



REPUBLIC OF
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RIGHTS
OMBUDSMAN

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Submission by the National Human Rights Institution of Slovenia to the Committee on the Rights of Persons with Disabilities

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The Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) has prepared this submission for the consideration of the Committee on the Rights of Persons with Disabilities when adopting the List of issues prior to reporting for the combined second to fourth periodic reports of Slovenia at its 18th Pre-Sessional Working Group.

The Ombudsman is a constitutional body with a mandate to protect and promote human rights in Slovenia and has been granted A status in accordance with the Principles relating to the Status of National Institutions. Its mandate includes monitoring, research, issuing opinions and recommendations to authorities, human rights education, awareness-raising and investigating complaints from anyone who believes that their human rights or fundamental freedoms have been violated by a state authority, local government authority or holder of public authority.¹ The Ombudsman may initiate a procedure to review the constitutionality or legality of regulations and may file a constitutional complaint with the Constitutional Court on an individual case before him. The Ombudsman also acts as the national preventive mechanism under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman regularly examines various complaints relating to the protection of the human rights of persons with disabilities, makes recommendations to competent bodies on how to facilitate the enforcement of rights, raises public awareness of the rights of persons with disabilities, and meets regularly with representatives of various disability organisations.

The Ombudsman found various violations of the rights of persons with disabilities, both from the point of view of non-discrimination and ensuring equal opportunities for persons with disabilities, as well as regarding the functioning of the Institute for Pension and Disability Insurance, violations in the field of social affairs, health care, restrictions on personal freedom, participation in the management of public affairs, administrative matters, justice, housing matters and regarding the realisation of children's rights.

In this submission, the Ombudsman attempts to highlight some of the issues that still require improvement with regard to the situation of persons with disabilities, focusing on those where the Ombudsman can provide input based on his previous work or other available information and attempting to comply with the prescribed word limit of 10,700.

¹ When to turn to The Human Rights Ombudsman?, https://www.varuh-rs.si/fileadmin/user_upload/pdf/zlozenke_nase/zlozenka_praviceANG_web.pdf

This submission does not provide an exhaustive list of systemic problems relating to the Convention.

More information about the Ombudsman's work and findings can be found in the Ombudsman's annual reports² and quarterly overviews of the Ombudsman's activities in the field of the human rights of persons with disabilities, which are published regularly (and sent to interested organisations for persons with disabilities) since 2020.³

Since 2019, the Ombudsman has emphasised on several occasions that the institution is ready to take on the task of monitoring the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in accordance with Article 33(2) of the CRPD. The Ombudsman is the only organisation in Slovenia with the internationally recognised status of a national human rights institution, i.e. from January 2021 with status A.

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² <https://www.varuh-rs.si/en/publications-events/publications-documents/annual-reports-test/>

³ An overview of activities regarding the human rights of persons with disabilities, [April-June 2023, January-March 2023, October-December 2022.](#)

General principles and obligations (Articles 1–4) and Equality and non-discrimination (Article 5)

The Ombudsman has been recommending to the Ministry of Labour, Family, Social Affairs and Equal Opportunities that disability should be understood in relation to the various barriers that limit an individual from participating fully and effectively in society on an equal basis with others and that the basis for different treatment of persons with disabilities cannot be the nature of the impairment causing the disability, but only the limitation that the individual suffers as a result of the impairment. The Ombudsman believes that the taxonomic listing of diseases and conditions results in unequal treatment of persons with disabilities, as it is impossible to list all diseases and conditions (even the rarest ones) and their combinations in a way that would include all persons with disabilities with the same limitations. The Ministry rejected the Ombudsman's recommendation on grounds of disagreement.

The Ombudsman also recommended the authorities take appropriate measures to unify and harmonise the legislation on the social protection of persons with disabilities who are unable to work with a more modern social model of disability, which emphasises the barriers that an individual has as a result of a disability, rather than the impairment that causes the disability, and to adopt the appropriate legal basis to eliminate them. The Ombudsman called for persons with mental health problems to be appropriately included in disability care. The competent authorities should, without delay, begin to address this issue analytically and systematically with the participation of persons with disabilities and their associations. This Ombudsman considers this a partly implemented recommendation. The Ministry of Labour, Family, Social Affairs and Equal Opportunities explained that it shares the Ombudsman's view that the reform of the disability care system should follow a modern understanding of disability based not on a medical model but on the needs of the individual.

The Ombudsman's recommendation to amend the provisions of public regulations that put persons with mental health disabilities in a less favourable position than other persons with disabilities with comparable limitations remains unimplemented. While the government supported the Ombudsman's recommendation, no legislative changes have yet been adopted.

According to the Advocate of the Principle for Equality 2020 public opinion poll⁴, about a fifth of all residents of Slovenia were victims of discrimination the year before. Of these, 14 per cent of the respondents stated that they were discriminated against on the grounds of disability.

Children with disabilities (Article 7) and Education (Article 24)

The Ombudsman pays constant attention to the situation of children with special needs, including raising awareness of the need to reduce institutionalisation.

In 2020, the Ombudsman recommended that the competent ministry introduce family assistance in families caring for children with special needs under 18, aiming to reduce the institutionalisation of children with special needs and realise the rights of children with special needs to family life. Unfortunately, this recommendation has not yet been implemented, and a shortfall in the care of permanently and seriously ill children under 18,

⁴ Survey on discrimination. N = 1007. Sampling frame: General population aged between 18 and 75 years. The sample taken is representative for Slovenia by sex, age, region, and education. Available in the Advocate's Annual Report for 2020: <http://www.zagovornik.si/letno-porocilo-2/>.

who do not yet have all their rights under the current legislation on personal assistance, remains.

The Ombudsman also strives to regulate the transport of children with special needs to and from their place of education. In some cases, the Ombudsman found that municipalities only reimburse transport costs rather than organising transport as required by law.

