



REPUBLIC OF  
SLOVENIA



HUMAN  
RIGHTS  
OMBUDSMAN

**SUMMARY OF THE WORK  
OF THE HUMAN RIGHTS  
OMBUDSMAN OF THE  
REPUBLIC OF SLOVENIA  
FOR 2021**

**2021**

# ABOUT THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA

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The powers of the Human Rights Ombudsman of the Republic of Slovenia  
(hereinafter: Ombudsman) are determined by the Constitution of the Republic of  
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# INTRODUCTION BY THE HUMAN RIGHTS OMBUDSMAN

Dear Reader,

This is the 27th report of the Ombudsman of Human Rights of the Republic of Slovenia. As per the Human Rights Ombudsman Act, the Human Rights Ombudsman of the Republic of Slovenia (Ombudsman) reports to the National Assembly of the Republic of Slovenia by means of regular and special reports about its work, findings regarding the level of respect for human rights and fundamental freedoms, as well as the legal security of the citizens of the Republic of Slovenia.

Halfway through my term as the fifth Human Rights Ombudsman of the Republic of Slovenia, I must point out that awareness of the significance of independent state institutions, such as the Ombudsman, the Constitutional Court, the Court of Audit, the Commission for the Prevention of Corruption, the Advocate of the Principle of Equality and the Information Commissioner, regarding the functioning of a democratic state and society in the system of checks and balances is increasing on the one hand, but on the other we, as a society, are also frequently faced with undermining the work of these institutions, and especially that of authorities or decision-makers, when and if our operations, decisions or recommendations fail to comply with their political objectives. Such attempts to politicise independent state institutions reveal a lack of understanding that these institutions are outside the traditional three branches of power. We must be aware that these institutions are indispensable to the functioning of a modern democratic state.

Just as the year before, 2021 was marked by the COVID-19 pandemic. Throughout the year, we encountered various measures to protect lives and health which severely encroached upon our lives, our way of life and, finally, our rights and freedoms and greatly restricted them. Based on the calls and complaints by people, which in total amounted to five percent more in 2021 than in 2020 when this number was much higher than in previous years, I wish to highlight that this shows that the COVID-19 pandemic intervened in the lives of individuals and society much more deeply and extensively and has increased people's distress in numerous areas. It is thus unacceptable that the state is further worsening this situation by disrespecting and violating human rights and fundamental freedoms. To contribute to the prevention of the spread of COVID-19 infection, the Ombudsman's office acted responsibly in 2021 and adjusted our operations accordingly. We temporarily stopped welcoming complainants to the office and carrying out field visits. Instead, we were available by e-mail, regular mail, toll-free number and social networks. The majority of the employees continued to work remotely in 2021.

While in the last year's introduction, I dedicated most attention to the Ombudsman's activities relating to the COVID-19 pandemic, which greatly affected our lives, rights and freedoms in 2020, **I will particularly focus this year on the crucial systemic challenges to be resolved, including certain positive systemic progress, although the situation was similar to that of the previous year. These systemic issues are for the most part not linked directly to the epidemic, but the latter has fully exposed many previously extant**

**problems, which need to be addressed as soon as possible by society and state.** We are entering the so-called post-COVID-19 era in which numerous shortcomings have come to the forefront regarding the observance of human rights in our society. In the event of new waves of the epidemic, I repeat again at this point as many times before that certain standards must be observed when adopting measures (or the lack of these) and these must be proportionate, non-discriminatory, necessary for attaining a certain objective, substantiated by experts, legal (and adopted transparently by means of suitable procedures) and of limited duration, i.e. legitimate. Since the onset of the epidemic in March 2020, we have stressed the importance of establishing an overall trust in the authorities' conduct and that the conduct regarding the pandemic must be sufficiently explained, professionally substantiated and widely accessible.

**As the Ombudsman, I was personally in regular contact in this challenging and sensitive year with the holders of various branches of power, reminding them of the importance of compliance with the international and constitutional standards of human rights, including during the pandemic.** In 2021, we paid attention to different vulnerable groups, such as **children, the disabled, the elderly, women, national and ethnic communities, employees, the unemployed and foreigners.** I further highlighted the importance of being aware that human rights are not a distant, theoretical or legal phenomenon. It is vital that **human rights are available to everyone and that people have access to suitable mechanisms and legal remedies to eliminate violations.**

## Number of cases considered, violations established and new recommendations

**As in 2020, we received one third more cases in 2021 than we did before 2020. We dealt with 6,863 cases (6,852 in 2020 and 4,600 in 2019), which denotes more than a 33-per cent increase in the number of cases as per the period before the COVID-19 pandemic.** The cases referred to the measures and questions related to the COVID-19 pandemic and also other aspects of violations of human rights and fundamental freedoms not connected to COVID-19. **A total of 1,179 cases referred directly to COVID-19 in 2021, which is somewhat less than in 2020 when the number of cases totalled 1,414; index 21/22 thus amounted to somewhat more than 83%** This Annual Report thus includes a **special third chapter that consists of our activities and efforts relating to the COVID-19 pandemic.**

**In 2021, we dealt with 3,720 complaints, of which 475 or 14.62% were justified, including 221 which referred to child advocacy. Among 349 other justified complaints, 276 violations of human rights, fundamental freedoms and other irregularities were determined, such as the violation of equality before the law and the principle of good administration, a total which is considerably lower than in 2020 when, among 364 justified complaints, as many as 473 violations were established. The number of established violations thus dropped, but each violation is inadmissible and unnecessary. The majority of violations referred to the principle of good administration under Article 3 of the Human Rights Ombudsman Act, i.e. 88. I particularly highlight 25 violations of the equality before the law, 20 violations of the rights of persons with disabilities, 18 violations of the right to equal protection of rights, 14 violations of the principle stating that Slovenia is a social state governed by the rule of law, 12 violations of the principle of equity under Article 3**

**of the Human Rights Ombudsman Act, 10 violations of the right to take part in the conduct of public affairs, 10 violations of the right to social security, 9 violations of the right to a legal remedy and 8 violations each of the right to health care, the right to a healthy living environment and regarding undue delays in proceedings under Article 24 of the Human Rights Ombudsman Act.**

**The highest number of violations were recorded at the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZ), as many as 63, followed by the Ministry of the Environment and Spatial Planning (MOP) with 25 violations,** the Ministry of the Interior (MNZ) and the Ministry of Health (MZ) with 18 violations each, the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) with 16 violations, the Government of the Republic of Slovenia (Government) with 16 violations and other ministries. We also determined six violations by the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning, five violations by the Financial Administration and five violations by local government administrations, i.e. municipalities.

Based on all our activities in 2021 of dealing with complaints, addressing broader substantive issues (we addressed six complaints at our own initiative in 2021 and 77 broader issues), operating several organisational units, conducting visits, preparing expert analyses, studies and opinions, we issue a total of 86 new recommendations, of which:

- **52 recommendations which in general, frequently on the systemic level,** concern society and the observance of human rights in society,
- an additional **25 recommendations** represent **ongoing tasks** by various authorities and
- **9 COVID-19 recommendations,** i.e. recommendations that refer directly to the measures connected to COVID-19 (many recommendations issued during the year about the COVID-19 measures are no longer relevant because the regulations and measures to contain and control the COVID-19 epidemic changed very rapidly and we do not repeat them here again).

This year, we issued fewer recommendations than in 2020. However, **considering the large number of unrealised recommendations and those still relevant from the past, there is still a lot of work ahead of the competent authorities in the future.**

## **Importance of realising the Ombudsman's recommendations and decisions of other independent institutions**

**We highlight approximately 150 of the most relevant past recommendations that remain either unrealised or partly realised. As an ongoing task, the Ombudsman repeats last year's recommendation (ongoing task) no. 1 (2020),** by means of which we proposed that the Government of the Republic of Slovenia examine and explain in its response report the reasons which prevented the realisation of the Ombudsman's past recommendations, which are highlighted in this Annual Report. The Government of the Republic of Slovenia should ensure that the competent authorities begin efficiently realising substantively unrealised recommendations which the Ombudsman has been highlighting for several years, and to this end, the authorities will cooperate if necessary. We expect that, by means of consistent

and prompt realisation of our recommendations, the competent authorities will improve the level of respect for human rights and fundamental freedoms for everyone in Slovenia.

**We also point out the importance of realising or implementing the judgments of the Constitutional Court of the Republic of Slovenia and the European Court of Human Rights:**

- **As stated in previous annual reports, significant progress has been made in recent years regarding the realisation of judgments of the European Court of Human Rights (ECHR) and only five unrealised judgments of the relevant court remain at the end of 2021. Nevertheless, the Ombudsman highlights that in cases in which the final resolution of the Committee of Ministers of the Council of Europe has been adopted, a state is still obligated to further realise the ECHR judgments.** In 2021, the Ombudsman dealt with a complaint by a person to whom the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) denied a request for the payment of a harmonised amount of compensation from disability insurance as per paragraph two of Article 121 of the Act Amending the Pension and Disability Insurance Act (ZPIZ-2G). The legislator adopted the relevant provision to implement the *Kranjc v. Slovenia* judgment, in which the ECHR decided that Slovenia violated the plaintiff's rights by significantly reducing the disability benefit as per Article 1 of Protocol No. 1 European Convention on Human Rights (Protection of property). The relevant provision of the ZPIZ-2G governs the transfer of the previously obtained rights only under the condition of the same type of rights and labour law status. The Ombudsman emphasised that the relevant provision is not compliant with the **ECHR decision in the *Kranjc v. Slovenia* case**, as it fails to address the legal vacuum in Article 397 of the ZPIZ-1 (and substantively equal Article 396 of the ZPIZ-2), about which it also informed the MDDSZ. As several people lack appropriately regulated status 30 years after the erasure, the question of whether the pilot judgment of the **ECHR in the *Kurič and Others v. Slovenia* case** was adequately or fully implemented is still relevant. **Regarding the coordination of work of various governmental (and other) authorities about the implementation of the ECHR judgments and transparent provision of information to the public via a special website, the Ministry of Justice deserves a commendation.** On this note, we recommend that action plans and reports, submitted by the Government or a ministry to the Committee of Ministers of the Council of Europe, are also publicly accessible in Slovenian.
- **The situation in the field of implementing decisions of the Constitutional Court of the Republic of Slovenia (Constitutional Court) is quite different, whereby the number of unimplemented decisions has been growing constantly in recent years and it amounted to 23 unobserved declaratory decisions of the Constitutional Court at the end of 2021 issued on the basis of Article 48 of the Constitutional Court Act (there were 18 such decisions at the end of 2020 and 13 at the end of 2019). In the declaratory decisions, the Constitutional Court determines a deadline for the elimination of the established unconstitutionality or illegality, and one would expect that the decisions of the Constitutional Court, which are final and binding, would be realised by the competent authorities within the deadline set.** The observance of the decisions of the Constitutional Court is also an important indicator **We particularly highlight the unimplemented decisions of the Constitutional Court relating to the measures adopted due to the COVID-19 epidemic. The Ombudsman repeats**

recommendation (ongoing task) no. 2 (2020) that the Government, following the example of the enforcement mechanism for ECHR judgments, establishes a special mechanism to provide expert support relating to the realisation of so-called declaratory decisions of the Constitutional Court and the situation about the realised decisions, and to inform the public in a transparent way about the activities of competent authorities for their realisation.

