign. The Ombudsman Office designed calendars and ex libris as a part of such campaign to clarify the meaning of “human rights”, “good governance” and “legal equality”. The ex libris and calendars were made available to everyone in Riga and in Latvia thanks to cooperation with the Latvian National Library and regional libraries.

The said materials presented in comic format with caricatures clarify the concepts of human rights, good governance and legal equality. The calendars and ex libris are available free of charge.

In total, 70 000 calendars and 60 000 ex libris were made available as a part of the informational campaign. The caricatures were designed by Edgars Sīms, and the calendars, ex libris and posters were printed at the Talsi Printing House.



4. Opinions issued by the Ombudsman Office to the Constitutional Court

1.	15.01.2014. No. 6-1/102	Opinion on case No. 2013-15-01 "Regarding compliance of the words "form trade unions" in Section 49 part One of the State Border Guards Law with Section 102 and the second sentence of Section 108 of the Satversme"	Kristīne Ostrovska
2.	21.02.2014. No. 1-6/1	Opinion on the case No. 2013-18-01 "Regarding compliance of the sixth sentence of Section 56.³ part Three of the Penal Enforcement Code of Latvia with the first sentence of Section 92 of the Satversme"	Solvita Anskaite

3.	24.02.2014. No.1-6/2	Opinion on the case No. 2013-17-01 "Regarding compliance of the first sentence of Section 8 of the Law on Lease of Residential Premises with Section 105 of the Satversme"	Ieva Arklone
4.	24.04.2014. No.1-6/3	Opinion on the case No. 2014-02-01 "Regarding compliance of Section 17 para 4 of the Deposit Guarantee Law with the first sentence of Section 91 of the Satversme"	Dainis Upmacis
5.	24.04.2014. No.1-6/4	Opinion on the case No. 2013-20-03 "Regarding compliance of Paragraphs 4.3 and 4.4 of the Binding Regulations of Riga City Council No. 125 of 8 July 2008 On the Management of Territories and Maintenance Buildings in the City of Riga with Section 105 of the Satversme"	Elīna Birģele, Inga Peimane
6.	06.05.2014. No. 1-6/5	Opinion on the case No. 2014-03-01 "Regarding compliance of Section 15 part One of the Law on Election of City Councils and County Councils of the Republic of Latvia, insofar electoral associations are not allowed to submit lists of candidate deputies in the electoral districts with population over 5 000 and the State scale cities, with Sections 91 and 101 of the Satversme"	Ilze Tralmaka
7.	28.05.2014. No. 1-6/6	Opinion on the case No. 2014-05-01 "Regarding compliance of Section 16 part Four of the Law on State Pensions (in the wording effective from 7 January 1997 to 30 September 2013, and in the wording effective from 17 July 2013), insofar the formula is concerned for recalculation of disability pension upon change of the group of disability, where the recipient of disability pension has been employed before change of the group of disability and a payer of social contributions, with Sections 91 and 109 of the Satversme of the Republic of Latvia."	Dainis Upmacis
8.	02.07.2014. No. 1-6/7	Opinion on the case No. 2014-06-03 regarding the Cabinet Regulations No. 331 Regarding the Amount and procedure for calculation of insurance indemnity for intangible damages caused to a person	Ilze Tralmaka
9.	17.07.2014. No.1-6/8	Opinion on the case No. 2014-09-01 "Regarding compliance of Section 495 part One of the Civil Procedure Law with the first sentence of Section 92 of the Satversme"	Santa Tivaņenkova

10.	11.08.2014. Nor .1-6/9	Opinion on the case No. 2014-11-0103 "Regarding compliance of Section 3 part One para 1 sub-para "f" and Section 18 of Nature Resource Tax Law and the Cabinet Regulations No 27 of 14 January 2014 with Section 105 of the Satversme"	Elīna Birģele, Inga Peimane
11.	03.09.2014. No. 1-6/10	Opinion on the case No. 2014-13-01 "Regarding compliance of Section 635 part Six of the Civil Procedure Law, insofar concerning reversion of penalty enforcement in the matters of wages recovery, with the first sentence of Section 92 of the Satversme"	Santa Tivaņenkova
12.	05.09.2014. No. 1-6/11	Opinion on the case No. 2014-12-01 "Regarding compliance of Section 3 para 1, Section 4 para 1 and Section 5 of Subsidized Electric Energy Law with Sections 1 and 105 of the Satversme:	Inga Peimane, Elīna Birģele
13.	22.09.2014. No. 1-6/12	Opinion on the case No. 2014-16-01 "Regarding compliance of Section 36 part Two para 1 of the Protective Zone Law with Sections 91 and 105 of the Satversme"	Raimonds Koņuševskis, Dainis Upmacis
14.	06.10.2014. No. 1-6/13	Opinion on the case No. 2014-08-03 "Regarding the compliance of Paragraph 555 of Appendix No. 16 "Pricing of health care services and funding procedure" to the Cabinet Regulations No. 1529 of 17 December 2013 On the Organizing and Funding of Health Care, insofar such norm prescribes no rate for scheduled parturition outside an institution, with the first sentence of Section 91 of the Satversme of the Republic of Latvia"	Anete Ilves, Artūrs Kučs, Šarlote Bērziņa
15.	31.10.2014. No. 1-6/14	Opinion on the case No. 2014-31-01 "Regarding compliance of Section 44 part One para 1 of the Civil Procedure Law with Sections 1, 91, 92, and 105 of the Satversme"	Gundega Bruņeniece, Dainis Upmacis
16.	06.11.2014. No. 1-6/15	Supplementary opinions on the case No. 2014-13-01 "Regarding compliance of Section 635 part Six of the Civil Procedure Law, insofar concerning reversion of penalty enforcement in the matters of wages recovery, with the first sentence of Section 92 of the Satversme"	Santa Tivaņenkova