For eight years, the Ombudsman has been drawing attention to the problems of blind and partially sighted children. However, there are still problems in the educational process regarding the systemic unavailability of adapted learning materials for blind and partially sighted children, as well as the lack of appropriate adaptations in the participation of children in various knowledge competitions. The Ombudsman has recently received clarification that additional funding has been granted for new posts to prepare materials for learning materials for blind and partially sighted children.⁵

In 2019, the Ombudsman dealt with a complaint asking why only blind children are entitled to the allowance for assistance and care under the Pension and Disability Insurance Act (ZPIZ-2), while other children with disabilities who have similar or even greater difficulties are not. The competent ministry replied that the ZPIZ-2 is only one of six acts that grant an allowance to different categories of beneficiaries who require permanent assistance and care from a third party. The Ombudsman pointed out that the needs of people who fall into these different categories are comparable, as they all arise from the need for assistance from a third party to carry out basic or supporting daily tasks. Still, the criteria, conditions, and amount of this assistance or allowance are regulated very differently. The Ombudsman has considered the above issue in the context of Article 14 of the Constitution of the Republic of Slovenia, which obliges the legislator to regulate life situations that are similar in a similar way. Taking into account the fact that no comparable right is provided for children with disabilities who are not blind but who also require the assistance of a third person to perform basic or supporting daily tasks, the Ombudsman found a violation of the principle of equality in connection with Article 52(1) of the Constitution of the Republic of Slovenia (Rights of persons with disabilities). In 2020, the Ombudsman recommended to the relevant ministries that children with disabilities who are not blind but who also require assistance in performing basic or supporting daily tasks should be assisted by a third party. This recommendation was not implemented. The Ombudsman is not satisfied with the current situation and considers that setting up a system for assisting children with special needs with daily tasks would be helpful.

In 2022, the Ombudsman asked all music schools in the country to explain how many children with autism attend their school and how many children with autism who wanted to enrol had done so in the past but could not because they had failed the entrance exam. Based on the replies, the Ombudsman concluded that music education in Slovenia is mainly designed to discover and develop talent – purely in the direction of results. Nevertheless, some (smaller) music schools are very inclusive of people with disabilities. The Ombudsman pointed out that children in music schools have no right to an accompanist or other support.

⁵ For information, the Advocate of the Principle of Equality in June 2022 published its special report The Situation of the Deaf in the Educational System, available at: <https://zagovornik.si/wp-content/uploads/2022/08/The-Situation-of-the-deaf-in-the-Educational-System-1-1.pdf>.

In 2021, the Ombudsman recommended that the competent ministry develop systemic measures to ensure that children with special needs and disabilities are appropriately treated and integrated into society. The ministry replied that it is strongly committed to reforming services for children with special needs and agrees with the Ombudsman that systemic measures should be taken comprehensively and in cooperation with the other ministries to enable a more efficient provision of services in the public network. The ministry also reported that a National Implementation Plan in the field of social protection for 2022–2025 is under preparation, based on the Resolution on the National Social Protection Programme (ReNPSP) for the period 2021–2030, adopted in March 2022, which will identify key actions to achieve the objectives of the ReNPSP by defining indicators and financial resources. The Ombudsman repeated his recommendation in 2022, as many measures have been planned but not yet adopted.

Urgent systemic action is needed in institutional care for children with severe mental health disorders. The Ombudsman considers that these children and adolescents should be placed only in secure units which are designed for children and adolescents in terms of staff, space, services and programmes, and not for adults, as is the case with secure units in specialist social care institutions, where they were placed. Primarily the Ombudsman persistently calls for deinstitutionalisation.

The Ombudsman has also persistently and, over many years, raised concerns over the general shortage of experts in clinical psychology of children and adolescents, psychiatry and child psychiatry in Slovenia.

In 2022 the Ombudsman recommended that the Ministry of Health and the Ministry of Labour, Family, Social Affairs and Equal Opportunities ensure prompt and quality health care for children and adolescents with mental health problems.

See also the accessibility of schools.

Accessibility (Article 9)

Unfortunately, people with disabilities all too frequently still find themselves facing numerous obstacles in public facilities. The Ombudsman has been continuously warning about the accessibility of public institutions, including schools, municipality buildings, courts, and administrative units for people with disabilities.

The Equalisation of Opportunities for Persons with Disabilities Act (ZIMI), which entered into force in December 2020, set several deadlines for adaptations to secure full participation for persons with disabilities in the community. A five-year deadline was set to ensure accessibility of goods and services, 15 years for the removal of constructed and communication barriers, five years for adjustment of the school and study process, ten years for adaptation of public buses and 15 years for adaptation of railway transport. The Ombudsman welcomed the progress made so far; however, many obstacles for persons with disabilities remain.

In December 2022, the Ombudsman published its [Special Report on Accessibility of Centres for Social Work for People with Movement and Sensory Impairments](#).⁶ The Ombudsman checked the situation in all 63 units of centres for social work in Slovenia and

⁶ <https://www.varuh-rs.si/en/publications-events/publications-documents/special-reports/>

discovered that it is not optimal. Moreover, in some cases, it is critical. The Ombudsman found that only three-quarters of centres for social work units have access arranged for persons with movement impairments. Eighteen units of centres for social work did not have toilets accessible to people with disabilities. Hence, some directed persons with disabilities to use toilets at a nearby petrol station or a healthcare centre 200 metres away. The Ombudsman believes that this is unacceptable and points to the indifference of the State as well as of the management of individual units of centres for social work. The Ombudsman found that the situation concerning accessibility from the perspective of people with sensory impairments is, unfortunately, even worse. At the time of preparing the report, none of the units of centres for social work provided relief signs and symbols or inscriptions in Braille writing, and the same holds for written information displays and video displays of important information in sign language and with subtitles. None of Slovenia's centres for social work is equipped with a hearing loop. The Ombudsman also received some inappropriate responses from centres for social work across Slovenia, illustrating the demeaning attitude towards persons with disabilities and the Ombudsman.

In 2022, the Ombudsman also drew attention to the accessibility of primary and secondary schools, courts and other facilities, public transport and infrastructure, websites, and various services. To ensure accessibility for all, the Ombudsman also recommended that the Government provide funding to co-finance the construction of lifts, including in multi-storey buildings or privately owned buildings with less than five storeys.

The Ombudsman highlighted the issue of accessibility of secondary schools in its 2019 Annual Report and made two recommendations, which remain unfulfilled. The Inspectorate of Education and Sport of the Republic of Slovenia promised regular inspections of kindergartens, primary and secondary schools, and access to education for persons with disabilities. When at the end of 2022, the Ombudsman checked to see how this promise had been implemented, it found that the Inspectorate had not kept it, citing staff shortages and a higher number of emergency initiatives, and an increase in the number of different types of violence in the school environment as the reasons.