**Our recommendation or appeal to all competent authorities (the Ministry of Finance, the Government and the National Assembly) to draft and promptly adopt legislative solutions for suitable implementation of decision no. U-1474/18-17 of the Constitutional Court of 10 December 2020 on the financial autonomy of four independent state institutions relating to the established unconstitutionality of certain provisions of the Public Finance Act also remains unrealised.**

## Vulnerable groups and substantive fields

**The situation of children** remained sensitive in 2021 as the COVID-19 pandemic had a particular impact on this vulnerable group. We highlight the situation of families at this point, as all families should feel equal and accepted in society. The Ombudsman frequently encounters the issues of social exclusion and consequences of poverty, and peer and online violence, while lengthy foster care and numerous problems that stem from parental separation are also pressing. We emphasise that it is necessary to further enhance the awareness that the **European Convention on the Exercise of Children's Rights from 1996** also defines minimum procedural protection of children, while further encouraging countries to provide additional procedural rights for children, such as the right to apply for a trustee, the right to a special representative and the right to recognise certain or all rights of a party to proceedings. **We commend the progress made in establishing the Children's House, as the Protection of Children in Criminal Procedure and Their Comprehensive Treatment in Children's House Act was adopted in 2021** the preparation and adoption of which was supported throughout by the Ombudsman. It is mandatory that the Slovenian Barnahus starts operating as soon as possible **and the Ombudsman expects from the competent prosecutors and courts that the act preventing secondary victimisation of children who are victims of sexual and other serious criminal offences becomes applicable immediately.** We detect an increase in verbal violence against children and call on all competent authorities, i.e. social work centres and the police, to act in a timely manner and take suitable measures. The Ombudsman also points out the importance of prompt decision-making in all cases involving children, whereby we particularly highlight the conduct of social work centres, which must act with particular care. The children must be heard and addressed accordingly. Relevant institutions, including schools, must be informed about their typical needs and the provision of the best interests of the child. **I am concerned about the poor realisation of past recommendations relating to children's rights. For example, sufficient legal arrangements governing the inspection of school bags and testing for the presence of drugs or alcohol has not yet been adopted. I am pleased that, by amending the Health Care and Health Insurance Act, our recommendation that the age limit be raised to 18 years for the parent who stays with a child in a hospital or a health resort being ensured the right to compensation for the period of temporary absence from work was realised.**

**The situation of children with special needs** deserves special attention, as it must be noted that intersectional discrimination can occur. I emphasise **the importance of free transport of children with special needs, i.e. pupils and pre-school children with special needs, which has still not been realised, while the responsibility is being shifted between the state, municipalities and schools.** We give several new recommendations regarding the rights of children with special needs this year. We propose amending Article 10 of the Placement of Children with Special Needs Act, which will ensure a permanent assistant for children with special needs. Last year's recommendation for the MDDSZ to introduce family assistance for families that care for children with special needs who are younger than 18 years with the objective to further reduce institutionalisation of children with special needs and realise their right to family life remains unrealised. For the same reason, we also recommended that families caring for children with special needs receive at least minimum wage for the income lost, but the MDDSZ responded that such a measure would require a comprehensive consideration and harmonisation with other line ministries. We repeat both recommendations, including other unrealised ones concerning children with special needs.

Certain progress was made in 2021 with regard to the **situation of disabled persons,** but the majority of our recommendations relating to the disabled in general remains unrealised. **For example, the recommendation that the Government draft a suitable proposal as soon as possible for the Republic of Slovenia to establish an independent body for promoting, safeguarding and monitoring the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in accordance with paragraph two of Article 33 of the Convention is still unrealised. We repeat the recommendation,** as the current situation is not in favour of disabled persons. Through our Human Rights Centre, in 2021 we **regularly informed the public every three months** about the Ombudsman's work concerning the rights of the disabled. **For a number of years, we have been highlighting that disability must be understood in accordance with the CRPD and not arbitrarily.** We received **several complaints in which the complainants disagreed with the decision of the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) not to recognise the right to disability allowance.** These were all individuals whose physical impairments occurred after 2013 due to illness. To this end, we particularly commended the decision of the National Assembly in July 2021 to adopt the amended Pension and Disability Insurance Act with 86 votes in favour and three against at the proposal of the National Council, which equalises the right to receive disability benefits for persons whose disability occurred as a result of an injury outside of work. The Deputies unanimously supported the act that eliminated injustices involving blind and partially sighted children. We were also successful in a specific case, **in which a complainant acquired disability allowance in a complaint procedure at the ZPIZ after the Ombudsman's intervention.** We believe that a question on whether a final medical condition in which improvement of a medical condition cannot be expected despite possible treatment, and on the contrary, whether further treatment or medical measures are needed for an individual for whom an improvement of a medical condition can be expected **is exclusively an expert medical question which must be answered clearly in the procedure and supported with evidence.** This was missing in the specific procedure, which represents a violation of the General Administrative Procedure Act regarding the establishment of the actual situation, thereby also violating the provisions of the Pension and Disability Insurance Act and Article 50 of the Constitution on the right to social security.

The Ombudsman also strives for the voice of the people and particularly children with **autism** to be heard and their rights are being realised. Due to better access to information and different awareness-raising programmes, knowledge about autism is improving, but is still insufficient, not only among the lay public, but also those who come into contact with people with autism. The Ombudsman is certain that it is vital to form community care for people with autism spectrum disorder (ASD). **Public systems provide insufficient services to support a child's development.** It is not fair that children whose parents have a better social status receive help, while others depend on programmes with limited funding. **The Ombudsman thus recommends that the MDDSZ systemically arrange care for persons with autism so that suitable assistance will be available to all persons with ASD as a public service. The insufficient number of experts dealing with autism in our country is also alarming, as the Ombudsman has been pointing out for years.**

**In 2021, the Ombudsman again received complaints about treatment and implementation of special protection measures with physical restraints. As per the Mental Health Act, special protection measures in psychiatric hospitals and social care institutions constitute a severe encroachment on human rights.** When dealing with complaints and implementing NPM, the Ombudsman stresses that applicable regulations must be observed consistently when deciding to implement special protection measures and respect professional standards and recommendations. **The Ombudsman emphasises that the question of paying for the costs of care in the event of involuntary accommodation in a secure ward of a social care institution is still unresolved. The Ombudsman commends that the Act on the Payment of Unpaid Disability Benefits was adopted at the end of 2021,** which highlights legal bases for recognising disability benefits for those persons with disabilities who, during regular education between 18 and 26 years of age, were not recognised the right as per the ZDVDP, but obtained it after the completion of regular education. As a result, our recommendation that the MDDSZ rectifies the injustices perpetrated upon people whose disability status as per the ZDVDP was not recognised retroactively during education, and eliminates the legal vacuum of the Social Inclusion of Disabled Persons Act relating to the time of recognising disability if it occurred after the age of 18, was also realised. **The recommendation to the MDDSZ to observe the Ombudsman's comments and proposals when regulating the field of personal assistance was also realised, as the Ombudsman's comments were broadly taken into account. The proposed Act Amending the Personal Assistance Act was adopted in October 2021. Our comments were observed to a great extent and the amending act denotes a necessary step in the right direction**

The Ombudsman emphasises and advocates intergenerational harmony as a necessity for coexistence of various generations, and public support must be earned for successful functioning of institutions. In a specific case, the Ombudsman forwarded its opinion to the institutional care provider, pointing out the autonomy of persons with intellectual and developmental disabilities. The Ombudsman recommended that institutional care providers not restrict residents with intellectual and developmental disabilities whose legal capacity was not revoked if this is not necessary and exercise control over them as per the principle of proportionality.

The Ombudsman highlights that **deinstitutionalisation** is frequently **misunderstood**. It must be understood in the sense of **Article 19 of the CRPD**, which defines the right of per-

sons with disabilities to live independently and be included in the community. For correct understanding of this right, **the Committee on the Rights of Persons with Disabilities adopted General Comment No. 5 (2017)** on Article 19 of the CRPD. The Committee particularly highlighted the urgency of deinstitutionalisation, which requires the implementation of structural changes – these must refer to the establishment of additional services and not only the closing of institutions. The Committee stressed the immediate deinstitutionalisation of children with disabilities, and is also drafting the “Guidelines on living independently and being included in the community: deinstitutionalisation of persons with disabilities, including in emergency situations”. Significant progress was also made within the Council of Europe in 2021 relating to the understanding of deinstitutionalisation. The Committee on Social Affairs, Health and Sustainable Development in the Parliamentary Assembly of the Council of Europe drafted and adopted the draft resolution and report on the deinstitutionalisation of persons with disabilities in March 2022, which particularly highlights that, in cooperation with organisations of persons with disabilities, Member States develop a deinstitutionalisation strategy financed accordingly, which will be based on human rights.<sup>1</sup> **Regarding the deinstitutionalisation, the Ombudsman submitted recommendation no. 11 (2019) which unfortunately remains unrealised and we are repeating it again. A shift in the mindset is required. It is high time that the competent authorities in a dialogue with the interested civil society draft a comprehensive deinstitutionalisation strategy as soon as possible which will observe the international standards respecting the rights of people with disabilities. Simultaneously with the deinstitutionalisation as per the CRPD, the state should also adopt the deinstitutionalisation strategy for the elderly. Although, no internationally adopted standards exist yet, it is perfectly clear that Article 19 of the CRPD can also apply by analogy to the rights of the elderly.**

In the field of **equality before the law and prohibition of discrimination**, the cases discussed focused on **access for persons with disabilities** to the built environment, public transport, communications, etc. **When dealing with the alleged unresponsiveness of the building inspection service to complaints about architectural barriers, we discovered systemic irregularities in the Equalisation of Opportunities for Persons with Disabilities Act (ZIMI).** It was revealed that the building inspection service only has control over buildings under construction and not over already built facilities. Paragraph one of Article 9 of the ZIMI stipulates that discrimination on the basis of disability is prohibited when accessing facilities in public use and that the investor must eliminate the barriers within 15 years after the ZIMI enters into force. **However, the ZIMI does not specify the body that is to supervise the implementation of this provision or the measures for elimination of irregularities.** During the discussion of the new Building Act, no actual preparedness was noted for the implementation of amendments. **We have already submitted a proposal for amending the ZIMI. We also point out that the minister responsible for disability protection is more than ten years overdue with the issue of an implementing regulation defining minimum requirements for the accessibility of goods and services to persons with disabilities.** And this also restricts prosecution as per the ZIMI. **I note with concern that a physically handicapped person may still find themselves before an insurmountable barrier, a step, an entrance to a social work centre, pharmacy or another public institution eleven years after entry into force of the ZIMI.** The 10-year transition period has also expired with regard to the promises of ensuring equal access to public road transport

for persons with disabilities. We commend the effort of the Slovenske železnice company concerning the accessibility of trains.

In this connection, we also pointed out **the importance of education about the accessibility of the built environment for the persons with disabilities in the field of social activities.** It is not only the overcoming of physical barriers and subsequent adjustment of infrastructure that is crucial, but also the overcoming of mental barriers and subsequent provision of the best starting conditions. In 2021, we discussed a letter from the Slovenian Paraplegic Association about the need for including seminars about the elimination of architectural barriers in the educational content of the Faculty of Architecture and we extended our inquiries to the Faculty of Civil and Geodetic Engineering of the University of Ljubljana, as we are entering the last third of the transition period for the elimination of architectural barriers, which will end on 11 December 2025. **We also noted that secondary school students or children with special needs in the Primorska region can only choose from three programmes of lower vocational education.** As per the reply of the competent ministry, we determined that there were no obstacles for new programmes to be approved regarding the capacities of schools, but there was an absence of realisation. All children can choose to be educated as close to their home as possible.