17.	12.11.2014. No. 1-6/16	Opinion on the case No. 2014-23-01 "Regarding compliance of Section 363.[8] part Eight of the Civil Procedure Law (in the wording effective till 31 October 2010), insofar the right of insolvency administrator to appeal against court ruling on suspending the administrator from the insolvency proceedings is concerned, with Section 92 of the Satversme"	Inga Zonenberga

5. Operational statistics of the Ombudsman Office in 2014

	Jen	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
Received individual applications													
Civil and Political Rights Division	113	89	79	92	105	91	112	96	83	96	62	70	1088
Social, Economic and Culture Rights Division	63	46	53	50	64	36	56	36	44	39	40	40	567
Rights of Child Division	11	9	10	16	8	7	13	14	9	11	7	14	129
Legal Equality Division	11	4	10	5	5	9	4	8	6	12	7	6	87
Other staff	1	0	0	1	1	0	0	0	0	1	1	1	6
Total	**199**	**148**	**152**	**164**	**183**	**143**	**185**	**154**	**142**	**159**	**117**	**131**	**1877**
Instituted inspection cases													
The area of civil and political rights	4	3	6	5	2	2	3	2	3	2	2	1	35
Social, Economic and Culture Rights Division	8	1	3	0	3	1	2	0	1	1	1	0	21
Rights of Child Division	0	1	0	0	2	2	2	1	1	1	0	2	12
Legal Equality Division	2	6	2	0	1	1	3	1	2	4	0	1	23
Total	**14**	**11**	**11**	**5**	**8**	**6**	**10**	**4**	**7**	**8**	**3**	**4**	**91**
Institution of inspection case refused													
Civil and Political Rights Division	12	6	8	2	3	6	5	2	2	0	10	2	58
Social, Economic and Culture Rights Division	19	29	32	16	21	31	18	13	19	20	18	12	248
Rights of Child Division	0	2	6	3	4	3	1	2	2	6	4	5	38
Legal Equality Division	6	2	4	5	2	4	1	7	1	6	5	5	48
Total	**37**	**39**	**50**	**26**	**30**	**44**	**25**	**24**	**24**	**32**	**37**	**24**	**392**
Replies to applications (other than refusals)													
Civil and Political Rights Division	104	107	93	80	92	99	125	103	73	89	67	68	1100

Social, Economic and Culture Rights Division	77	66	57	52	54	79	42	61	62	47	52	44	693
Rights of Child Division	14	17	11	18	20	14	12	15	24	15	10	14	184
Legal Equality Division	11	9	7	9	8	9	10	10	4	10	4	4	95
Other staff	1	4	0	1	0	0	1	0	1	0	1	0	9
Total	**207**	**203**	**168**	**160**	**174**	**201**	**190**	**189**	**164**	**161**	**134**	**130**	**2081**
Completed/dismissed inspection cases													
Civil and Political Rights Division	1	8	4	2	9	14	6	3	6	1	2	4	60
Social, Economic and Culture Rights Division	5	6	9	2	3	8	8	3	2	3	4	2	55
Rights of Child Division	2	0	0	2	1	1	1	0	2	2	0	1	12
Legal Equality Division	2	4	3	4	0	3	2	8	2	4	0	2	34
Total	**10**	**18**	**16**	**10**	**13**	**26**	**17**	**14**	**12**	**10**	**6**	**9**	**161**
Consultations													
Civil and Political Rights Division	27	27	23	20	21	20	25	12	25	21	23	10	254
Social, Economic and Culture Rights Division	22	37	28	25	39	17	30	27	26	18	29	8	306
Rights of Child Division	11	8	8	8	11	10	6	8	9	13	6	6	104
Legal Equality Division	5	3	2	5	1	2	4	4	2	5	2	3	38
Consulting on telephone	462	410	424	310	373	305	300	289	374	350	271	253	4121
E-mail replies	87	88	58	56	66	58	32	43	69	69	59	41	726
Visitors without appointment	161	144	124	106	135	92	83	95	111	117	96	89	1353
Total	**775**	**717**	**667**	**530**	**646**	**504**	**480**	**478**	**616**	**593**	**486**	**410**	**6902**
Opinions													
To public authorities on draft legal acts	2	5	4	4	6	1	0	1	2	3	5	2	35
To the Constitutional Court	1	2	0	2	2	0	2	1	3	2	2	0	17

Total	**3**	**7**	**4**	**6**	**8**	**1**	**2**	**2**	**5**	**5**	**7**	**2**	**52**
Monitoring visits													
Total	**0**	**3**	**2**	**7**	**4**	**4**	**4**	**4**	**5**	**10**	**6**	**4**	**53**
Public awareness													
Publications (Leta monitoring)	**219**	**349**	**185**	**243**	**154**	**141**	**130**	**124**	**87**	**155**	**108**	**146**	**2041**
Press releases	**4**	**1**	**0**	**2**	**3**	**0**	**2**	**3**	**1**	**4**	**0**	**2**	**22**
Educational events (seminars, visiting consultations, etc.)	**1**	**11**	**4**	**7**	**4**	**1**	**3**	**7**	**5**	**8**	**11**	**5**	**67**
Participation at task forces and committees	**5**	**17**	**14**	**8**	**6**	**10**	**1**	**1**	**7**	**7**	**3**	**3**	**82**