In July 2022, the Advocate of the Principle of Equality (Slovenian equality body) published a special report *Accessibility of Secondary Schools for Persons with Reduced Mobility*.⁷ The Advocate stated in its report that among the secondary schools that responded to the Advocate's query, only a third confirmed full physical accessibility for students with reduced mobility, 17 per cent of schools are inaccessible, and half of schools are only partially accessible. Moreover, regional inequalities represent an additional problem, as in some statistical regions, only one fully accessible school exists or no school at all. Among the reasons for inaccessibility, secondary schools with partial accessibility mostly indicated the lack of financial resources for architectural interventions or improvements, such as installing a lift. Secondary schools, which indicated inaccessibility for students with reduced mobility, also referred to the age of the building, its status of construction protected by the regulations governing cultural heritage, and the fact that no student with reduced mobility had ever enrolled in the school.

Access to public road transport is also not yet at the level required by the Convention on the Rights of Persons with Disabilities and the Equalisation of Opportunities for Persons with Disabilities Act. The Ombudsman has also criticised the competent ministry in this

⁷ <https://zagovornik.si/wp-content/uploads/2022/09/Accessibility-of-Secondary-Schools-for-Persons-with-Reduced-Mobility.pdf>

respect. The ministry replied that it knows the problems and is preparing appropriate measures.

In June 2023, the Advocate of the Principle of Equality prepared a special report on the accessibility of public intercity transport for people with disabilities. From the information received from the competent ministries and sectoral NGOs, the Advocate concluded that it is clear that public bus transport is not accessible for persons with physical disabilities, despite the legal obligation. As was clear from the explanations provided to the Advocate, the competent ministries have not yet adopted standards or rules on the specific characteristics that buses must have to meet the accessibility requirement for persons with physical and sensory disabilities, as required by Article 16 of the Equal Opportunities for Persons with Disabilities Act. Nor had the authorities adopted standards or rules on the number of buses that a concession operator should adapt to meet the accessibility requirement for bus transport for people with disabilities. Consequently, the ministry also does not keep records or monitor whether the buses operated under the concession are adequately adapted for passengers with disabilities.

When handling a complaint which referred to the poor response of the building inspectorate to reports of architectural obstacles, the Ombudsman identified systemic shortcomings in regulating control over the Equal Opportunities for Persons with Disabilities Act (ZIMI). It found that related to the accessibility of facilities, the Construction, Surveying and Housing Inspection Service can only control constructions – i.e. facilities being built or reconstructed, but there is no basis for control over already constructed facilities. The ZIMI stipulates that discrimination on the grounds of disability in access to public facilities is prohibited and that the investor must eliminate built and communication barriers no later than 15 years after the entry into force of the ZIMI. However, the ZIMI does not specify a body to supervise the implementation of this provision nor measures to remedy irregularities. The Ombudsman, therefore, proposed that the competent ministry prepare amendments to the legislation.

On 23 September 2020, the deadline set in the Accessibility of Websites and Mobile Applications Act for the adjustment of websites of state authorities, bodies of self-governing local communities, and public law entities expired, meaning that they are also accessible to users with different forms of disabilities. Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of websites and mobile applications of public sector bodies was thus completely transferred to the Slovenian legal order. In 2020 and 2021, the Ombudsman contacted the competent authorities to find out how the provisions of the Act were being applied in practice. Based on the response, the Ombudsman recommended that the Government provide the competent authority with the missing capacity to carry out monitoring, reporting and inspection tasks. And in 2022, the Ombudsman recommended that courts ensure that court websites and mobile apps are accessible to facilitate access to court information and services for all users, particularly for persons with disabilities.

The right to liberty and security of persons with disabilities (Article 14) and freedom from torture and cruel, inhuman, or degrading treatment or punishment (Article 15)

Persons deprived of liberty in psychiatric hospitals and social care institutions

Concerning the treatment of persons deprived of their liberty in psychiatric hospitals and social care institutions, the Ombudsman deals mainly with issues relating to the Mental Health Act or unresolved systemic problems, such as the placement of persons in secure wards in social care institutions on the basis of a court order, and staff shortages and space problems in social care institutions.

The Ombudsman is aware that involuntary placement and detention on a secure ward of a social care institution constitute an interference with the human rights and fundamental freedoms of the detained person and therefore calls for other forms of treatment of persons with mental disabilities that take place in the community or their home environment, and persistently calls for the strengthening of the activities aimed at strengthening deinstitutionalisation.

The Ombudsman also raises the issue of the placement of children and adolescents with mental health problems and physical disabilities. The Ombudsman repeatedly points out that placing children and adolescents with these problems on secure wards of a special social care institution is not appropriate or suitable when those institutions are intended for adults and are not adapted to children in terms of space, staffing, or services and programmes.

In 2021, the National Preventive Mechanism (NPM)⁸ visited three special social care institutions (two regular visits and one follow-up visit), which provide institutional care services for adults with mental health problems and intellectual disabilities. Two themes in particular characterised the visits in 2021. The first was related to the observed overcrowding in the secure units of the visited special social care institutions, which affected the quality of life of all the residents in these units. Also, it represented a significant increase in the workload of the staff. In light of the above, the NPM concluded that the situation of these institutions remained the same, each coping with it as it knew how more or less on its own. The second topic was related to the problems and hardships caused to residents and staff in special social care institutions by the COVID-19 epidemic. Even in 2021, when the epidemiological situation was slightly better, we could see that the measures taken had affected the living conditions and the lives of the residents in general.⁹

In 2022, the NPM visited four special social care institutions aimed at providing institutional care services for adults with mental health problems and intellectual disabilities. The visits in 2022 were also (again) marked mainly by the issue of overcrowding on the secure wards of the special social care institutions visited. Also, during these visits, the NPM found that the situation of the institutions remained the same.

The NPM, based on regular monitoring and thematic visits in the past, has repeatedly drawn attention to the unacceptable situation caused by overcrowding on the secure wards

⁸ The National Preventive Mechanism (NPM) is set up as a special internal organisational unit of the Ombudsman. The NPM is responsible for visiting all places of deprivation of liberty in the country and for checking the treatment of persons deprived of their liberty. These preventive visits are intended to stop torture or other ill-treatment before it occurs. In the second half of 2021, an additional staff member joined the NPM unit, active mainly in the field of visits to places of deprivation of liberty of children and adults with developmental and physical disabilities.