In the field of **healthcare,** we pointed out that **access to a physician and quality of treatment are the key elements of public healthcare. Many of our past recommendations remain unrealised in this field; the situation remains problematic and was further worsened during the COVID-19 pandemic.** We particularly highlight the unrealised recommendations that the competent authorities take measures to ensure a sufficient number of general practitioners, occupational health specialists, paedopsychiatrists and ophthalmologists as soon as possible, that the register of rare non-malignant diseases has not yet been established, that the accommodation capacities for persons who complete hospital treatment but whose medical condition prevents them from being independent have not been sufficiently provided for from the systemic aspect, and that the Health Insurance Institute of Slovenia (ZZZS) grants temporarily immobile persons the right to borrow medical devices. Furthermore, a systemic solution for employed people who take care of their seriously ill relatives at home has not yet been drafted and we also await the preparation of a new act on complementary, traditional and alternative forms of diagnostics, treatment and rehabilitation. We recommend that the Ministry of Health adopts the measures necessary for the provision of (urgent) paedopsychiatric treatment of children and prepares a suitable regulatory framework that will enable access to regular treatment of children, adolescents and adults in the field of mental health. Despite the appeals and urgent letters, the competent authorities failed to provide a regulatory framework for psychotherapy in 2021, as the psychotherapeutic activity in Slovenia is not regulated at all and is subject to abuse. Suitable legal regulation of this field is also urgent due to the consequences of the COVID-19 pandemic and should be one of the priority tasks, which is why we cannot accept the position of the Ministry of Health that it was not among the priorities due to the pandemic.

**In general, we cannot be satisfied with the responsiveness of the Ministry of Health and the ZZZS, and we also highlight that the provisions of the Patients' Rights Act must be observed consistently in all health institutions when dealing with patient complaints.**

In the field of **social matters**, we point out that a welfare state has three fundamental objectives: to reduce poverty, to provide quality of life and to reduce inequality in society. **While the majority of our past recommendations remains unrealised in addition to the frequently poor response by the competent ministry**, I also wish to highlight that certain recommendations were realised. As mentioned before, a step in the right direction was the adoption of the **Act on the Payment of Unpaid Disability Benefits and the Act Amending the Personal Assistance Act**. **However, due to a disagreement, the competent ministry rejected our recommendation to draft amendments to legislation so that all persons with disabilities, i.e. persons with disabilities with status pursuant to the Vocational Rehabilitation and Employment of Persons with Disabilities Act and persons with disabilities with status pursuant to the Social Inclusion of Disabled Persons Act, could enjoy comparable social security**. We repeat the recommendation, as we do not see reasonable grounds for different treatment. We also repeat the **unrealised recommendation that the competent authorities systemically regulate the Social Assistance Act, which regulates home care assistants, the Personal Assistance Act, which stipulates the institute of a personal assistant, and the act that will regulate long-term care**.

**Many new recommendations were submitted in the field of social matters**. We recommend that the MDDSZ systemically regulate care for persons with autism so that suitable assistance will be available to all persons with ASD as a public service. **We also stress that social work centres must provide adequate reasoning for their decisions. Relating to the observance of personal rights in institutional care, we received a complaint stating that it took as many as three years for the competent authority to resolve a complaint regarding a relocation from one retirement home to another. Such lengthy decision-making is completely unacceptable**.

Within **public discussion about the proposed Long-Term Care Act**, we also submitted extensive comments from the perspective of respect for human rights and fundamental freedoms in the proposed regulation; **unfortunately, we have to highlight that the majority of these comments was not observed in the final text of the Act as adopted in December 2021**. Uncritical linking of the proposed Act with the regulations concerning compulsory health insurance was assessed as problematic, while the Act also fails to regulate connections with the remaining legislation, which regulates the field of care in a fragmented manner. We also pointed out that the realisation of the principles of good governance and protection of rights of the party to proceedings should be ensured in the proceedings of realising the rights to long-term care. We also mentioned the ill-conceived arrangement of additional rights arising from long-term care and the right to services for enhancing and preserving independence, which has no substantial content. The Act also fails to dedicate sufficient attention to deinstitutionalisation, although it initially refers to this field. The need and wishes of users to be able to live in their home environment for as long as possible have been addressed several times. These were but a few of our observations or concerns regarding the proposed solutions, which were unfortunately not observed.

**The elderly** received more attention in the last year, most likely also due to the consequences of the COVID-19 epidemic, but that does not mean that significant progress was made in this field. Although, **the long-awaited Long-Term Care Act was finally adopted in December 2021, we deeply regret that the Ombudsman's comments to the draft Act were**

**largely disregarded.** We emphasise that, if deficiencies are established in the Act, especially from the aspect of ensuring the rights of the elderly, it would be sensible to eliminate them as soon as possible either at the implementing, executive or legislative level.

The Ombudsman calls on all competent authorities to maintain the addressing of problems concerning the elderly on a high priority list. **The Ombudsman points out that lengthy decision-making by the ZPIZ in connection with pensions is inadmissible and represents a violation of the principle of good governance.** In a specific case, the ZPIZ needed almost eight months to decide on a complaint. Similarly, the lack of traceability of the administrative procedure constitutes a violation of the principle of good governance. We also discussed a complaint regarding a medical examination for the renewal of a driving licence, which again resulted in an unacceptably long wait. In this regard, **the Ombudsman again recommends that the Ministry of Health adopt measures that will ensure a sufficient number of occupational health specialists. The Ombudsman also found discrimination against pensioners in their entitlement to free transport, whereby certain pensioners were treated less favourably.**

Regarding the **position of women** in society, the Ombudsman commends that **a new definition of the criminal offence of rape and sexual violence was finally entered in the Criminal Code (KZ-1) in 2021, which is now compliant with the Istanbul Convention and the practice of the ECHR.** The Ombudsman's recommendation was thus realised. **Nevertheless, the Ombudsman highlights that no necessary amendments have occurred yet with regard to the provision of the Crime Victim Compensation Act (ZOZKD), which lays down the right to special state compensation for victims of violent crimes and their relatives for crimes committed in the territory of the Republic of Slovenia, and there is also no progress in connection with the prevention of human trafficking or the prevention of violence against women and domestic violence.**

Regarding **LGBTIQ+ rights,** the Ombudsman emphasises that the **recommendation that the competent authorities draft an act proposal that will regulate legal gender recognition has been unrealised for several years and the work of the Inter-Ministerial Working Group is progressing very slowly.**

General findings relating to **national and ethnic groups** are the same as last year. As before, the majority of cases referred to the Roma community. As already stated so many times before, we must repeat our opinion on the basis of the activities in 2021 **that inadequate legal and municipal services in Roma settlements pose a threat to the realisation of the human and special rights of the Roma community and its members** on the one hand, and the realisation of human rights and fundamental freedoms of other residents who live there on the other. The Ombudsman detects that both rightfully feel that their dignity has been violated in regard to personal rights, property rights, equality before the law and, finally, trust in the rule of law. The Ombudsman also noted a growth in peer violence among children, which should not be relativised in any way regarding the ethnic origin of the children involved. **In 2021, the Ombudsman succeeded in that the Government adopted a decision asking the municipalities to adopt detailed sectoral programmes**

**and measures as per the Roma Community in the Republic of Slovenia Act.** In the 2013 Annual Report, the Ombudsman noted that the municipalities do not fulfil their obligations under the relevant Act and that they must adopt detailed sectoral programmes and measures for coordinated realisation of special rights of members of the Roma community. According to the data obtained by the Ombudsman, only 13 per cent of municipalities meet this statutory obligation. Finally, **the Ombudsman commends the fact that in 2021 the Ministry of Education, Science and Sport amended relevant rules and systematised the position of Roma assistant in kindergartens, primary schools and primary schools with an adapted programme in the next academic year. The situation of the Roma pupils is still of concern** and the Ombudsman calls on the competent ministry to ensure that they will not be even more disadvantaged due to the measures to contain the COVID-19 pandemic. The Ombudsman also reiterates the recommendation that Slovenia ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights as soon as possible.

We also received **a complaint about the refusal to use the Slovenian language in Trieste.** The Ombudsman received an explanation from the Ministry of Foreign Affairs, from which it follows that Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination allows individuals to contact the Committee on the Elimination of Racial Discrimination directly. **The Ombudsman additionally points out that the Republic of Slovenia has the option to highlight the rights of the Slovenian minority in Italy at the next cycle of discussing Italy within the Universal Periodic Review** in the United Nations Human Rights Council. In 2021, the Ombudsman further monitored the circumstances of **repatriation**, which poses many challenges for Slovenia. The problems arise in connection with the accommodation and learning of Slovenian. In both cases, the source of problems lies in the incompleteness of the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad regarding the responsibilities of line ministries.

In the field of **freedom of conscience and religious communities**, the Ombudsman condemned the damage of a fresco in the Cathedral of St Nicholas in Ljubljana. **We also dealt with a case in which a complainant was disturbed by a cross that was standing in a new section of the cemetery**, as the deceased of various religions were buried there or those who did not necessarily identify with religious symbols. **The Ombudsman believes that Article 7 of the Constitution of the Republic of Slovenia does not oblige the state or local authority to remove any religious object or symbol and establish a completely religiously sterile public space. From the systemic aspect, the Ombudsman discussed the wearing of the Islamic headscarf in healthcare.** The latter is part of the freedom of conscience under Article 41 of the Slovenian Constitution. The duty of the state to protect freedom of religion does not mean that every state measure or limitation of the right already means an inadmissible interference with freedom of religion, as human rights and fundamental freedoms are limited by the rights of others and in certain cases determined by the Constitution. **The Ombudsman determined that the field was not properly regulated** and it proposed that the Ministry of Health draw up an appropriate regulation that will systemically regulate the issue of the ban or the right to wear a headscarf for healthcare providers throughout the country.

In 2021, the Ombudsman dealt with several cases in which systemic deficiencies were identified in the field of **the employed and the unemployed**. **One of the most important Ombudsman's findings is that judicial protection should be available to a worker against the warning before termination of employment; however, the warning before the termination of employment does not represent an independent legal remedy according to the current regulation (and case law)**. The fact is that the employer, as the stronger party in the employment relationship, can abuse the warning before termination of employment, against which no judicial protection is possible, to exert psychological pressure on the employee. According to the Ombudsman, an unfounded warning may constitute a prohibited interference with the employee's personality. **We also detected ambiguities in the Transnational Provision of Services Act (ZČmIS)**. **We found that certain formal inconsistencies prevent the (effective) control of companies that post workers abroad; furthermore, the envisaged implementing act from paragraph nine of Article 9 of the Act has not yet been adopted, although the ministers responsible for labour and health should have issued it five years ago**. We also considered two cases in which the length of the procedure proved to be a problem. **When deciding on the application to obtain a title in healthcare, the Ministry of Health (MZ) needed almost seven years to decide on the application**. The MZ explained that the main reason for the delay was the inactivity of the Commission for Professional Promotion but stated that the backlogs were resolved in the 2019-2021 period. The Ombudsman also noted that the Commission had not yet adopted the rules of procedure for its operations, but the MZ urged it to adopt this. In regard to **unemployment**, the Ombudsman dealt with very few cases in 2021. These mostly related to unsuccessful seeking of employment, and one case related to the obligation of an active job seeker to attend an interview with their adviser at the Employment Service of Slovenia.