Summary

The Rights of Child area

- 672 applications have been filed with the Ombudsman Office in 2014 regarding the right of child issues including eventual infringements. The highest number of applications – 95 – have been filed regarding the right of child to grow up in family. These included, for example, exercising of the right to access; the right not to be separated from parents without good grounds; restoration of the right of custody, etc.
- Ensuring the rights of orphans and children left without parental care presents a continuous, highly actual problem. In spite of the fact that the strategy of deinstitutionalization or the plan for achieving gradual liquidation of the out-of-family care institutions and promoting alternative out-of-family care has been finally established, the transition to alternative care if still too slow.
- The staff of the Ombudsman's Office made scheduled visits to the municipal child care institutions of Latvia in 2014. The visits made to 21 municipal orphanages in total revealed the following situation:
    1. The highest number of children placed in municipal child care institutions are 15 to 17 years old, and the lowest number of children are under 2 years old.
    2. Review of the children's dossiers shows that children are placed repeatedly into municipal care institutions from foster families as well as from guardian families. In total, 108 children were displaced from foster families and 49 children from guardian families. In the Ombudsman's opinion, such number is alarming and indicative of insufficient preparedness of foster families and guardians, and also to eventually insufficient support to such families on part of the State and municipalities.
    3. Institutional accommodation of children is comparatively continuous. Such data are indicative of the failure to review the possibility of reunion with the biological family or alternative accommodation of children with foster families or a guardian.
    4. Children from child care institutions are referred to psycho-neurological hospitals with ten times higher frequency than children from families or family-based environment. The most frequent grounds for their referral to hospital are behavioral disorders. A child often needs the help of psychologist or psychotherapist, yet the care institution cannot afford to employ the relevant support staff, and so the child is most probably placed into hospital. In the Ombudsman's opinion, placement of

children into hospital instead of providing the required out-patient treatment due to lack of funds is impermissible.

5. A high number of children placed into child care institutions are receiving education from boarding schools, notwithstanding that they have the right to education at the nearest educational establishment from their place of residence (orphanage). The children are accommodated in boarding school throughout the academic year and they only return to the child care institutions on weekends or only during their holidays.
6. The statements on study of the children's living conditions are formally drafted without assessing whether or not the care exercised by the guardian (manager of the orphanage) in the upbringing of his or her ward is similar to that exercised by conscientious parents in respect of their children. Therefore, during 2015 the Ombudsman shall draft recommendations on the issues that require increased attention from custodian courts when assessing the living conditions of children at child care institutions, such as education, health care of the children, their access to parents, availability of alternative out-of-family care, etc.

- In 2011 already, when investigating the situation, the Ombudsman concluded that provision of the right of children to care by a guardian or a foster family was affected by the insufficient number of foster families and guardians due to the lack of appropriate support from the State and municipalities. Progress on the national level, however, is too slow, and therefore municipalities have the key role to play in improving the situation in out-of-family care. The poll conducted among municipalities regarding the support to guardians and foster families revealed that some municipalities still lack understanding of the need to support guardians and foster families, believing that such function has to be performed primarily by the State. On the other hand, the poll also reflected some examples of good municipal practice.
- Children of imprisoned persons have not been treated as a category of poorly protected persons in Latvia until present. Such children can be hardly classified as a distinct group of persons due to the lack of data regarding their number and position. Therefore we lack understanding of the special needs and rights of such children.
- According to the international research, however, there are a number of problems experienced by this category of children, including the restricted access rights of the child and the parents.

- Investigation of the existing practice enabled to conclude that at present children have limited possibilities to contact their imprisoned parents: the visits are occasional, telephone calls are brief, and meeting rooms at prisons are not appropriate to the child's needs.
- Notwithstanding that the procedure for exercising the child-parent access is regulated and the importance thereof is emphasized by legal acts, the actual situation shows that access right of such persons is not efficiently provided. In the Ombudsman's opinion, the legal regulation should be amended and the practice should be changed to ensure effectively the access right of children to their imprisoned parents.
- All other rights of a child arise from the key principle, the right to development. Such right is posed under threat if a child suffers from of violence as well as in case of violent behavior of the child, and therefore elimination of violence is crucial for ensuring the rights of children.
- Notwithstanding that the existing normative regulation is adequate to prevent and eliminate violence at school, such regulation is not effectively applied to actually prevent violence. The Ombudsman has concluded that violence at schools is largely related to the approach by municipalities to the performance of their function: preventive work with children. Educational establishments also fail to apply for timely assistance to municipalities in case of asocial behavior of children where the resources of the school turn out to be insufficient and provide no results.

Civil and Political Rights

- On 24 May 2014 when election of the European Parliament took place in Latvia, as well as on 4 October 2014 when the Saeima was elected, the staff of the Ombudsman's office was involved in observation of the course of elections at all psycho-neurological hospitals in Latvia. Apart from observing the election process, the staff of the Ombudsman's office also conducted a poll of patients (whether or not participating at the elections) and individual representatives of the hospital staff. After the earlier elections already the staff on the Ombudsman's Office reviewed the normative regulation and observations made on the day of elections at psycho-neurological hospitals, and established a number of problems regarding the provision of the rights of vote in case of persons with mental disorders. In some hospitals, for example, patients were prevented from accessing to their passports and therefore to participate at the elections due to organizational obstacles, unless they had earlier notified of their intention to vote, notwithstanding that the law clearly stipulates that a person can also apply for voting in hospital on the day of elections.