⁹ https://www.varuh-rs.si/fileadmin/user_upload/pdf/NPM/Letna_porocila_NPM/Slovenian_Ombudsman_NPM_Report_2021.pdf

of special social care institutions. The state authorities, in particular the competent ministry, have made several promises to find solutions, to open new wards and to regulate the issue soon – but the NPM noted during 2022 visits to special social care institutions that there had been no significant improvement. Secure wards are still overcrowded. The courts' decision that admissions should be made to the special social care institution when the first place becomes available has, to some extent, shifted the pressure to the places where people are waiting to be admitted. This is often in psychiatric hospitals, sometimes in the home environment or in other institutions. Some people are waiting to be admitted to special social care institutions in an environment that cannot care for them effectively and safely, given their state of health. Despite a court order, some wait so long for admission that the (one-year) detention periods expire before admission.

Following the thematic visits in 2020, the NPM recommended that the authorities immediately find appropriate solutions to the unsustainable overcrowding situation on the secure wards of social care institutions. It also noted that the situation observed undoubtedly indicates a violation of the rights of individuals placed on secure wards. The NPM stressed that the situation on such wards, which has been going on for such a long time (ten years and more), can undoubtedly be defined as ill-treatment of the residents.

The NPM also reiterated its recommendation to find an appropriate solution for the placement of minors on secure wards, as their placement in the wards for adults is unacceptable. In 2021, the Ombudsman recommended that the competent ministry, in cooperation with other responsible authorities, take further measures to fully regulate the status of wards in social care training institutions where children and adolescents with severe mental health problems and intellectual and physical disabilities are placed, so that their placement and treatment are in accordance with the Mental Health Act. The ministry reported that Ombudsman's recommendations had been partially implemented as a secure ward for children was established in ZUDV Dornava due to the urgent need to include adolescents who require additional specialised treatment on a secure ward within the institutional care service (based on a court order). During one of the visits in 2022, the NPM was, however, again informed of an attempted placement of a minor in an adult institution.

In 2022, the NPM visited all five Training, Work and Care Centres (CUDVs), which provide special education and institutional care for children and young people up to the age of 26 with moderate, severe, or profound intellectual disabilities, as well as guidance, protection, and employment and training services for adults with moderate, severe, or profound intellectual disabilities. In 2022, the NPM also visited 11 Care Work Centres (VDCs), including some of their dislocated units (15 units in total), which provide social services of counselling, care and employment under special conditions, as well as institutional care for adults with moderate, severe, and profound intellectual and physical disabilities. In 2022, the NPM started systematic visits to the institutional care units in the VDCs to determine the extent to which users' freedom of movement is restricted, the legal basis for such restrictions, how the units deal with cases of undesirable behaviour by users, whether special protective measures are applied in the event of incidents, and the living conditions in the units.

After the 2022 thematic visits, it can be concluded (as the NPM has warned in the past) that overcapacity means a deterioration of living conditions for all ward residents, not only the newly accommodated ones. It also significantly increases the workload of the staff, who, already working with the most demanding residents, face daily challenges and overload, including the fear of possible new (violent) reactions from individual residents. Overcapacity

only exacerbates the unsustainable situation of residents with a wide range of mental health problems. This particular challenge and sometimes intractable problem, which leads to conflict and verbal and physical violence, has been pointed out by both staff and residents themselves. Again, during this visit, NPM received repeated warnings from staff that situations often escalate because residents with different problems are living on the same ward.

Although some new places have been opened on the secure wards of two social care institutions, in 2022, two years after the thematic visits, the NPM regrettably noted that the situation of overcrowding remains almost unchanged. In two years, the responsible state authorities have clearly not yet done enough to ensure that the NPM's recommendations are implemented. Moreover, on the basis of visits to two psychiatric hospitals, the NPM has found that the distress, including in terms of space, is spilling over into environments where individuals are now waiting for months to be admitted to or detained on secure wards of special social care institutions. There are also (renewed) attempts to place minors, even though these institutions are not suitable for this age group, which all point to the need for (additional) secure wards in institutions primarily dedicated to this population.

In view of the above, the NPM (re)recommended that the responsible ministry start (much more quickly) adopting appropriate solutions for the placement of individuals who need to be placed on a secure ward so that the existing secure wards of special social care institutions are no longer overcrowded. The NPM also recommended that sufficient places on secure wards in social care institutions for minors should be made available so that the courts can place minors in need of protection in institutions that are dedicated to and suitable for this population and, with the appropriate staff training, can provide them with the best possible care and protection.

The NPM's visits to CUDVs and VDCs revealed that many users are unable to leave their accommodation independently, in most cases because they cannot navigate safely in traffic or function independently in the external environment. Most of these users do not want to go out alone, but if they try to leave without staff or relatives accompanying them, they are stopped by staff and directed or escorted back to their accommodation. Where this personal protection is not sufficient, staff also lock the door. The NPM has warned that this means that the users who are unable to (independently) leave the accommodation are de facto placed on secure wards and that their personal liberty is restricted, while none of them had been placed in a CUDV or a VDC in accordance with the provisions of the Mental Health Act, which is currently the only legal basis for restricting personal liberty in social care institutions. The NPM warned that there should be a proper legal basis for restricting personal freedom, which was not provided at the time of the NPM's visits. On the basis of these findings, the NPM concluded that there is a systemic weakness and made a systemic recommendation to ensure that all CUDVs in Slovenia comply with the legal provisions defining the conditions for restricting personal liberty and that wherever the personal freedom of users is restricted, an appropriate legal basis for the restriction is provided.

During the visits, CUDV staff highlighted the inequality and discrimination experienced by its users with severe mental and physical disabilities. Children and young people with disabilities attending primary school have the right to have an escort, but this is not provided for by law to those in social care institutions. The NPM therefore recommended that the Ministry of Education, Science and Sport consider the possibility of assigning a permanent or temporary escort to provide physical assistance during the educational programme in CUDV. The ministry did not agree with this recommendation.