The field of **foreigners** was one of the most diverse in 2021 both in terms of the number of cases dealt with and the complexity of their content. **With regard to the rights of foreigners to family life, we have repeatedly observed controversial practices by competent authorities**. Too often, we also find that individual proceedings take too long. Not much has changed relating to the issue of border developments in connection to current migration flows. Unfortunately, the Constitutional Court had not yet reviewed the content of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the readmission of persons whose entry or residence is illegal, as our constitutional complaint was dismissed due to procedural reasons. **More encouraging developments occurred in the so-called subsidiary administrative dispute against the conduct of the border police, in which the Administrative Court established violations of the plaintiff's right to the prohibition of refoulement and collective expulsion and the right to access the asylum procedure under Article 18 of the EU Charter of Fundamental Rights**. We also point out that, according to EU law and the International Protection Act (ZMZ-1), an individual has the right to express their intention for international protection to any authority, even those that are not competent to decide on international protection. In one of the discussed cases, we found that the investigating judge did not observe the foregoing when two Turkish-speaking witnesses applied for international protection during interrogation. **The Ombudsman is concerned because the latest amendment to the Foreigners Act (ZTuj-2) from April 2021 deviated away from the solution that would enable effective enforcement of the right to family reunification**, as the new text of Article 47b

now explicitly stipulates that an application for reunification can only be submitted after the recognition of the subsidiary protection status has become final.

As regards the **treatment of cases submitted by foreigners without the element of international protection**, we gave an opinion in 2021 based on Article 25 of the Human Rights Ombudsman Act (i.e. so-called *amicus curiae*) in the case regarding the right to a residence permit and a work permit of a parent, which arose from the EU citizenship of a minor child. We also achieved a change in the practice of one of the administrative units after we assessed that the requirement for an EU citizen residing in another Member State to extend their residence registration certificate every time their fixed-term employment contract expires is too formalistic and contrary to the freedom of movement and residence of EU citizens. We also highlight that **the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents has not been implemented accordingly in the Slovenian legal order**, which should be regulated in the Foreigners Act. We also dealt with certain cases referring to lengthy proceedings. Due to the lengthy decision-making regarding a child's permanent residence permit and the failure to observe the principle of protecting the rights of the parties to proceedings, a child in one case not only failed to obtain the relevant permit, but was left with no place of residence. **Based on the principle of protecting the rights of the parties in the administrative procedure, we believe that the administrative authority should inform the client that, despite the submitted application for a permanent residence permit, it is necessary to apply for an extension of the temporary residence permit in a timely manner. We inform the authorities that the continuation of the mentioned negative practice of failure to notify could lead to a new systemic problem of erasure and violation of human rights.** Furthermore, the child's best interests must be observed in administrative procedures when decisions involve minor children.

In the field of **the protection of dignity, personal rights, safety and privacy**, we discussed **a complaint relating to the right to express reverence**. Already in 2009, the Constitutional Court wrote that the expression of reverence of relatives towards the deceased are protected within the framework of their personal rights, more precisely within the framework of the personal right to mental integrity, i.e. within the framework of Article 35 of the Constitution. In 2011, the Ombudsman advocated that hospitals should enable the relatives of a deceased person to say goodbye in a suitable place and that this matter should be regulated uniformly throughout the entire country. At the time, the Ombudsman submitted a recommendation to the Ministry of Health to uniformly regulate the issue of relatives saying goodbye to their loved ones in all community health centres, and the Ministry explained that it called on all hospitals to ensure that relatives have the opportunity to say goodbye in a dignified manner. **In the field of personal data protection, no amendment or new act on personal data protection was adopted in 2021 that would adequately implement the General Personal Data Regulation that has been directly applicable since 25 May 2018. The Ombudsman also calls on the Government and the National Assembly to prepare a legal basis that will enable the collection of disaggregated data based on individual personal circumstances with the aim of promoting equal treatment and equal opportunities.** Article 17 of the Protection Against Discrimination Act (ZVarD) stipulates that state authorities and local self-government bodies take special measures to ensure equality and these measures must be based on analyses of the existence of a less favourable position

according to paragraph two of Article 18 of the ZVarD. The collection of disaggregated data is thus indispensable for ensuring equality and developing related policies. **Paragraph four of Article 15 of the Constitution stipulates that “no human right or fundamental freedom regulated by legal acts in force in Slovenia may be restricted on the grounds that this Constitution does not recognise that right or freedom or recognises it to a lesser extent”.** Article 14 of the Constitution guarantees equality before the law and equal opportunities as one of the fundamental human rights. As a result, we believe that the inadmissibility of collecting disaggregated data based on individual personal circumstances cannot be invoked on the grounds that Article 38 of the Constitution, which regulates the protection of personal data, does not permit this. Many international authorities, such as the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the European Commission against Racism and Intolerance, the Commissioner for Human Rights of the Council of Europe and others, call on Slovenia to collect disaggregated data. **To illustrate the problems, we can highlight the efforts for the integration of the Roma community into Slovenian society,** whereby a question arises whether the absence of data on the actual situation and social circumstances of members of the Roma community is not one of the reasons for the lack of progress in the integration of Roma into society. **We note in the field of the fight against trafficking in human beings** that our recommendations are not realised. I especially highlight that the position of a **special national rapporteur on combating trafficking in human beings**, the tasks of whom the Ombudsman is prepared to assume, has not yet been established. **We also insist on last year’s recommendation regarding the ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.**

In the field of **freedom of expression**, we point out that **Slovenia has not yet ratified the so-called Tromsø Convention, i.e. the Council of Europe Convention on Access to Official Documents**, which Slovenia signed in 2009 and which entered into force on 1 December 2020 with a sufficient number of countries ratifying it. **Furthermore, an amendment to the Mass Media Act has not yet been adopted with which, as per the prohibition of spreading hatred in the media (Article 8), the method of protecting the public interest would be determined, including measures to eliminate irregularities, i.e. the immediate removal of illegal content, and sanctions for media that allow the publication of hate speech.**

In the field of **assembly, association and participation in the management of public affairs**, 2021 was particularly marked by the **referendum on the Act Amending the Water Act (ZV-1G), measures relating to the restrictions regarding freedom of assembly to prevent the COVID-19 pandemic** on which the Constitutional Court has already ruled, and **the judgment of the European Court of Human Rights in the case of Toplak and Mrak v. Slovenia**, in which the aforementioned court concluded that the lack of legal remedies for asserting allegations of discrimination before national authorities constitutes a violation of the European Convention for the Protection of Human Rights.

In the field of **restriction of personal liberty**, **we provide several new recommendations and point out that numerous past ones remain unrealised.** Somewhat fewer complaints were received from detainees and prisoners in 2021 than in 2020. These were still fur-

ther checked with the Prison Administration of the Republic of Slovenia (URSIKS), prisons (ZPKZ) or with the Ministry of Justice and courts. **We must commend this cooperation as the authorities we contacted regularly responded to our requests. The main issue of overcrowding of (at least certain) prisons remains relevant, also due to a considerable increase in the number of foreigners and the lack of staff in all lines of work, especially with regard to expert work with prisoners and security.** The expected construction of a new accommodation facility in Ljubljana and the renovation of the Ig Prison, which is necessary due to poor conditions there such as unsuitable places for visiting children of female convicts and detainees, would solve some of the problems. Again, we draw attention to the position of vulnerable groups in prisons, primarily the imprisoned persons who, due to age, illness or disability, require additional help in meeting basic life needs in the form of nursing or social care, in order to ensure respect for their personality and dignity.

**Unfortunately, an act which would comprehensively regulate the treatment of juvenile offenders has still not been drafted.** In connection with forensic psychiatry units, **the issue of preparation and publication of the list of providers of the security measure of compulsory psychiatric treatment of persons at liberty for the entire country is still unresolved.** The majority of relevant issues discussed is related to the Mental Health Act or unresolved systemic issues because, despite all our warnings about the necessity of taking action and the decisions of the competent authorities regarding the violation of human rights of the residents, the situation in secure wards of social care institutions (both general and particularly special) has not changed significantly. **We point out in particular that the accommodation of children and minors with predominant mental health disorders and mental and physical development disorders in secure wards is not adequate or appropriate** if these wards are intended for adults and are not adapted in terms of space, staff and programmes. Since January 2021, the situation of these children is being governed by the Act on the Intervention for Children and Youth with Emotional and Behavioural Disorders in Education. Our comments were also submitted for the preparation of the Rules on Amending the Rules on Implementation of Educational Measures.

We also received several complaints about the **accommodation and treatment of foreigners at the Centre for Foreigners.** The warnings of the Centre and the Ministry of the Interior that the treatment of accommodated foreigners due to violations of the house rules is becoming increasingly demanding are alarming. **We especially highlight that our past recommendations for appropriate accommodation and treatment of unaccompanied foreign minors have not been implemented.**

In the field of **the judicial system,** we are pleased with the response of the competent authorities, while the number of cases being dealt with has somewhat increased again. Based on the **cases discussed, we can ascertain that trials within a reasonable time are no longer a systemic problem,** as the number of complaints received in 2021 referring to lengthy judicial proceedings has reduced. The measures to contain the spread of coronavirus infections also affected the scope and the manner of operations of courts in 2021. **Increasing the public trust in the operations of the judiciary continues to be one of the challenges.** For successful work of the courts, it is necessary to continue to strive for the improvement of the sectoral legislation and for the elimination of the spatial and staffing problems of the judiciary. **In view of the decisions of the Constitutional Court on the inva-**

lidity of the ordinances related to the measures to prevent the spread of the coronavirus disease, **the use of legal remedies against minor offence decisions** issued on the basis of regulations to prevent the spread of the epidemic is a relevant question. **Relating to the proposed Debureaucratisation Act, we highlighted that the proposed amendments unacceptably interfere with the fundamental constitutional rights** of the alleged offenders and reduce their legal security. We followed with concern the complication in the appointment of prosecutors, especially the (non)appointment of European delegated prosecutors. The Ombudsman notes that the decision-making procedures should be carried out without undue delay **and any deficiencies in the existing system should be eliminated as soon as possible by the competent authorities** in order to ensure the conditions for smooth operation of all prosecution offices for efficient prosecution of criminal offences. **In the field of attorneys, we further highlight that there has not been the expected amendment to the legislation that would ensure better accessibility to pro bono legal aid. Although the Ministry of Justice rejected our recommendation in this regard, we insist that any additional incentives for the provision of legal aid outside the framework of the existing system under the Legal Aid Act (ZBPP) would be welcome.**

The response from the competent authorities relating to **police proceedings, private security service, detectives and traffic wardens** is commendable. **In 2021, the complaints referred to various aspects of police officer conduct.** Many of our activities in this field were also related to the measures taken due to the COVID-19 epidemic. We commended the fact that the Minister of the Interior issued the **Rules Amending the Rules on the Reimbursement of Travel Costs to Summoned Persons** in 2021, which observed the amended Criminal Procedure Act or our past efforts to arrange the reimbursement of travel costs for summoned persons. When dealing with cases, **the question of the effectiveness of the existing complaints or control mechanisms over the work of security guards and traffic wardens remains open.** We recommended that city wardens carefully select sanctions for minor offences while observing the **specifics of homeless persons.** When visiting police stations, we continued to draw attention to the errors identified in the keeping of documentation in cases of deprivation of liberty. **We are generally satisfied with the responses of the Ministry of Justice to our past recommendations.** Regarding the resolution of complaints against the work of police officers, we recommend to the Ministry that, within the framework of training police officers who conduct conciliation procedures as per the Police Tasks And Powers Act, special attention is also paid to the fact that the authorised person who conducts the hearing enables the participants in the procedure to monitor the taking of the minutes on the conciliation procedure to the greatest extent possible and also duly record the statements of the participants given at the hearing in the minutes.