- Therefore, a number of recommendations were issued to the Central Election Commission as well as to psycho-neurological hospitals. When checking the implementation of such recommendations and conducting observation of the Parliament elections at psycho-neurological hospitals, the staff of the Ombudsman's Office identified a number of notable improvements, especially at hospitals; yet certain systemic problems were also established regarding the provision of the right of vote and the normative regulation in case of persons with mental disorders.
- The Ombudsman's Office assessed in 2013 already the judgments made by courts during the first half of 2013 regarding the limitations of capacity, and a number of problems were identified in relation to the application of the normative regulation, and the Ministry of Justice was accordingly informed. In 2014, the Ombudsman's Office repeatedly drew the attention of the Ministry of Justice to the problems identified in the limitation of capacity process. The Ministry of Justice pointed out in their letter that they acknowledged the existence of such problems and intended to seek solution, repeatedly informing and educating the authorities entrusted with the application of legal norms and the courts on the application of such legal norms in limitation of capacity proceedings.
- The number of applications filed concerning unhuman and humiliating conditions at prisons remains equally high in 2014 as well. It should be noted that the audit of all prison facilities in Latvia launched by the PA has been completed in 2014. The audit committee was entrusted with the inspection and assessment of the condition of all prison facilities to establish whether or not adequate accommodation conditions were provided to imprisoned persons. The audit was also aimed at deciding on future actions in respect of each ward (prison facility): closing or investing funds in the improvement of condition of the premises. The above-mentioned demonstrates the willingness to address the issues regarding the improvement of living conditions of the imprisoned persons. Given the activities taken by the PA in this respect, the Ombudsman's attention to the living/accommodation conditions at prison facilities was rather moderate in 2014, compared to other years.
- The prisoners point out in their applications, like before, to threat on part of their prison-mates, and they request on many occasions to be moved to another prison facility because they feel threatened. Another urgent topic brought to attention of the Ombudsman's Office was the possibility of foreign nationals to communicate with the prison staff.
- For several years already, the Ombudsman has been expressing criticism regarding the equipment of short-term visit premises for sentenced persons: such visits only take place in a room with a glass wall. The Ombudsman has pointed out to the Ministry of Justice and the PA to the impermissibility of such practice in accordance with the normative regulations of

Latvia and its non-compliance with the international standards of human rights. In August 2014, the PA noted in their letter to the Ombudsman that glass partitions in all short-term visit rooms had been either dismantled or equipped with convertible glass, thus eliminating the earlier existing breaches.

- A number of prisoners have applied to the Ombudsman's office in previous years already discontenting to the Cabinet Regulations No. 282 On Amendments to the Cabinet Regulations No. 327 of 25 April 2006 Concerning the Pricelist of Services Provided by the Prison Administration for Charge. The prisoners pointed out that due to enactment of the said Regulations the fee charged use of household appliances for the needs of prisoners has experienced incommensurate increase. It followed from the complaints that considerable overpayment by prisoners was observed not only for the consumed electric power but also for other services provided by the PA. Taking into consideration the conclusions made in the opinion, the Ombudsman applied to the Ministry of Justice with request to take into consideration the presented conclusions and to ensure observation of the rights of prisoners.
- In 2014, several complaints have been received from prisoners concerning the requirement to procure medicinal preparations for their treatment. Some complaints contain references to the effect that doctor of the Medical Division of the prison, most commonly a general practitioner, has performed the primary examination of a patient without referring the patient to a competent specialist for assessment of the patient's condition and prescribing the therapy.
- According to the applicable normative regulation, a released prisoner only gets the road money and season-appropriate clothes. Therefore, a shelter-house is frequently the only alternative, at least for a while. In the Ombudsman's opinion, if no fundamental means of survival are provided to a person upon release, the invested work and resources have been spent without result, notwithstanding that the prison facility may have successfully implemented the process of re-socialization, unless a person has the opportunity of unassisted life in society. The Ombudsman encouraged in his opinion the PA and the Ministry of Justice to bring priority attention to this issue and involve other competent authorities in the solution thereof.
- 378 applications have been received in 2014 concerning various aspects of the right to fair court. The number of applications has increased by 125, compared to the year 2013. When reviewing the applications filed in this area, the Ombudsman focused in 2014 on the aspects of fair court, such as the provision of access to courts, reasonable periods of hearing, the right of persons to effective defense in proper quality, and other matters. In 2014 also, like in previous years, the Ombudsman has issued his opinion on a number of cases of the

Constitutional Court regarding the aspects of fair court, and he has expressed his position regarding a number of measures intended for improvement of the judicial system in general. It should be noted that the urgent issues that have not changed in 2014 include reasonable period of hearing. This is true in respect of criminal as well as civil and administrative proceedings.