During visits to the CUDVs, the NPM also noted that the current staffing standards make providing quality and individualised treatment to users difficult. The ageing of the users and the consequent decline in their abilities show that the CUDVs would need more staff for such users. There is one staff member for every 12 to 20 users, but they note that sometimes one staff member for every four users is needed.

Similarly, during visits to VDCs, the NPM has observed that VDC users are ageing, and some are no longer able to participate in the activities of counselling, care, and employment services under special conditions. As the NPM has observed during its visits that VDCs sometimes do not receive the desired response from the responsible ministry regarding the resolution of this issue, the NPM has recommended to the ministry that VDCs should provide 24-hour institutional care for those elderly persons with intellectual and physical disabilities who are no longer able to actively participate in the work process and in the rest of the activities within the framework of the service of counselling, care, and employment under special conditions. The ministry replied that the Regulation on Standards and Norms of Social Welfare Services already allows for the placement of users in 24-hour institutional care. However, they note that there are no agreements between VDCs and users for this type of service, as users do not ask for this service (which has to be paid for).

During the visits to the VDCs, the NPM also learned from discussions with staff and users that work in institutional care units is often very difficult to organise. This is particularly a problem in smaller units, where in most units, there are only two staff members with the users in the afternoon, which is a problem when users need individual attention (for example, to accompany them to medical appointments). It is also difficult to organise outings, activities, and workshops. Holidays and sick leave are an additional problem. The NPM has therefore recommended that the responsible ministry adjust the staffing norm to the actual needs of institutional care in the residential units.

In 2021, the NPM carried out three visits to psychiatric institutions. During the NPM's visit to the Forensic Psychiatric Unit, which is part of the Department of Psychiatry at Maribor UMC, the NPM again found that it was overcrowded. This systemic problem has remained unresolved for many years, even since the unit's opening. Another critical issue that the NPM repeatedly encounters during its visits to psychiatric hospitals is the implementation of the so-called special protective measures. The facilities used for physical restraint are often inadequate, as they do not provide sufficient privacy for the restrained patient, and staffing constraints mean that constant supervision of the restrained patient is not always guaranteed. In 2021, the NPM made two regular visits to hospitals for people with mental disorders and made 60 recommendations during the visits.

In 2022, the NPM visited "wards under special supervision" in four psychiatric institutions. He noted that at the time of the NPM's visit, there were three patients in the Idrija Psychiatric Hospital with a detention order who had been waiting for several months to be admitted to the secure ward of the social welfare institution. The two wards under special supervision – the intensive care wards (male and female) – are usually fully occupied (as was the case during the NPMs visit) and occasionally even overcrowded (in which case individual patients are placed in provisional beds).

On the basis of these thematic visits to two psychiatric hospitals, the NPM found that distress, including spatial distress, is transferred to the environments (psychiatric hospitals,

home environment), where individuals are now waiting for months for admission or detention on secure wards of special social care institutions.

In June 2023, the N1 online media outlet published an article with several testimonies of violence at the University Psychiatric Clinic in Ljubljana. The Ombudsman called for an investigation of the allegations by the competent authorities. The Ombudsman also visited the clinic after the reported allegations, and the NPM is preparing an in-depth visit on this issue.

The NPM examines the use of special protection measures during each institution visit and devotes a special chapter to this issue in each NPM visit report. In this context, the NPM has made numerous recommendations concerning the use, monitoring, duration, and management of special protection measures as a last resort. The Ombudsman also carefully examines all allegations in each case when dealing with complaints received on this subject. In 2021, the Ombudsman received a complaint about the treatment and implementation of a special protection measure at the Psychiatric Department of the University Clinical Centre Maribor (UKC Maribor), addressed to the management of the UKC Maribor and the representative of the rights of persons in the field of mental health. In his complaint, the applicant alleged that the staff physically restrained him with belts upon admission to the hospital. The complainant claimed that staff used violence during the strapping and applied special protection measures inappropriately. The Ombudsman received a statement from the Head of the Psychiatry Department of the UKC Maribor that the petitioner's complaint had been examined and that the complaint procedure had been closed with an agreement to settle the dispute. The complainant received an apology. A special conference on the implementation of special protection measures was also organised at the Psychiatric Department of the UKC Maribor. The Health Inspectorate carried out an inspection which did not reveal any violation of the regulation that was the subject of the inspection. Based on the explanations received, the Ombudsman concluded that the complaint lodged by the complainant against the alleged inappropriate treatment had been dealt with in accordance with the Patients' Rights Act.

Prisoners with disabilities

For several years the Ombudsman has repeated its recommendation to the ministry responsible for justice to take all necessary measures, in cooperation with other competent authorities, to ensure that detained persons who, because of their age, illness, or disability require additional assistance, are provided with appropriate accommodation and with all assistance in their daily care and other necessary care, to ensure that they can live and be cared for in dignity.

Mental Health Act

It has been eight years since, in a procedure for the review of constitutionality, which was instigated at the Ombudsman's request, the Constitutional Court annulled certain provisions of the Mental Health Act regarding the procedure for admitting people who have been deprived of their legal capacity to secure departments of social care institutions. The legislator has been given one year to adequately harmonise the Mental Health Act with the Constitution of the Republic of Slovenia. The Act on Amendments to the Mental Health Act was submitted for inter-ministerial coordination in October 2022; however, it has not yet been adopted. The Ombudsman recommended that the competent ministry when drafting the amendment take into account all the professionally substantiated comments received

during the public hearing of the draft law and the inter-ministerial coordination process and adopt it as soon as possible.

Freedom from exploitation, violence, and abuse (Article 16)

The Ombudsman believes that more attention should continuously be paid to effective research and documentation of the extent, causes, consequences, and signs of violence and obtaining reliable, comparative data that would lead to effective policies to prevent and eliminate the consequences of violence and enable the assessment of the effectiveness of the measures. The Ombudsman warned that in the context of domestic violence, it is necessary to explore the extent of violence against all, including children and older people, and pay due attention to persons with disabilities.

There is an overall lack of disaggregated data on all forms of violence. In its Concluding Observations on the seventh periodic report of Slovenia, the Committee on the Elimination of Discrimination against Women in March 2023 recommended that Slovenia ensure the collection and analysis of data on all forms of gender-based violence against women and girls, including psychological, economic, and domestic violence, as well as cyberviolence and femicide, disaggregated by age, nationality, disability, and the relationship between the victim and the perpetrator, and include economic and psychological forms of gender-based violence against women in administrative legislation.