In the field of **other administrative matters,** we particularly emphasise the conduct of procedures as per the General Administrative Procedure Act. The majority of cases dealt with in 2021 were **tax related.** We received a complaint regarding the difficulty of reading the income tax assessment notice due to the small font used. **We believe that with a correctly and legally conducted (fact-finding) procedure and the content of the issued decision, we should certainly not neglect the importance of an appropriate format. The format of issued decisions should be (equally) friendly to all taxpayers, regardless of whether a simple or a special fact-finding procedure was conducted. On that note,**

we also added that not all taxpayers can be expected to have the necessary computer knowledge and required equipment. In the matter of less favourable tax treatment of pensions from abroad, we found a violation of the principle of equity and we recommended that the Ministry of Finance amend Article 127 of the Personal Income Tax Act (ZDoh-2) accordingly.

In the field of the **environment and spatial planning**, it must be highlighted that the conduct of the drafters of regulations is all too often inconsistent with the right of the public to participate in the adoption of environmental regulations. In our opinion, short deadlines for discussion, subsequent substantial supplementation of draft regulations and their insufficient explanations represent a significant devaluation if not a complete voiding of this right, which should be interpreted as a form of direct participation of citizens in the management of public affairs under Article 44 of the Constitution. In three specific cases of drafting acts in the field of the environment and spatial planning in 2021, this procedure proved to be problematic, i.e. the procedure of preparing the proposed Act Amending the Water Act (proposal ZV-1G) was questionable; an unsubstantiated proposal of the new Environmental Protection Act was forwarded for public discussion, and the Ministry also significantly altered the originally proposed regulation from the proposal of the Building Act outside the framework of public consultation. We recommend to the Ministry of the Environment and Spatial Planning that, in addition to the observance of the provisions of the **Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)**, it also observes the **Resolution on Legislative Regulation (ReNDej)**, which, among other things, stipulates that the competent ministry submits draft regulations for public consideration that are exclusively inter-ministerially coordinated. **The Ombudsman notes with concern the tendencies of the authorities to not actually ensure the participation of potentially affected individuals in specific administrative procedures.** In the field of the environment and spatial planning, we also emphasise the **unacceptability of excessively long inspection and other administrative procedures.** Since 2007, the **Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning (IRSOP)** has been drawing attention to the issue of the inefficiency of inspections under its jurisdiction. We also call on the Slovenian Environment Agency (ARSO) to ensure all relevant procedural safeguards in the proceedings it conducts. We particularly insist on the recommendation that the Ministry of the Environment and Spatial Planning draft a regulation to govern odour emissions in the environment.

Regarding **regulated activities**, we reiterate the recommendation that the Government and the National Assembly prepare and adopt the necessary regulations that will enable the realisation of the right to drinking water enshrined in the Constitution, the Environmental Protection Act, the Services of General Economic Interest Act, the Local Self-Government Act and elsewhere as soon as possible, as our recommendation is still unrealised in this regard. We remind the competent authorities that the right to drinking water must have a uniform legislative framework at the state level and not, as is the case now, allowing each individual municipality to determine the conditions for disconnecting the drinking water supply. At this point, we highlight that the disconnection of the drinking water supply may be a **disproportionate measure** in regard to non-payment. In

other fields, we found that decision-making by inter-municipal inspectorates is frequently too slow; **lengthy inspection procedures thus present a problem at the national and local levels.**

The majority of complaints in 2021 in the field **of housing matters** referred to the **(non) allocation or eviction from non-profit housing or the living conditions in such housing.** As per our powers, we usually cannot help these complainants in specific cases and we can also not help in cases when **the complainants are about to be evicted.** From the viewpoint of our powers, **we can highlight the issue of (in)accessibility of housing,** especially for young people or young families, which points to the fact that the housing policy in the country is anything but adequate. Young people have fewer and fewer opportunities to buy their own real estate, while rents are also constantly rising. **It is becoming increasingly difficult to answer the question of whether this country still creates sufficient opportunities for individual categories of citizens to obtain proper housing, as stipulated by Article 78 of the Constitution. We repeat last year's recommendation that the competent ministry approach a comprehensive revision of legislation in the field of housing matters, especially the Housing Act, while also taking into account the Ombudsman's previous recommendations.**

## Operations of the Ombudsman's internal organisational units

**Despite numerous restrictions in 2021, the Ombudsman carried out the tasks and powers of the National Preventive Mechanism (NPM).** The purpose of the execution of the NPM tasks is to enhance the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment. When carrying out the tasks and exercising the powers, the NPM visits all places in Slovenia where persons deprived of liberty have been or could have been placed on the basis of an act issued by the authorities. These include preventive visits, the purpose of which is to prevent torture or other ill-treatment before it occurs. Each group implementing a visit consists of representatives of the Ombudsman and selected non-governmental organisations; in 2021, seven non-governmental organisations cooperated with us in the implementation of NPM tasks. **In 2021, we visited 60 places of deprivation of liberty, i.e. 21 police stations, 12 social care institutions (retirement homes), ten different locations of expert centres for children and adolescents, four prisons and Radeče Juvenile Correctional Facility, three special social care institutions, three psychiatric hospitals, three crisis centres for children and adolescents, an education, work and care centre, reception facilities of the Asylum Centre in the Logatec branch and reception facilities of the Asylum Centre in Ljubljana.** All visits (except two, i.e. one visit to a prison and one to the education, work and care centre) **were conducted without prior announcement.** There were ten control visits (when we particularly examined the realisation of NPM recommendations from past visits). During the visits, **the NPM issued a total of 501 recommendations, which is significantly more than the year before (329 recommendations);** of these, 142 were intended for police stations, 101 for prisons, 71 for psychiatric hospitals, 70 for retirement homes and 43 for special social care institutions. **Some 206 recommendations have already been realised, 179 were accepted, but not yet realised, 28 were not accepted, and the remaining ones await replies from competent institutions.** As every year, an independent NPM report has been

prepared about the NPM work which discusses in detail individual substantive findings of the situation at various places of deprivation of liberty.

**The Human Rights Council** is the Ombudsman's consultative body, which consists of various experts, members of the civil society and representatives of state institutions. The Council met twice in 2021. **The first session in February took place via the MS Teams platform and involved a discussion and the exchange of opinions regarding the Government's response to the COVID-19 epidemic and the consequences of the epidemic on human rights. The members of the Council were certain that part of the Government's ordinances, with which the anti-corona measures were adopted, represented a disproportionate and unfair encroachment on human rights. There lacked a connection between the events and measures or causes that led to such great and pronounced interference with human rights.** The Council's second session focused on the review of the Ombudsman's findings about the situation in the field of mental health and a discussion on this topic. **Preventive action, poor regulation in the field of psychotherapy, the lack of paedopsychiatrists and clinical psychologists were highlighted as particularly critical. The discussion also involved criticism of the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the Pension and Disability Insurance Institute of the Republic of Slovenia because they fail to observe the definition of disability as per the Convention on the Rights of Persons with Disabilities, in which a long-term mental health problem is defined as a disability and the persons affected may also contact the Committee on the Rights of Persons with Disabilities.** Regarding the discussions of the Council, we, as an institution, recommend that the Government establish a central contact point in the ministries for the preparation of an assessment of the compliance of regulations or measures with human rights and fundamental freedoms, and to add a mandatory explanation to the regulation in government materials: "Compliance of the regulation with human rights and fundamental freedoms."

In 2021, I also met with numerous **non-governmental organisations**, i.e. working in the fields of homelessness, autism, intergenerational cooperation, paraplegics and tetraplegics, the environment, young people, humanitarian activities, the deaf, deafblind and hard of hearing, trade union confederations and federations, the Nurses and Midwives Association of Slovenia, with SLOGA, a platform of non-governmental organisations for development, global learning and humanitarian aid.

**The Human Rights Centre** realises the general mandate held by the Ombudsman as the national institution for human rights with A status in compliance with the Paris Principles (1993). This mandate includes promotional activities, education and training as well as the organisation of consultations, cooperation with civil society, provision of general information on the types and forms of complaints to international bodies, and cooperation in international organisations and associations. In 2021, the Centre participated in the revision of the Ombudsman's presentation brochure, **When to Turn to the Human Rights Ombudsman**, which is available in several languages and in the preparation of the institution's easy-to-read presentation, **When and How to Contact the Ombudsman**. In the same year, the Centre also organised two web seminars. The first one related to the presentation of the **Ombudsman's Brief Guide: How and When to Complain about Human Rights Vi-**

**olations to International Committees of the United Nations**, and the second one to the presentation of the Centre's analysis, Criminal Prosecution of Hate Speech in Slovenia as per Article 297 of the **Criminal Code (KZ-1): Analysis of Prosecutorial Practice of Prosecuting the Criminal Offence of Public Incitement to Hatred, Violence and Intolerance in the 2008–2018 Period**. Based on the results of the above-mentioned analysis, which included the prosecutorial practice of dealing with the aforementioned criminal offence in the 2008–2018 period, we make several recommendations in the Annual Report, also regarding the formal harmonisation of the legal position of the Supreme State Prosecutor's Office with the judgment of the Supreme Court from 2019, regarding the preparation of appropriate legal bases that will enable effective prevention of hate speech on the Internet and the possibility of subsidiary prosecution of a criminal offence under Article 297 of the Criminal Code, as well as the preparation of an analysis of the appropriateness of the criminal law regulation of a hate crime.

I regularly point out the significance of the ethics of public discourse. On several occasions, we have provided reminders that various recent expressions of public intolerance did not arise suddenly, nor did they occur in a vacuum, but are the product of a public discourse that has been worrisome for some time now. Politicians and other holders of public office, who should set an example, have a particularly great influence on this. To this end, I am making the following recommendation this year, which is not new, as we have been repeating it for several years, but given the state of mind in Slovenian society and politics, it is absolutely necessary to highlight it at this point.

**Recommendation (ongoing task) no. 1: The Ombudsman recommends that all who participate in public discussions, particularly politicians in their statements and writing, avoid inciting inequality, hatred or intolerance on the basis of any personal circumstance, and when such cases occur, to respond and condemn them immediately.**

I expect both the Government and the National Assembly to respond in writing in the response report about how they intend to implement this recommendation, as there has been no written response to this recommendation in past years.