- It has also been observed in 2014, similar to previous years, that Section 49.[1] part One para of the Criminal Law 1 which is recognized by the ECHR as an efficient mechanism for the protection of rights is applied with increasing frequency in the trial of criminal proceedings with unreasonably long duration. In the Ombudsman's opinion, however, similar judicial practice is ineffective to solve the problem in respect of the victims in criminal cases, since they still have no effective mechanism for protection of their rights available in the event of infringed right to reasonable period of hearing, and the only remedy available to them for compensation of such infringement is application to a general jurisdiction court on the grounds of Section 92 of the Satversme.
- It follows continuously from the received applications and from the information obtain in course of consulting that people in legal proceedings do not expect qualitative defense from the providers of legal assistance appointed by the State because it is assumed that remuneration paid by the court to defense counsels is inadequate and so qualitative assistance should not be expected either. In the light of the above-stated, the amount of remuneration provided by the State for legal assistance should be reviewed, and participants to proceedings should be educated regarding observation of the persons' right to fair court.
- In 2014, the Ombudsman also addressed the issue of holding court meetings by video conference at prisons in order to assess the ensuring of the rights of prisoners to fair court in such process. The project for equipment of all prisons with video conference facilities was finalized in 2012 already, however visits to certain prisons revealed lack of uniform approach to the application of such technologies. Different practice exists in prisons in the handling and provision of video conference matters. Given that the number of court meetings held by video conference trends to increase, the identified shortcomings should be timely eliminated and uniform approach should be provided to the application of video conference in all prisons, and the required additional resources should be procured where appropriate.
- In practice, the Ombudsman is periodically experiencing the situations where material infringement of the fundamental rights of person can be established, however no specific procedure has been provided by the legislator for obtaining compensation on judicial or extra-judicial grounds. According to the study conducted by the Ombudsman Office

covering the case law of district and city courts as well as regional courts, at present there is no uniform approach in case law to the application of the third sentence of Section 92 of the Satversme. Even though the conclusions made by the Constitutional Court and the Supreme Court clarify the principles applicable to such cases as well as responsibility of the courts, first, to assess whether or not infringement of the person's fundamental rights has taken place and, second, where infringement is established, to decide on the most appropriate compensation, such conclusions are not always uniformly applied by the lower instance courts. Conclusions made as a part of the study reveal that the first instance courts and regional courts lack understanding of the guarantees of fundamental rights stipulated in Section 92 part Three of the Satversme and the meaning thereof in relations between the State and an individual.

- Continuous applications are received from persons regarding the non-compliance of living conditions at the short-term detention facilities of the State Police and at the court escort premises with the requirements of human rights. It has been established that no term limits for detention of persons at the short-term detention facilities of the State Police are prescribed, and such issue should be therefore addressed by amendments to the respective regulatory acts. Notable differences in the living and accommodation conditions were also established at the short-term detention facilities of the State Police, and attention of the competent institutions was drawn to the lack of uniformity at such facilities in terms of hygiene requirements and lodging, catering and correspondence control.
- In 2014, the practice of the Ombudsman's Office was changed and applications concerning the actions of the officials involved in criminal proceedings were only assessed where the person had exhausted all remedies made available by the Criminal Procedure Law for protection of their rights. On most occasions, the applicants had not exhausted the above-mentioned remedies.
- In the Ombudsman's opinion, strengthening of the institute of investigation deserves special attention of the State since, according to individual applications filed with the Ombudsman Office in 2014, duration of pretrial investigation in criminal proceedings was incommensurable. Applications were also received at the Ombudsman's Office in 2014 concerning the actions taken and decisions adopted by the officials of the State and Municipal Police in administrative offence proceedings. The Ombudsman established on several occasions, having assessed the actions of such officials, that they had been acting in breach of the Public Administration Law, including breach of the principle of good governance.

- In 2014, the Ombudsman's Office was addressing the question of whether or not sufficiently efficient mechanism for protection of rights was established in our country in the event of anonymous comments on the Internet injurious to the person's esteem and dignity. The existence of such mechanism is required because, as a rule, the injured person can obtain no data of the offender. According to the Civil Procedure Law, on the other hand, a statement of claim has to state the respondent's name, surname, personal number and residence address. The study revealed that, notwithstanding the possibility of application to general jurisdiction court in case of anonymous Internet comments injurious to person's esteem and dignity, virtually no case law of similar nature exists. The persons injured by anonymous comments hardly ever apply to general jurisdiction courts and then, as a rule, they have already identified the respondent. According to the oral and written information collected from courts, no claimants have applied to court for the provision of evidence.
- In 2014, the Ombudsman's Office applied to the Ministry of Justice for drafting normative regulation of video surveillance in the special regulatory acts concerning the persons accommodated in psycho-neurological hospitals and social care centers, as well as in educational establishments and closed-type facilities. The requirements set out in such regulation should include the duty to inform about video surveillance; the period of storage of the collected data; observation of the principle of proportionality and commensurability, and other principles applicable to the protection of personal data. Contrary to the Ombudsman's opinion that normative regulation of video surveillance should be improved, the Ministry of Justice believes that any issues related to video surveillance should be handled in accordance with the Personal Data Protection Law. The Ombudsman's Office, however, has obtained no assurance that the Personal Data Protection Law is sufficient to address all issues related to video surveillance.
- In 2014, the Ombudsman's Office continued interviewing of the foreign nationals subject to removal, evaluation of the detention facilities pursuing observation of removal, and also participated on several occasions upon the actual removal to the place of origin of the person subject to removal. No breaches in the actions of the officials of the State Border Guards were identified by the Ombudsman's observers during the actual removal. The staff of the Ombudsman's Office performing the observation fixed, however, a number of aspects in the process of removal where improvement or elimination of shortcomings was required.