Slovenia also has no longitudinal study monitoring peer violence, harassment, and maltreatment, showing trends, analysing forms' occurrence and identifying causes.

Slovenia has not adopted a strategy to prevent all forms of violence, abuse, and ill-treatment, in public and private spheres, against persons with disabilities, particularly women with disabilities, as recommended by the Committee on the Rights of Persons with Disabilities.

Living independently and being included in the community (Article 19)

Deinstitutionalisation

For years, the Ombudsman has repeated his recommendation that the Government should ensure adequate, accessible, affordable, and acceptable services for persons with disabilities in need of assistance so that they can exercise their right to live independently and be included in their communities, in both urban and rural areas, and has called on the authorities to de-institutionalise the provision of care services in line with the recommendations of the Committee on the Rights of Persons with Disabilities.

The Ombudsman called on the relevant ministry to complete the network of providers and expand the range of services to help people who are unable to live independently to live at home in an environment where they feel comfortable and have an established social network. The Ombudsman considers that the latter recommendation has been implemented only to a small extent, although the ministry claims that the recommendation has been implemented. Despite some programmes and efforts towards deinstitutionalisation and the adoption of the Long-Term Care Act, there has not yet been any progress that would actually enable individuals to do what has been promised.

The Ombudsman notes a lack of appropriate services to support people who want to live in a home environment but who are no longer able to live independently without additional care and support. The Ombudsman called on the relevant ministry to finally start implementing deinstitutionalisation rather than simply decentralising existing institutions. In this context, the Ombudsman welcomes the fact that the competent ministry has started to prepare a deinstitutionalisation strategy for 2022, which is expected to prioritise forms of living outside institutions for people with disabilities, both adults and children.

The Ombudsman believes that swift and effective reforms of the system are urgently needed and should have a single goal at their core: individualised support that promotes full integration into the community. It is unacceptable that many people are in institutions when they could be living with dignity in their own homes.

The Ombudsman notes that deinstitutionalisation is often misunderstood in Slovenia and points out that deinstitutionalisation requires the implementation of structural changes, which must relate to the establishment of additional services and not only to the closure of institutions. The Ombudsman warns that deinstitutionalisation is being carried out in the wrong direction, as the transfer of large institutions to several smaller ones does not mean integration into the local community.

In 2022, the Ombudsman also noted public opposition by the Divača Citizens' Initiative to the transfer of persons with intellectual disabilities to Divača, which was to be carried out as part of the project for the deinstitutionalisation of the residents of the Home in the Karst. The Ombudsman expressed concern about the public reaction to the deinstitutionalisation process. The Ombudsman considers that such public reactions largely reflect social stereotypes, prejudices, and a generally low level of awareness of people with disabilities in society, and therefore suggested that the ministry consider whether it would be appropriate to take (additional) measures to strengthen respect for the rights of people with disabilities and their dignity, in the light of Article 8 of the International Convention on the Rights of Persons with Disabilities.

Personal assistance

In the last years, the Ombudsman has received numerous complaints regarding irregularities in providing personal assistance and has paid much attention to this issue.

In the Ombudsman's view, the 2021 amendments to the Personal Assistance Act seem to have radically changed the view of what personal assistance is and for whom and to what extent it is intended, even though the provisions of the Act defining personal assistance have not changed in any way. It also seems that different stakeholders have different interpretations of the scope and purpose of personal assistance. Therefore, the Ombudsman considers that a systematic approach should be taken to resolve the question of the content and purpose of personal assistance. If there is a need to change the definition, this should be regulated clearly through an amendment to the Act, paying particular attention to interference with already acquired rights. The legislator should define the rights in an understandable way for the applicants/beneficiaries and decision-makers in the administrative procedure and for the experts.

The Ombudsman believes that the content of the right to personal assistance has changed, as the new experts established by the latest amendment to the Personal Assistance Act

generally recognise it for a shorter period than before, even though the relevant legal provisions have remained unchanged. According to the new criteria used, individuals whose health condition had worsened and who had applied for a larger range of rights, even with the deterioration of their condition, no longer met the criteria even for the original time range. The range of their rights was thus reduced.

The Ombudsman recommended that the responsible ministry takes into account the Ombudsman's view that when a beneficiary applies for an increase in the already recognised scope of personal assistance and when the reassessment of eligibility for personal assistance takes place, there is no reduction in the scope of personal assistance if there has been no improvement in the beneficiary's condition. In the Ombudsman's view, only an improvement in the state of health justifies a reduction of the already recognised entitlement. The Ombudsman urged the ministry to instruct all social work centres that in cases where an application for an increase in the scope of personal assistance has been submitted, it is only a matter of deciding whether the application is granted and the scope of personal assistance is increased or whether the application is rejected, i.e. the scope of the personal assistance already granted is not increased. In this decision-making process, there must be no reduction in the number of hours of personal assistance already granted (except, of course, in the case of an improvement in the state of the person's health).

When handling a complaint, the Ombudsman came across the position of the responsible ministry that the user of personal assistance must cover all expenses (e.g. personal assistant's transport costs, entrance fees, etc.) when visiting public places accompanied by a personal assistant at his or her request. The Ombudsman reminded the ministry that such a position interferes with the rights of personal assistance users. The Personal Assistance Act states that the right to personal assistance is regulated to enable individuals with long-term physical, mental, intellectual, or sensory impairments to participate fully and effectively in society, have equal opportunities, and have greater independence. According to Article 7 of the Personal Assistance Act, in addition to services aimed at assisting with household and other daily tasks, personal assistance services also explicitly include accompaniment services for participation in sports, recreational, and cultural activities, and assistance in the workplace and the educational process. Given the provision of Article 4 of the Personal Assistance Act, according to which the State must provide the funds for implementing personal assistance, the Ombudsman considers that it is not justified that the user must bear part of the funds necessary for implementing personal assistance. Accompanying a user to engage in cultural activities and access the workplace and the educational process may necessarily involve the need for transport to the location of the activity or work. This cost is directly linked to the provision of personal assistance.

The Ombudsman also addressed complaints about extraordinarily long decision procedures regarding the right to personal assistance. The responsible ministry promised to resolve the problem actively.