In 2021, the Centre also drafted **several international recommendations, i.e. about the situation of the rule of law for the European Commission, an interim alternative report to the European Commission against Racism and Intolerance (ECRI), an alternative report to the Advisory Committee on the Framework Convention for the Protection of National Minorities and the National Report on the Situation of Human Rights of Migrants at the Borders within the framework of ENNHRI**. The Ombudsman also met with the representatives of the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) when preparing the first report regarding the implementation of the Istanbul Convention in Slovenia. The Ombudsman also responded to numerous calls and questionnaires from United Nations bodies and other international organisations. The Centre was also active in the field of international cooperation, including, among other things, the Centre's employee representing the interests of ENNHRI in two working groups of the Council of Europe in which ENNHRI has observer status. As an ongoing task, we repeat past recommendations that, in accordance with ratified international treaties on human rights, the Government of the Republic of Slovenia regularly

and promptly send reports on the implementation of its obligations under international treaties to the competent committees established under these treaties. **In 2021, Slovenia submitted a report as per the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in due time, and it also submitted reports under the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child (CRC), which were delayed. At the end of 2021, Slovenia was late in submitting the report as per the International Covenant on Economic, Social and Cultural Rights; the deadline for submission of the report was 30 November 2019.**

Measures to contain the infectious COVID-19 disease also required adjustments in **the field of child advocacy**. Children for whom family fails to represent a safe environment drew the short straw during this time and the experience in advocacy has confirmed this. Advocacy, which enhances a child's voice, was particularly highlighted at this time. **In 2021, we received 107 complaints to appoint an advocate, who was appointed in 56 cases for 100 children. The advocates held 796 meetings with children, i.e. 7.9 meetings per case on average.** With regard to individual regions in Slovenia, the trend in the last three years shows the largest increase in the number of complaints being in the Štajerska region, including north-western Slovenia and the Gorenjska region. As far as the method of appointing an advocate is concerned, an appointment with the consent of parents is most frequent, followed by an appointment based on a court decision. The number of appointments for children above the age of 15 for which parental consent is not necessary also somewhat increased. **In the fifteen years of operations of child advocacy, an advocate had been appointed to more than 900 children by the end of 2021 and, on the basis of our experience, we can ascertain that it is sensible to appoint an advocate at the earliest possible stage of the procedure or, in other words, when things become so complicated in the family that the services, which are obliged to protect the rights and benefits of children, interfere.** We also find that **the competent institutions still do not do enough in practice to protect the rights of children, as they frequently fail to sufficiently consider their opinions, wishes and interests, and thus decide on their benefits on an insufficient basis.** In 2021, we **again pointed out the necessity of expedient judicial proceedings when it comes to children. In doing so, a sufficient number of court experts in family matters is extremely important, as their low numbers, which are extremely critical in Slovenia, can lead to violations of children's rights.** Therefore, we repeat our recommendation that the Government of the Republic of Slovenia and the Medical Chamber of Slovenia do everything necessary to eliminate the intolerable situation regarding the shortage of legal experts in family matters as soon as possible, as we find in cases of child advocacy that the shortage of legal experts in family matters can lead to violations of children's rights.

In 2021, we also issued a **publication, Child Advocacy**, which is the first such publication since the advocacy obtained a legal basis in the law. The publication is a valuable teaching material for new generations of child advocates, as it accurately presents the procedures for appointing an advocate, the treatment of a child through the prism of various disciplines and highlights how to hear the child's voice in administrative and judicial proceedings in which decisions are made about their future. **A two-day expert consultation on child advocacy entitled "A Child Between Two Fires and the Establishment of a Safe Space"** was

organised in Rimske Toplice in the autumn of 2021 and attended by the advocates, their coordinators and members of the Expert Council for Child Advocacy.

## International cooperation

In 2021, we were also active internationally. We further strengthened relations in international associations and organisations, and **attended more than 70 international events**. At the beginning of 2021, we obtained A status according to the Paris Principles relating to the Status of National Institutions for Promotion and Protection of Human Rights (1993), which is of historical importance for our institution and the country. As a result, we obtained the right to vote for the first time as a full member at the general assemblies of the Global Alliance of National Human Rights Institutions (GANHRI) and the European Network of National Human Rights Institutions (ENNHRI) in 2021. We represented the interests of ENNHRI in the working groups of the Council of Europe and cooperated with the OSCE Office for Democratic Institutions and Human Rights. In May, we hosted Roland Schilling, Head of the Regional Representation of the United Nations High Commissioner for Refugees (UNHCR) and enhanced bilateral cooperation with other related institutions in Europe and the representative offices of foreign countries in Slovenia.

In view of all the aforementioned activities, I was **unanimously elected to the Board of Directors for Europe within the framework of the International Ombudsman Institute (IOI)**, which is a recognition for past work, and above all, a commitment to spread the culture of respect for human rights at national, regional and international levels in the future. Recent developments and especially Russian aggression against Ukraine show that respect for human rights is by no means self-evident and that peace, democracy, the rule of law and human rights must be constantly pursued.

## Conclusion

It is impossible to mention all substantive fields, established deficiencies and violations of human rights and fundamental freedoms in the introduction. **The Ombudsman's operations are presented in more detail in the continuation of the report. I particularly wish to highlight the third section of this Annual Report, which fully refers to our activities related to the measures adopted to contain and prevent the COVID-19 pandemic.** The Report includes the following content:

- the first part is intended for reviewing the Ombudsman's work and operations, and the description of operations of the Ombudsman's different organisational units;
- the second part examines the content of the Ombudsman's work by individual vulnerable groups and substantive fields, a general assessment of the situation, an overview of the implementation of the Ombudsman's past recommendations and a presentation of the new ones;
- the third part is, in keeping with last year, dedicated to the presentation of the content of the work and an overview of the cases discussed in connection with the COVID-19 pandemic, and

- finally, an attachment with a detailed description of the Ombudsman's activities in 2021, including the explanation of certain new recommendations and expert clarifications of the Ombudsman's views.

An independent part of the Ombudsman's Report published separately is the **Report of the Human Rights Ombudsman of the Republic of Slovenia on the Implementation of the Tasks of the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

**Due to the protection of the environment and introduction of green business, we are publishing the Annual Report and the NPM Report for the first time only in an electronic PDF version, available on our website. In our opinion, such an approach is appropriate as the Report is primarily intended for the National Assembly and other state bodies and institutions. However, we must not overlook that in cases when publications are intended primarily for individuals, it is also necessary to bear in mind the fact that not everyone has access to information technologies or that their access is limited. From the point of view of equal accessibility, it is important to maintain paper-based operations or printed publications to the necessary extent. To this end, only the Summary of the Work of the Human Rights Ombudsman of the Republic of Slovenia for 2021 has been printed out, as we wish to inform the wider public about our work and certain key findings.**

The Ombudsman is a recognised and esteemed institution in Slovenia, which is to the credit of all the past holders of the office of Ombudsman and the dedicated work of all associates of the Ombudsman's institution, to whom I am grateful for their contribution. **At this point, I must emphasise again the importance of the autonomy and independence of the Ombudsman's operations, which includes financial and substantive independence.** We are a state institution with a mandate based on the Constitution and law, and we are also committed to high international standards in our work. We function as a bridge between the state and civil society. After the third year of my term, I can ascertain that much is yet to be done. My colleagues and I want to do our best to contribute to changes for the better and to be a strong voice for all those who are not heard. I repeat that society's attitude towards the most vulnerable is its best mirror.

Finally, I would like to thank everyone who cooperated with us in any way in the past year. **I also hope for good cooperation in the future, particularly regarding the realisation of our recommendations, which I hope I will be able to announce in the 2022 report we have been realising more successfully.** I still firmly believe that if our guideline at work and generally in our lives is to be more humane to one another, then with joint efforts we will also move the functioning of the state apparatus closer to the individual. Let us put the individual, their dignity and their problems at the centre. We are in the service of people, and we carry great responsibility towards them, each in our own field, so let us consider that as our work.

**Peter Svetina**  
Human Rights Ombudsman

# ACCESS TO THE OMBUDSMAN AND OPERATIONS OUTSIDE THE HEAD OFFICE IN 2021

Data on the Ombudsman's visits in the role of the National Preventive Mechanism (hereinafter: NPM) are provided in the chapter on the NPM.

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20

IN 2021, WE RECEIVED  
31.688

INCOMING DOCUMENTS  
(24,885 in 2020)

---

21

WE GENERATED  
9.203  
OUTGOING DOCUMENTS  
(9,323 in 2020)

---

In 2021, we did not hold meetings outside our head office due to the COVID-19 pandemic. As a result, the Ombudsman was accessible via other communications channels, which is also revealed by statistical data.

# SINGLE ENTRY POINT

People turn to the Ombudsman with complaints regarding alleged violations of human rights and freedoms, as well as general questions or problems that require only clarifications or referral to another (competent) body, which represents a large part of the tasks of expert colleagues and the colleagues of the Secretary General. The so-called single entry point (SEP), which was established in 2020 in order to discuss such questions and problems and optimise the work of the entire institution, strives to improve the quality of work and enhance the Ombudsman's openness and accessibility.

## **The work of the single entry point includes:**

- classification of complaints,
- answering all phone calls for the expert service (and also for the service of the Secretary General during the epidemic),
- daily reception of all previously announced and unannounced individuals who visit the Ombudsman personally,
- drafting of replies to complaints received as courtesy copies, clarifications and anonymous complaints.

## **The complaints received are delegated to the single entry point if:**

- the message received was sent to the Ombudsman only as a courtesy copy and the case requires no intervention by the Ombudsman,
- an anonymous complaint is concerned and requires no intervention by the Ombudsman,
- the case is clearly not in the Ombudsman's power,
- it is evident from the complaint that the complainant has not yet contacted the competent authorities,
- the complainant only seeks advice,
- hypothetical questions are concerned,
- the complaint is unclear,
- an inquiry about the Ombudsman's position is concerned (e.g. what have you done in this field in recent years, etc.),
- the Ombudsman has already taken a position regarding a certain issue.

## **Complaints and phone calls**

In 2021, the SEP **dealt with 1,636 complaints (1,085 in 2020) and accepted 3,143 phone calls (2,930 in 2020), of which 292 phone calls (487 in 2020) were connected to the issue of COVID-19. The SEP thus dealt with a total of 4,779 cases in 2021 (4,015 in 2020).** It must be noted that all calls were directed to the toll-free number during the pandemic, which means that the number of calls was significantly higher.

## **Openness of the institution**

**The SEP ensures the openness of the institution,** as the expert colleagues receive each announced or unannounced visitor to the SEP every day (except during the epidemic, when we did not receive clients) and provide them with explanations about the Ombudsman's powers, the procedure for filing a complaint and general clarifications about available legal options.

**At the SEP, the complainants receive written clarifications regarding the cases submitted to the Ombudsman as courtesy copies, requesting explanations, advice and views.**

# STATISTICS IN 2021

## 6.863

**CASES WERE DEALT WITH BY THE OMBUDSMAN IN 2021.**

In 2020, we dealt with 6,852 cases which denotes a **1.6-per cent** increase in 2021

### 3.143

**INTERVIEWS**

with callers who had not (yet) filed their complaints

### 28

**INTERVIEWS**

during meetings held outside the head office, which were recorded in official minutes as the complainants received clarifications and the issue did not require further treatment by the Ombudsman

### 3.038

newly opened complaints

### 682

complaints carried forward from previous years

### 3.248 or 87,3 %

complaints were completed

### 3.720

**COMPLAINTS**

were addressed by the Ombudsman in 2021, of which, as of 31 December 2021:

### 424 or 11,4 %

were being dealt with

### 48 or 1,3 %

were reactivated

### 475

or **14,62 %**

of complaints were substantiated, including 221 from the field of advocacy

### 280

or **8,62 %**

of complaints were not substantiated

### 1.985

or **61,11 %**

of complaints provided no further conditions for consideration

### 438 or

**13,49 %**

of complaints did not fall under the Ombudsman's jurisdiction

### 1 or

**0,03 %**

denoted a withdrawal of consent in the field of advocacy

### 69 or

**2,12 %**

of complaints were from the field of the National Preventive Mechanism

The Ombudsman determined that allegations of human rights and fundamental freedoms violations were **substantiated in 249 complaints** and that at least one (or more) fundamental human rights and freedoms (according to the Constitution of the Republic of Slovenia) were violated and that the principles of equity and good governance were not observed.