Social, Economic and Culture Rights

- The governmental commitment to reduce poverty and focus on the most vulnerable categories of population – needy and low income persons, persons in social care centers and

persons with disabilities – has been followed up by the Ombudsman in the accounting period. It should be noted that about one fifth of the applications filed with the Social, Economic and Culture Department of the Ombudsman's Office during the reporting period were directly concerned with social issues: low pensions and allowances, unfair reviewing of pensions and allowances, unsubstantiated deductions from salaries or pensions; unfair actions on part of the municipal social agencies, or unfair legal norms.

- Social rights are not absolute, they may be restricted. In the conditions of economic crisis, however, where austerity measures are implemented, the persons' social rights have to be provided in accordance with two key principles. First, social rights must be provided on the minimum level at least. Moreover, such minimum must not be formally fixed; it has to be economically substantiated by specific calculations and ensure that individuals receiving or earning such minimum are able to ensure decent living conditions to themselves and their family members. Second, the principle of progressive development has to be followed in the provision of social rights, whereby national governments have the obligation to provide social rights with the maximum possible financial resources available to them
- The Ombudsman finds alarming the situation where not only continuously unemployed persons are exposed to the risk of poverty but also the vulnerable groups of population: children, persons with disabilities, and seniors. These persons are not in position to change their own situation and they depend on the social allowances and pensions granted by the State. Moreover, the employees earning the minimum wages fixed in our country are also exposed to the risk of poverty. The above-stated shows that, when fixing the amount of social allowances and the minimum wages, the Government has not observed the principle of social rights, and the fixed minimum is inadequate.
- In the Ombudsman's opinion, Latvia has made indisputable achievements in terms of economic parameters, however they have been achieved on the account of absolute ignorance of the priorities: human rights and social security. Such priorities must be balanced with the economic growth, and no achievements of certain economic goals may be made on the account of most vulnerable categories of population. No austerity measures must affect the areas of health care, education, and social security.
- The Ombudsman has recommended that the Ministry of Welfare should ensure uniform approach of the social services to the assessment of financial condition of a certain person, in particular regarding the separation of income from gains in case of self-employed persons. The Ombudsman sees a particular solution of this situation in drafting methodologic guidelines for assessment of income in case of the applicants for social aid;

the need for such guidelines has also been referred to by the Latvian Association of the Heads of Social Services.

- The Ombudsman acknowledges in general that during the period from 15 February 2013 when the Ombudsman's report was issued on the State Social Care Centers for Adults with Mental Impairments (SSCCs), certain improvements can be observed in some areas, for example, establishing of medical units at SSCCs has started and their registration in the Register of Medical Institutions, expected to facilitate the availability of health care services as well as solution of the arrangement of medical records, etc. The Ombudsman still draws attention, however, to a number of unsolved issues that affect the quality of life of the SSCC customers: 1) the size of staff has to be assessed with due regard to efficient provision of the function of each institute in order to enable each customer to access to the services and care appropriate to their needs; 2) knowledge of the staff, in particular the care takers, has to be improved, and separate guidelines should be developed to facilitate the improvement of social care and social rehabilitation work; 3) lack of information exchange between the executive staff if observed at certain institutions regarding the provision of objective needs of their customers ; 4) the information relevant to the customers should be displayed on a special information stand in each unit, including information in simplified language to ensure that all customers have equal possibility to familiarize with such information; 5) daily outdoor walks are not provided to all customers of the institution; 6) the provided catering lacks diversity; no fresh fruits and vegetables are included in the menu; the customers' clothes are poor and worn out; 7) according to the medical records, the practice to ordinate neuroleptic preparations in large doses to the customers is continued; 9) lack of purposeful, targeted activities; 10) the quality of drafting individual rehabilitation plans for customers has to be improved in order to develop self-care skills of the customers and to facilitate their further integration in society.
- The Ombudsman appreciates the set of measures launched by the Ministry of Welfare that is aimed at ensuring the provision of society-based services tailored to the individuals' needs in order to facilitate the possibilities of self-care and independent living of a person, including the persons – recipients of the SSCC services who would potentially reintegrate in society as a result of targeted rehabilitation measures and de-institutionalization processes. Decent living conditions and high quality services by care institutions shall be provided for those who are dependent in their care on the application of specific technologies and continuous supervision by specialists.
- Nearly one fourth of all applications in the field of social, economic and culture rights has been related to housing matters, including one fourth of them regarding the management of

housing. Most of the applications during the reporting period, similar to the previous years, concerning the right to housing, were filed by persons asking the Ombudsman to help them in solution of civil law matters. Large part of the applications contain complaints on the items of utility service or managerial fees unreasonably, in the applicants' opinion, included in the managers' invoices; on non-provision of accurate information; on behavior of neighbors, and similar. Tenants of multi-residential houses often point out to inability of the tenants to agree on renovation of buildings and the efficiency of such, and they ask the Ombudsman to join in settling the dispute.