In 2020, the Ombudsman also pointed out that Article 9(3) of the Personal Assistance Act cannot be the legal basis for reducing the approved hours of personal assistance by the number of hours of participation in a special education programme. The Ombudsman also raised the question of how the approved hours of personal assistance are reduced in the case of the user's participation in other services, as provided for in Article 9 of the Act. For each hour of participation in services, the personal assistance granted is reduced by one hour. This means, for example, that a user with 40 hours of approved personal assistance and involved in other services for 30 hours per week will have 10 hours of personal

assistance available for the remaining 138 hours per week. Personal assistance covers activities throughout the day: personal assistance, help with household and other tasks, companionship, work and education, and communication assistance. The Ombudsman, therefore, considers that it would be more appropriate if the inclusion in a specific service were to increase the scope of the recognised personal assistance only proportionately, which would mean, for example, in the above example, that the inclusion in another service would result in a 30/168 reduction of the individual's personal assistance hours, as this is the proportion of hours in the week that the individual uses the other service, i.e. to approximately 33 hours of personal assistance. This recommendation has not been implemented.

Freedom of expression and opinion, and access to information (Article 21)

The use of sign-language

The Ombudsman welcomed the fact that on 27 May 2021, the National Assembly amended the Constitution to include the right to use and develop Slovenian sign language. The Constitution also stipulates that the free use and development of the language of deafblind persons shall be regulated by law. The Ombudsman points out that this is an important, but only a first step towards the full exercise of the rights of deaf and deafblind people. The key is to ensure that these rights are exercised in practice. Therefore, the Ombudsman has since recommended that the government prepares legislation as soon as possible and transform a constitutionally protected right from a dead letter on paper into an active right. Unfortunately, no significant progress has been made in developing Slovene sign language and tactile signing for over two years.

Respect for home and the family (Article 23)

In 2020, the Ombudsman recommended that the competent ministry introduce family assistance in families caring for children with special needs under 18, aiming to reduce the institutionalisation of children with special needs and to realise the rights of children with special needs to family life. Unfortunately, this recommendation has not yet been implemented.

On 22 February 2020, the amendment of the State Employees Act (ZDDO-H) came into force, which now stipulates that five more annual leave days are granted to workers who care for and protect a child who needs special care and nursing in accordance with the regulations governing family income. Carers are entitled to this additional annual leave until the child's 18th birthday or until the 26th if the child is in education. The Ombudsman welcomed the fact that the ministry followed its recommendations during the preparation of the legislative changes regarding the normative regulation of the right to additional days of annual leave for parents of children with special needs and that the ministry simplified the proving of eligibility only with a decision of the centre for social work both for employees of state authorities and of the private sector. Nevertheless, people with the most severe intellectual and physical disabilities, if they are not placed in full-time institutional care, also need a lot of attention, nursing, and care from their parents in their adulthood. Thus, parents who care for adult children with the most severe intellectual and physical disabilities should undoubtedly also be entitled to additional days' annual leave. Therefore, the Ombudsman recommended in its annual report for 2020 that the Government of the Republic of Slovenia study the issue of adult persons with disabilities who are still cared for

by their parents and investigate the possibility of the introduction of additional days' annual leave for such parents employed both by the state and in the private sector. Unfortunately, the Government disagreed with Ombudsman's recommendation.

Health, rehabilitation (Articles 25 and 26)

Problems with accommodation and treatment of persons after completed hospital treatment and persons with acquired brain injury

In its annual report for 2022, the Ombudsman warned that there is no systemic provision for adequate and continuous care and treatment of persons under 65 who require institutional care at the end of hospital treatment. These are patients whose health condition is such that their return to their home environment is not possible and who do not meet the age threshold of 65 years for institutional care or whose health condition is such that they require care that cannot be provided in institutional care.

In 2019, the Ombudsman highlighted a similar problem faced by persons with acquired brain injury and called for the establishment of a network of specialised regional centres for people with acquired brain injury. The Ombudsman has noted that long-term holistic rehabilitation is not available for people with acquired brain injury, which should be provided along a continuum of care ranging from hospital- to community-based rehabilitation. Such rehabilitation should be available and accessible to users throughout Slovenia. Therefore the network of providers providing long-term rehabilitation for people with acquired brain injury should be complemented with post-hospital intensive care in the Central Slovenia region and regional centres providing long-term (psychosocial and medical) rehabilitation and institutional care (24-hour institutional care and residential units) in the Coastal Carpathian, Primorje-Notranjska, South-Eastern, Posavje, Zasavje, Savinja and Koroška regions. According to the Ombudsman's assessment, there has not yet been any significant progress in this area. Comprehensive solutions are being postponed for the future.

Establishing additional specialised units in specific areas to provide services tailored to people with acquired brain injuries or disabilities will be determined by a national implementation plan, the first of which has a timetable for implementation by 2025. The Ombudsman finds such a long timeframe – knowing that the situation for people with acquired brain injury (as well as those who have completed hospital treatment and cannot live independently) is already unacceptable and undignified, both for them and their relatives – unacceptable. The Ombudsman notes that this area is still systemically unregulated and interferes with the right to social and health security.

The Ombudsman is also worried about the well-known fact that there is a staff shortage in almost all areas of social and health care. This is not only the case for doctors but especially for nursing staff, medical technicians, medical graduates, paramedics, etc. There is also the issue of providing staff (physiotherapists, occupational therapists, etc.) for the adequate and early rehabilitation of people after hospital treatment or acquired brain injury. The Ombudsman also highlights the staffing problems because he is aware of the plight of health (and social care) providers who frequently and repeatedly advertise vacancies for the various professions listed above but are unsuccessful in filling them. The Ombudsman is concerned that the questions concerning the staff shortage will remain unanswered.

In his annual report for 2022, the Ombudsman recommended the Ministry of Health regulate the accommodation and treatment of persons whose health condition does not allow them to live independently after hospital treatment and of persons with acquired brain injury, as this lack of regulation interferes with the right to social and health security.