Of 249 substantiated complaints, the Ombudsman established **276** violations of human rights and fundamental freedoms (as defined in the Constitution of the Republic of Slovenia) and other irregularities, such as violations of the principle of equality before the law and of the principle of good governance.

To these 249 violations, **221 cases regarding child advocacy** must be added for which no specific violations were established, but which were treated as substantiated complaints and thus also included among the 476 substantiated complaints.

A higher number of rights violations in comparison with the number of substantiated complaints is the result of a higher number of established specific violations per individual complaint. When considering a complaint, we thus sometimes came across three or more violations of human rights and fundamental freedoms or other irregularities.

# STATISTICS IN CONNECTION WITH THE COVID-19 PANDEMIC

2021	TREATMENT OF COVID-19 CASES				
	COMPLAINTS IN THE FIELD	ENTRY POINT - COMPLAINTS	ENTRY POINT - INTERVIEWS	TOTAL CASES IN 2020	TOTAL CASES IN 2021
FIELD OF WORK					
1. EQUALITY BEFORE THE LAW AND PROHIBITION OF DISCRIMINATION	52	30	7	162	59
2. PROTECTION OF DIGNITY, PERSONAL RIGHTS, SAFETY AND PRIVACY	16	48	8	124	24
3. FREEDOM OF CONSCIENCE AND RELIGIOUS COMMUNITIES	1	1	0	8	1
4. FREEDOM OF EXPRESSION	0	7	0	6	6
5. ASSEMBLY, ASSOCIATION AND PARTICIPATION IN THE MANAGEMENT OF PUBLICAFFAIRS	1	0	0	6	1
6. NATIONAL AND ETHNIC COMMUNITIES	0	0	0	8	0
7. FOREIGNERS	6	1	1	10	7
8. RESTRICTION OF PERSONAL LIBERTY	15	2	3	85	18
PENSION AND DISABILITY INSURANCE	3	0	1	8	4
HEALTHCARE AND HEALTH INSURANCE	58	224	161	151	219
9. SOCIAL SECURITY	42	42	7	134	49
10. LABOUR LAW MATTERS	14	65	17	64	31
11. UNEMPLOYMENT	0	0	4	4	4
14. OTHER ADMINISTRATIVE MATTERS	5	9	4	12	9
15. JUDICIAL SYSTEM	6	4	2	26	8
16. POLICE PROCEEDINGS, PRIVATE SECURITY SERVICE, DETECTIVES AND TRAFFIC WARDENS	7	7	2	18	9
17. ENVIRONMENT AND SPATIAL PLANNING	2	0	1	16	3
18. REGULATED ACTIVITIES	0	0	1	6	1
19. SOCIAL ACTIVITIES	48	127	51	52	99
20. HOUSING MATTERS	0	0	0	6	0
21. PROTECTION OF CHILDREN'S RIGHTS	19	6	6	66	25
22. OTHER	581	8	16	406	597
23. NATIONAL PREVENTIVE MECHANISM	2	0	0	7	2
24. CHILD ADVOCACY	9	0	0	29	9
TOTAL	887	575	292	1414	1179

# FIELDS OF WORK

## A. Vulnerable groups discussed

- 2.1 FREEDOM OF CONSCIENCE AND RELIGIOUS COMMUNITIES
- 2.2 NATIONAL AND ETHNIC COMMUNITIES
- 2.3 EMPLOYEED AND UNEMPLOYEED PERSONS
- 2.4 WOMEN
- 2.5 CHILDREN
- 2.6 DISABLED
- 2.7 ELDERLY
- 2.8 LGBTI+
- 2.9 FOREIGNERS

## B. Substantive fields discussed

- 2.10 EQUALITY BEFORE THE LAW AND PROHIBITION OF DISCRIMINATION
- 2.11 PROTECTION OF DIGNITY, PERSONAL RIGHTS, SAFETY AND PRIVACY
- 2.12 FREEDOM OF EXPRESSION
- 2.13 ASSEMBLY, ASSOCIATION AND PARTICIPATION IN THE MANAGEMENT OF PUBLIC AFFAIRS
- 2.14 RESTRICTION OF PERSONAL LIBERTY
- 2.15 PENSION AND DISABILITY INSURANCE
- 2.16 HEALTHCARE
- 2.17 SOCIAL MATTERS
- 2.18 OTHER ADMINISTRATIVE MATTERS
- 2.19 JUDICIAL SYSTEM
- 2.20 POLICE PROCEEDINGS, PRIVATE SECURITY SERVICE, DETECTIVES AND TRAFFIC WARDENS
- 2.21 ENVIRONMENT AND SPATIAL PLANNING
- 2.22 REGULATED ACTIVITIES
- 2.23 SOCIAL ACTIVITIES
- 2.24 HOUSING MATTERS

The Ombudsman supervises the authorities and restricts arbitrary interference with human rights and fundamental freedoms.

The Ombudsman is an independent state institution that takes care of the protection and promotion of human rights in Slovenia.

# NATIONAL PREVENTIVE MECHANISM

**In cooperation with selected non-governmental organisations, the Ombudsman also carries out the tasks and powers of the National Preventive Mechanism (NPM). The purpose of the execution of these tasks is to enhance the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment. When carrying out the tasks and exercising the powers of the NPM, the Ombudsman visits all places in Slovenia where persons deprived of liberty have been or could have been placed on the basis of an act issued by the authorities. These are preventive visits.**

**Places of deprivation of liberty in Slovenia include:**

- prisons and all their units and Radeče Juvenile Correctional Facility,
- expert centres for children and adolescents with emotional and behavioural disorders or educational institutions,
- crisis centres for children and adolescents,
- certain social care institutions – retirement homes, special social care institutions, education, work and care centres, and occupational activity centres,
- psychiatric hospitals,
- detention rooms at police stations and Ljubljana Police Detention Centre,
- the Centre for Foreigners in Postojna and the Asylum Centre in Ljubljana with branches (particularly reception facilities),
- detention rooms operated by the Slovenian Armed Forces, and
- all other locations as per Article 4 of the Optional Protocol (for example, police intervention vehicles, etc.).

**In 2021, we visited 60 places of deprivation of liberty**, i.e. 21 police stations, 12 social care institutions (retirement homes), ten different locations of expert centres for children and adolescents, four prisons and Radeče Juvenile Correctional Facility, three special social care institutions, three psychiatric hospitals, three crisis centres for children and adolescents, an education, work and care centre, reception facilities of the Asylum Centre in the Logatec branch and reception facilities of the Asylum Centre in Ljubljana. All visits (except two, one to a prison and one to an education, work and care centre) were conducted without a prior announcement. There were ten control visits (when we particularly examined the realisation of NPM recommendations from past visits).

**The NPM drafts a comprehensive (final) report on the findings established at the visited institution after each visit.** The report also covers proposals and recommendations to eliminate established irregularities and improve the situation, including measures to reduce the potential for improper treatment in the future. In 2021, the visited institutions **received a total of 501 recommendations.**

The National Preventive Mechanism annually drafts a detailed independent report about its work that forms part of the Ombudsman's Annual Report. The report of the NPM for 2021 is its fourteenth.

The NPM may also submit proposals and comments regarding applicable or draft acts (Article 19 of the Optional Protocol). In 2021, we submitted comments on the amendments to the Enforcement of Criminal Sanctions Act (ZIKS), the Police Tasks And Powers Act (ZNPPol) and the Debureaucratisation Act. Comments were also drafted relating to the amendments to the Instructions on the placement and sending of sentenced persons to serve prison sentences and two other rules.

## CHILD ADVOCACY

**Advocacy strengthens the voice of children.** The advocate ensures that a child trusts them with their opinion and then conveys this opinion to those who should hear it, i.e. courts, social work centres and other bodies that decide on the future of a child's life. The advocate is not the child's legal representative and not a court expert who would evaluate what is good for the child. They only enable the child's voice to be heard in procedures and other matters so that decision-making in the child's best interests can be of a higher quality and without delay. **A publication, Child Advocacy, was issued in 2021. Furthermore, an expert consultation about the importance of advocacy when establishing a safe space for children was organised, including an education course for new advocates.**

**In 2021, the advocacy received 107 complaints regarding the appointment of an advocate;** in 56 cases, the advocate was appointed and 29 times was not, while 22 complaints are still being examined. The parents were complainants in 48 cases, social work centres in 18 cases, and district courts in 32 cases. In three cases, the complainants were other people, and children were in six cases. **Some 100 children were appointed an advocate in 2021,** of whom 74 children were appointed one with their parents' consent. For seven children, the advocate was appointed with their consent as they were older than 15 years and 19 children were appointed an advocate based on a court decision. **The average age of a child was 10.2 years.**

## THE OMBUDSMAN AS THE NATIONAL HUMAN RIGHTS INSTITUTION

**Since January 2021, the Ombudsman has held A status as per the Principles referring to the position and operations of national human rights institutions (Paris Principles),** adopted by the UN General Assembly Resolution 48/134 of 20 December 1993. The accreditation procedure takes place within **the framework of the Global Alliance of National Human Rights Institutions (GANHRI). The Ombudsman concurs with the comments of the Sub-committee on Accreditation (SCA), which recommends several additional improvements for Slovenia.** Whether the Ombudsman (still) meets the conditions for (re)accreditation of A status as per the Paris Principles will be verified again in accordance with the applicable system **five years after the accreditation. The Ombudsman will further strive to maintain high professionalism in its work.**

## THE HUMAN RIGHTS COUNCIL

The Human Rights Council **is the Ombudsman's consultative body** to promote and protect human rights and fundamental freedoms, and to enhance legal security. The Council operates in accordance with the principle of professional autonomy. Plural representation enables the establishment of effective cooperation between the civil society, science and public authorities when drafting the Ombudsman's findings about the level of observance of human rights, fundamental freedoms and legal security in the Republic of Slovenia. The term of the Council's members depends on the Ombudsman's term of office. **The Council includes the following members:** Margerita Jurkovič, Dr Robert Masten, Žiga Vavpotič, Neli Dimc, mag. Lea Benedejčič, mag. Nataša Briški, Darja Groznik, Dr Patrick Vlačič, Dr Vasilka Sancin, Dr Sara Ahlin Doljak, Dr Aldijana Ahmetović, mag. Jelena Aleksić, Peter Pavlin, Dr Marko Rakovec and Nataša Voršič.

### The Council met at two sessions in 2021:

- **the first session of the Human Rights Council** (sixth session in the 2019–2025 term) took place on 22 February 2022 and involved a debate on the measures of the Government of the Republic of Slovenia regarding the COVID-19 epidemic and the consequences of the epidemic on human rights;
- **the second session of the Human Rights Council** (seventh session in the 2019–2025 term) took place on 17 September 2022 and focused on a review of the Ombudsman's findings about the situation in the field of mental health and a discussion on this topic.

**In 2021, the Ombudsman actively cooperated with various segments of the civil society in Slovenia and at the European level.**

## THE HUMAN RIGHTS CENTRE

As an organisational unit of the Ombudsman, the Human Rights Centre fulfils its general mandate as a national human rights institution.