- In the Ombudsman's opinion, no actions aimed at infringement of the fundamental rights guaranteed by the Satversme are permissible, regardless of the circumstances. What is important in such situations is the ability of the State to react promptly on the situations where illegitimate actions of house owners jeopardize the rights of tenants, or vice versa, because the mechanism for dispute settlement provided for in the Law on Lease of Residential Premises is not effective. The Saeima Commission for Human Rights and Social Affairs has held repeated discussions of the above-described issue. It has to be appreciated that such discussions have resulted in change of the State Police's position: the police acknowledges that entry by the owner in a tenant's dwelling against the tenant's will constitutes infringement of inviolability of the person's housing. The State Police have developed guidelines for police staff to ensure the protection of the rights of tenants against unlawful jeopardy on part of house owners; to restore the tenants' right to handle freely their movable property, and to ensure inviolability of housing, etc.
- Assessment of the forms of assistance available under the Law on Assistance in Handling the Housing Matters to the tenants of denationalized buildings and to other groups of persons leads to conclusion that the scope of assistance provided by the State in handling of the housing matters in general meets, at least formally, the provisions of the international human rights documents. At the same time, more than 20 years have passed since the launching of denationalization process, however the situation of tenants in denationalized buildings still awaits solution. In the Ombudsman's opinion, solving the problem of tenants in denationalized buildings is a political decision, and the problem of tenants in denationalized buildings has been addressed on national level; the effectiveness of solution, however, is disputable. Yet in general the tenants of denationalized buildings have no reliance on continuous protection by the State in their housing matters. The State has to protect persons against destruction of their housing or arbitrary eviction. On the other hand, the right of persons to housing does not mean that the State is obligated to provide housing on their own account to all individuals corresponding to their demand and wish. An

individual also has to seek the provision of housing through making agreement on lease of residential premises or acquisition of residential premises. The State has the duty to provide assistance to socially vulnerable persons unable to provide for themselves and to provide their housing for objective reasons. The right to housing is a social right. Given that the exercising of social rights depends on economic situation in the country and the available resources, the mechanism for regulating the said right is left for administration by the legislator of each State, meaning that the State has wide discretion to decide on the matters of social rights.

- 23 applications have been filed in total during the reporting year regarding the right to health. Unlike previous years, most of the applicants have complained in the reporting year on the quality of provided health care service or unfriendly treatment by medicinal professionals; other applicants have pointed out to non-availability of services and medicines, and to ineffective mechanism for health care control.
- The Ombudsman objected in early 2014 to advancement of the draft Law on Funding of Health Care; in his opinion, the proposed regulation was non-compliant with Section 91 of the Satversme because individuals with irregular, seasonal income were left outside the scope of State-guaranteed health care. Availability and equal availability are the two key aspects from the context of human rights when speaking about the right to health. The Ombudsman pointed out that the objectives of such reform were not clear as well as efficiency thereof. The expected benefits are also unclear, once the experts of the industry have acknowledged that the new regulation would provide no additional funding to the industry as a whole. The quality (availability) of health care may not be improved on preventing certain part of population from access to such service.
- Individuals continued filing applications during the reporting period concerning the harmful effect of disturbing noise and ineffective mechanism for control and elimination of noise. Comparatively smaller number of applications have been received concerning the impact of harmful odors on the individuals' living conditions. Individuals frequently point out to unfair treatment by municipalities in relation to territorial planning that is uncomfortable and disturbing to population; they express discontent with lack of information about public discussion. It may be most often concluded here that public discussions have been organized by municipalities in accordance with the statutory procedure yet individuals learn about such discussion with delay because of their own lack of interest or awareness.

Observation of the Principle of Good Governance

- Practice shows that that institutions often seek to justify their lack of good governance by insufficient funding. The Ombudsman is frequently receiving information from individuals about impolite, injurious or incorrect treatment that is impossible to prove on most occasions. Sometimes it may be concluded that such treatment is perceived from the position and attitude of the individual; still the Ombudsman trends to use each opportunity to remind that such treatment of individuals on part of institutions is intolerable.
- In the Ombudsman's opinion, it is crucial in adopting decision to consider and take into account all individual conditions of each case in the point of facts, bearing in mind the sense and purpose of the applied norm, and also to use the guidance of case law, in particular the findings of the European Court and Supreme Court. Any reply or clarification issued to a private individual has to contain reference to the legal norm that substantiates the position of authority, as well as logically presented argumentation of the given action, based on substantiated and provable considerations. The Ombudsman draws attention to the fact that for the purpose of protecting the interests of private individuals in administrative proceedings it is equally important to notify the individual of their rights and obligations and to ensure accurate executing of an administrative act so that in contains the required data.
- When reviewing applications of persons in the context with good governance, the Ombudsman also assessed the effectiveness of operation of a public authority. Some applications enable the conclusion that the actions of public authorities has been ineffective to protect the interests of individuals, in particular such actions have been insufficiently clear, accurate and timely, and failed to meet the rights and interests of a private individual. According to the Public Administration Law, public administration shall serve the public interests. This also includes proportional observation of the rights of private individual and the public interests. Neither public administration nor individual authority or official have their own interests when performing the public administration functions.

Legal Equality and Prohibition of Discrimination

- The Legal Equality Division (hereinafter LED) has examined 87 applications in 2014 from private individuals and legal entities, another 38 persons have attended for consulting, and 146 replies have been issued to electronic enquiries. 22 inspection cases have been instituted for detailed investigation upon applications of persons as well as one case at the Ombudsman's initiative.
- Persons point out in their applications to inequality in the provision of public services; another topic of equal importance in 2014 has been observation of the principle of equality and prohibition of discrimination in the field of employment. Some other persons have

applied to the Ombudsman Office for issuing opinion regarding regulatory acts and their compliance with the principle of equality stipulated in Section 91 of the Satversme.