Dental care for persons with special needs

Complainants warned the Ombudsman about the problems of access to dental care under general anaesthesia for people with special needs. Persons with special needs, mainly children, usually do not cooperate with dentists and are anxious, restless, and agitated, and therefore dental care in such cases is only possible under general anaesthesia. However, access to such dental care is difficult due to unacceptably long waiting times (6 months and more). As a result, people with special needs must take numerous medications to alleviate their pain, which is unacceptable, especially for children.

Adequate standard of living and social protection (Article 28)

The Ombudsman warns that adequate housing is lacking for people with various disabilities.

In 2022, the Ombudsman was again confronted with the problems of people who, after completing their treatment in hospital, cannot return to their home environment without the necessary care and assistance and for whom no suitable place is available in social care services. Therefore, the Ombudsman reminded the competent ministries of the need to ensure the implementation of Article 40a of the Regulation on the Procedures for the Exercise of the Right to Institutional Care or to establish a detailed protocol for the placement of the seriously ill and the elderly in institutional care, or provide assistance to the family at home without a waiting period, or temporary placement in care hospitals, during the transitional period until the implementation of the legislation in the field of long-term care. Concerning institutional care, the Ombudsman advocates deinstitutionalisation and emphasises community-based living and care.

The Ombudsman recommended that the responsible ministry take appropriate measures to unify and harmonise the social protection legislation for persons with disabilities who are unable to work with a more modern social model of disability, which emphasises the barriers that an individual has as a result of a disability, rather than the impairment that causes the disability. In this context, the Ombudsman urged the ministry to immediately and without delay start an analytical and systematic approach to the issues mentioned above, including persons with disabilities and their associations. Unfortunately, the recommendation remains unfulfilled.

While in the area of legislation, the Ombudsman considers the adoption of the Act on the Recognition of Disability Allowance and the Act on Amendments and Additions to the Act on Personal Assistance a step in the right direction; the Ombudsman is dissatisfied that its recommendation for changes to the legislation that will result in all persons with disabilities, both those with a status under the Act on Employment and Rehabilitation of Persons with Disabilities and those with a status under the Act on the Social Integration of Persons with Disabilities, enjoying comparable social security, has been rejected. The Ombudsman sees no valid reason for different treatment.

In 2021, the Ombudsman recommended that the responsible ministry regulate the care of people with autism systematically so that all people with autism can be adequately supported as a public service. The Ombudsman also recommended that the ministry ensure that all those who care for children or adults with autism are adequately supported in their work, as this affects the fundamental human rights of children, adolescents, and adults with autism and their families. Both recommendations remain unfulfilled. In 2023, the Ombudsman estimates that, once again, nothing has happened in the past year in the area of care for people with autism. Services for them are still dispersed, and cooperation between ministries is poor, while civil society knocks on ministries' doors in vain. The Ombudsman called on the ministry and other competent bodies to follow the principles of an inclusive society and to listen to the needs of people with autism for the establishment of day centres, appropriate non-institutional forms of supported living communities and appropriate health care, and to pay attention to other outstanding issues. The Ombudsman called on the Ministry of Economic Affairs to pay due attention to the employment of people with autism and to develop, in dialogue with employers, possibilities that include not only adapted jobs but also suitably trained mentors to help employees with autism and other support services.

Lengthy procedures and inadequately explained decisions

The Ombudsman received several complaints regarding the lengthy procedures of the Pension and Disability Insurance Institute of Slovenia (ZPIZ). Furthermore, the Ombudsman received several complaints regarding the lengthy procedures of the Ministry of Labour, Family, Social Affairs and Equal Opportunities concerning appeals against first-instance decisions of the Social Work Centres.

The Ombudsman also observes that the decisions of the ZPIZ are poorly reasoned. The Ombudsman recalls that the reasons for the decision are an independent and autonomous element of the right to fair and just decision-making, guaranteed by Article 22 of the Constitution in the context of the right to equal protection of rights. On several occasions, the Ombudsman has warned ZPIZ of the necessity to substantiate their decisions appropriately. Unfortunately, no changes have been seen in practice in this regard. In 2022, the Ombudsman also noted a lack of traceability of administrative procedures at ZPIZ and expressed the expectation that the institution would remedy this.

In 2022, the Ombudsman dealt with a complaint in which the complainant disagreed with the decision of the centre for social work regarding the right to personal assistance. The Ombudsman found that the decision was contrary to the provision of Article 22 of the Constitution of the Republic of Slovenia, which requires that decisions are explained in a manner that enables a person to understand why and how a decision was made and, at the same time enables effective lodging of legal remedies.

Already in 2019, the Ombudsman had recommended that the Pension and Disability Insurance Institute and the Ministry of Labour, Family, Social Affairs and Equal Opportunities should consistently comply with the standards of procedural guarantees and other provisions of the General Administrative Procedure Act when deciding on disability insurance entitlements.

In 2021, the Ombudsman recommended that ZPIZ conduct pension and invalidity proceedings smoothly, without unnecessary delay, and adequately explain its decisions so

that violations would no longer occur. However, the non-response and untimely replies to petitioners are still very acute in issuing decisions.

The Ombudsman also recommended that the Ministry of Labour, Family, Social Affairs and Equal Opportunities ensure that all decisions in the field of social protection that affect the rights of individuals are explained in a way that makes it possible to understand why the decision was taken as it was, and that they are explained with regard to all essential facts so that legal remedies can be effectively exercised against them.

Statistics and data collection (Article 31)

The State is not collecting relevant disaggregated data on people with disabilities to design appropriate measures and implement the Convention on the Rights of Persons with Disabilities.

National implementation and monitoring (Article 33)

On 22 June 2023, the Ministry of Justice published a draft amendment to the Human Rights Ombudsman Act and set a two-month deadline for individuals, civil society organisations, and other interested parties to comment on the proposed solutions. A draft amendment includes a new stipulation: “The Ombudsman acts as an independent body to promote, protect, and monitor the implementation of the Convention on the Rights of Persons with Disabilities, referred to in Article 33, paragraph 2, of the Convention.” The draft also proposes that two of the members of civil society who, in accordance with Article 50b, participate in the Human Rights Ombudsman’s Council, a consultative body of the Ombudsman, must be active in the field of the protection of the rights of persons with disabilities. The Ombudsman has called on the authorities to provide adequate additional resources for the performance of the tasks, including additional staff, office space and funding, all of which will inevitably increase the expenses of the institution, which should be taken into account while dealing with budgetary issues.