- The Ombudsman received no complaints in 2014 regarding breaches of the prohibition of discrimination among the Latvian and Russian nationals living in Latvia. Sharp, even abusive discussions have taken place on racially oriented media, in comments on Internet portals, however no discrimination by Latvian or Russian nationality can be observed in day-to-day life, labor market or access to goods and services. The competent officials, however, should increasingly focus on the consolidation of European public and legal opinion in Latvia. For this purpose, availability of TV channels from most of the European countries should be increased and analytical journalism should be strengthened, as well as the proportion of programs on the topic of rights and their composition.
- Several applications were filed with the Ombudsman Office in 2014 regarding breaches of the prohibition of discrimination by sexual orientation, and legal regulation of partner relations was also discussed.
- The Ombudsman received a number of applications, both substantiated and unsubstantiated, regarding discrimination by gender in legal employment relations. Breaches of the prohibition of discrimination have been established in some of the investigated inspection cases. Such breaches have been identified in legal employment relations where employers were legal entities subject to private law.
- The Ombudsman conducted in 2013 the study "Observation of the prohibition of discrimination towards the young mothers in legal employment relations", and he has also repeatedly emphasized in mass media the need for respecting the rights of young mothers in legal employment relations. The Ombudsman points out that, as a result of such publications, the young mothers are seeking more actively to protect their rights, and this deserves appreciation. At the same time the Ombudsman notes that the fact of recurrence of similar breaches deserves criticism
- The Ombudsman has concluded as a part of the monitoring activity conducted during the reporting period that bilingual education in Latvia still needs improvements. The provisions of regulatory acts must be actually implemented in practice. Full text of the study, conclusions and proposals is available on the website of the Ombudsman Office.
- Assessing the problems noted in the applications in general and the willingness of competent institutions to solve such problems, the Ombudsman emphasizes that those drafting regulatory acts should assess them more carefully and provide more detailed information in the summary or assessment report on the initial impact. At present, summaries are not used to their full potential, especially if the regulatory act prescribes any

exceptions from the overall procedure, and the summary contains no clarification of the need for such exceptions or their compliance with Section 91 of the Satversme. Therefore, there are obstacles created to the application of such regulatory acts in practice.

Information of the Ombudsman Office

- The staff of the Ombudsman Office is composed of 42 staff units including the Ombudsman. There were no vacant staff units in the reporting year. 31 staff members are engaged in legal analysis and consulting, six in administration, record management and provision of human resource and financial management; two in logistic and managerial activities, and another two in communication and international cooperation matters.
- The Ombudsman Office employs one Doctor, 31 MA degrees, five BA degrees, one staff member with completed first-level professional education, and four students in BA study programs.
- Due to the notably increased scope of work and insufficient staff resources of the Ombudsman Office in the reporting period, a decision was adopted to participate only in the task forces and meetings of committees for discussing a prepared draft regulatory act or issuing opinion upon request. The Ombudsman Office was only issuing their opinion on draft legal acts if the risk of infringement or restriction of human rights was present, or upon special request to issue the opinion.
- Taking into account the level of complexity of the issue referred to in an application, a reply is often issued to the applicant instead of instituting an inspection case that involves requesting information from other institutions and investigation of the issue. The number of inspection cases has therefore decreased.
- The number of applications has also decreased during the reporting period because a number of applicants prefer consulting in person or prompt e-mail replies, as evident from the high number of oral consultations.
- The Ombudsman Office has been actively informing and educating the society about their rights in relation to various publicity activities and media cooperation. 2 063 publications in media in 2014 dealt with the issues within the Ombudsman’s competence including 22 press releases prepared by the Ombudsman Office. In total, 67 educational seminars, visiting consultations, discussions and other educational events were organized in 2014 in total. It may be concluded from the results of work of the Ombudsman Office that informational campaigns and informing of society has achieved the desired result, and people increasingly pay attention to the observation and preventing infringement of human rights. In 2013, for

example, the number of received applications was 2 563, while in 2014 it was only 1 877, or by 686 applications less than before.

- The previous practice was continued in 2014 to actively inform the society about the rights of children and their protection mechanism, with special focus on security of children at educational establishments. The seminar cycle launched earlier for social pedagogues, class-mistresses, social science pedagogues, principals and other subjects of protection of the rights of children was continued in the last year. Seminars were organized on topics such as security of children at educational establishments and preventive work; rights and obligations of children and pedagogues; and preventive work with children by social pedagogues.
- The Ombudsman Office participated in 2014 at training cycles including lectures on human rights. Representatives of the Office participated at the seminar for the Latvian Association of the Heads of Municipal Social Services "On inviolability of the clients' privacy in the practice of social services" presented lectures on the legal aspects in communication with media, politicians and public authorities. A seminar was organized for assistant attorneys "Application of inspection cases of the Ombudsman Office in administrative procedure of an establishment and in criminal procedure". A guest lecture on the rights of persons with disabilities was organized to students of the Faculty of Law of the University of Latvia, etc.
- In December 2014 the Ombudsman Office launched another informational campaign. The Ombudsman Office designed calendars and ex libris as a part of such campaign to clarify the meaning of "human rights", "good governance" and "legal equality". The ex libris and calendars were made available to everyone in Riga and in Latvia thanks to cooperation with the Latvian National Library and regional libraries. The said materials presented in comic format with caricatures clarify the concepts of human rights, good governance and legal equality. The calendars and ex libris are available free of charge. In total, 70 000 calendars and 60 000 ex libris were made available as a part of the informational campaign.