**In terms of promotion, information, education and provision of general information,** the Centre carried out numerous projects in 2021, including two online seminars, two internal training courses, and participated in a scientific conference and the preparation of an international interactive centre of the European Network of National Human Rights Institutions (ENNHRI). It prepared regular three-month notifications for the public on the Ombudsman's work in the field of the disabled, and prepared the first public competition for diploma, master's and doctoral theses in the field of human rights. **In 2021, the Centre also published its Analysis of Prosecutorial Practice of Prosecuting the Criminal Offence of Public Incitement of Hatred, Violence and Intolerance in the 2008–2018 Period on the criminal prosecution of hate speech in Slovenia under Article 297 of the Criminal Code (KZ-1). The Centre participated in the revision of the Ombudsman's promotional material, including the brochure on easy reading.**

The Centre also drafted **several international reports or contributions** for the Ombudsman, including the report on the situation of the rule of law in Slovenia for the European Commission, an interim alternative report to the European Commission against Racism and Intolerance (ECRI), an alternative report to the Advisory Committee on the Framework Convention for the Protection of National Minorities and the National Report on the Situation of Human Rights of Migrants at the Borders, drafted within the framework of the ENNHRI project. The Centre actively participated in the ENNHRI working groups, within the Council of Europe and several international events.

## INTERNATIONAL COOPERATION

In 2021, the Ombudsman actively participated in **more than 70 different international events**. International events still took place mostly via virtual platforms, but despite this they were no less effective and diverse. The virtual format of meetings and workshops made it possible to include a larger number of participants and the costs were also significantly reduced.

In December 2021, Ombudsman Peter Svetina was unanimously elected to the Board of Directors for Europe within the framework of the International Ombudsman Institute (IOI), which is a great recognition for the past work of the entire institution.



# NEW RECOMMENDATIONS FROM THE OMBUDSMAN'S ANNUAL REPORT FOR 2021

## 1.1 Introduction by the Ombudsman

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**1 (ongoing task).** The Ombudsman recommends again that all who participate in public discussions, particularly politicians in their statements and writing, including on social networks, avoid inciting inequality, hatred or intolerance on the basis of any personal circumstance, and when such cases occur, to respond and condemn them immediately. The Ombudsman recommends that, in their responsible work, the new Deputies of the National Assembly observe the Code of Ethics for Deputies, which was adopted by the National Assembly on 12 June 2020 after years of efforts.

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## 1.8 Human Rights Council

1. The Ombudsman recommends that the Government of the Republic of Slovenia establishes a central contact point in the ministries for the preparation of an assessment of the compliance of regulations or measures with human rights and fundamental freedoms, and to add a mandatory explanation to the regulation in government materials: "Compliance of the regulation with human rights and fundamental freedoms."

## 1.9 Human Rights Centre

2. The Ombudsman recommends that the Supreme State Prosecutor's Office formally harmonises its legal position on the prosecution of the criminal offence of public incitement to hatred, violence or intolerance as per Article 297 of the KZ-1 with the judgment of the Supreme Court of the Republic of Slovenia from 2019, and in this regard also take into account the findings of the European Commission against Racism and Intolerance (ECRI) of March 2022.

3. The Ombudsman recommends that the Ministry of Justice, the Ministry of the Interior and the Ministry of Culture prepare appropriate legal bases as soon as possible that will enable effective prevention of hate speech on the Internet and social networks.

4. The Ombudsman recommends that the Ministry of Justice amends legislation so that it will enable subsidiary prosecution of a criminal offence under Article 297 of the KZ-1 in a way that prosecution is possible not only on the behalf of the specific injured party against who the criminal offence as per Article 297 was committed, but also for a wider circle of injured parties (either for each representative of the affected group or authorised organisations).

5. The Ombudsman recommends that the Ministry of Justice analyses the appropriateness of the existing criminal law regulation of a hate crime, also from the viewpoint of relevant case law of the European Court of Human Rights and amends the legislation if necessary.

6. The Ombudsman recommends that the Ministry of Public Administration (Administration Academy) includes in its public employees' training programmes (regarding mandatory training for obtaining a title, mandatory training for management in administration, and optional education, training and further training of public employees) more topics on human rights in accordance with the commitments from the second phase of the Programme for Human Rights Education (2005-ongoing).

7. The Ombudsman recommends that the Ministry of Health takes effective measures to improve the health situation of the Roma and ensures the elimination of the pronounced inequality in the health of the Roma as compared to the majority population. In this regard, the Ombudsman also recommends regular monitoring of the efficiency of measures by means of health and healthcare indicators.

8. The Ombudsman calls on all competent authorities to adopt a strategy that addresses all forms of violence against women, examine all GREVIO recommendations for Slovenia and take measures to implement them as soon as possible.

9. The Ombudsman recommends that the State Attorney's Office and the Ministry of Justice ensure that, in addition to the judgments of the European Court of Human Rights against Slovenia, more important judgments of this court against other countries are also available in the Slovenian language.

10. The Ombudsman recommends that the Ministry of Justice ensures that action reports and action plans about the execution of judgments of the European Court of Human Rights against Slovenia are also available in Slovenian.

.....  
**2 (ongoing task).** The Ombudsman recommends that, when discussing the criminal offence under Article 287 of the KZ-1, the police, prosecutors and courts also conduct an assessment of the impact of the criminal offence on the injured person or the community as arises from the Guidance Note of the European Commission on the Practical Application of Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law.  
.....

## 2.1 Freedom of conscience and religious communities

11. The Ombudsman recommends that the Ministry of Health (while also observing, if necessary, the possibilities under paragraphs one, three and four of Article 59, paragraph one of Article 60, paragraph two of Article 62 or Article 63 of the ZDU-1) draws up a regulation that will systemically regulate the issue of the ban or the right to wear a headscarf for healthcare providers throughout the country.

## 2.2 Nacionalne in etnične skupnosti

**Recommendations nos. 7 and 17** from other sections of this Annual Report refer to **national and ethnic communities**.

**Recommendation (COVID-19) no. 8** from the third section of this report discussing the Ombudsman's activities in connection with the COVID-19 epidemic in 2021 also refers to **national and ethnic communities**.

## 2.3 Employed and unemployed persons

**Recommendation no. 37** from other sections of this Annual Report refers to **the employed and the unemployed**.

## 2.4 Women

**Recommendations nos. 8, 11 and 18** from other sections of this Annual Report refer to **women**.

## 2.5 Children

**12.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities takes immediate action to equalise the situation of parents of children with special needs regarding the amount of partial payment for lost income.

**13.** The Ombudsman recommends that the Ministry of Education, Science and Sport drafts as soon as possible, and that the National Assembly promptly adopts, an amendment to Article 10 of the Placement of Children with Special Needs Act (ZUOPP-1), which will enable children with special needs to have a permanent assistant.

**14.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities drafts systemic measures that will enable appropriate treatment of children with special needs and disabilities and their inclusion in society.

**15.** The Ombudsman recommends that the Ministry of the Interior fully complies with the Convention on the Rights of the Child in cases of minor foreigners (and persons who are bound by the mutual right to family life with minors according to Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms) who cross the national border illegally. The competent authorities should therefore not conduct short informal procedures based on the Agreement and Protocol, which due to their short and informal nature cannot be an optimal framework for protecting the child's interests.

**16.** The Ombudsman proposes to the courts that, in accordance with the opinion of the Ministry of Justice, all enforcement cases in which enforcement is proposed or any of the decisions issued in proceedings under Article 93 of the Non-Contentious Civil Procedure Act (ZNP-1) are classified as urgent matters. As per the opinion of the Ministry of Justice and Article 105 of the ZNP-1, (all) procedures for deciding about the measures for the protection of the child's interests are also necessary, which as per Article 159 of the Family Code include all procedures for the issue of interim measures and all procedures for deciding on measures for the protection of the best interests of the child of a more permanent nature.

**17.** The Ombudsman recommends that the Ministry of Education, Science and Sport examines the conditions in which pupils from the Roma community live and ensures that they are not further disadvantaged due to the (current) measures to contain the pandemic.

.....  
**3 (ongoing task).** The Ombudsman proposes that the social work centres always discuss family issues comprehensively and not close such cases too quickly, while taking into account the opinion of the child or an adolescent.

**4 (ongoing task).** The Ombudsman recommends that the social work centres respond to all letters from which it is possible to ascertain the expectation of the authority's response and the sender's identity, unless the content of such letters refers to procedures that are still underway, the letter is of harassing nature or the authority has already replied to the sender's similar question.

**5 (ongoing task).** The Ombudsman recommends that the educational and care institutions observe that both parents, even after the dissolution of their marriage and who have not been deprived of their parental rights, must be informed of the documentation relating to their child and the actions of the competent authorities on an equal basis.

.....  
**Recommendations nos. 18, 27, 33, 34, 36, 44 and 45** from other sections of this Annual Report also refer to **children**.

**Recommendation (COVID-19) no. 1** from the third section of this report discussing the Ombudsman's activities in connection with the COVID-19 epidemic in 2021 also refers to **children**.

## 2.6 Persons with disabilities

**Recommendations nos. 12, 13, 14, 20, 25, 27, 32, 39, 42, 43, 44 and 45** from other chapters of this Annual Report and **recommendations (ongoing tasks) nos. 10, 11, 12, 13, 14 and 15** from other chapters of this report also refer to **persons with disabilities**.

**Recommendations (COVID-19) nos. 5 and 6** from the third section of this Annual Report discussing the Ombudsman's activities in connection with the COVID-19 epidemic in 2021 also refer to **persons with disabilities**.

## 2.7 Elderly

**Recommendations nos. 25, 31, 35 and 47** from other sections of this Annual Report and **recommendations (ongoing tasks) nos. 9, 10, 11, 12, 31 and 14** from other chapters of this report also refer to **the elderly**.

**Recommendation (COVID-19) no. 6** from the third section of this Annual Report discussing the Ombudsman's activities in connection with the COVID-19 epidemic in 2021 also refers to **the elderly**.

## 2.9 Foreigners

**18.** The Ombudsman recommends that the Ministry of the Interior or the Government of the Republic of Slovenia draft legislative changes that will enable a foreigner with a recognised subsidiary protection to extend the status of subsidiary protection, and to effectively and in a timely manner exercise the right to family reunification even before the decision granting the status of subsidiary protection becomes final.

**19.** The Ombudsman proposes that the Ministry of the Interior or the Government of the Republic of Slovenia draft legislative changes so that all foreigners, who as per Council Directive 2003/109/EC of 25 November 2003 are entitled to a long-term resident status, are enabled unhindered and actual recognition and enforcement of this status.

**Recommendations nos. 15, 28, 29 and 30** from other sections of this Annual Report also refer to foreigners.

**Recommendation (COVID-19) no. 4** from the third section of this report discussing the Ombudsman's activities in connection with the COVID-19 epidemic in 2021 also refers to **foreigners**.

## 2.10 Equality before the law and prohibition of discrimination

**20.** The Ombudsman recommends that the Ministry of Infrastructure promptly provides legal bases and financial resources for the actual and effective enforcement of the right of persons with disabilities to equal access to public road transport.

## 2.12 Freedom of expression

**21.** The Ombudsman recommends that the Ministry of Foreign Affairs ensures that the Council of Europe Convention on Access to Official Documents is ratified as soon as possible.

## 2.14 Restriction of personal liberty

**22.** The Ombudsman proposes that the Prison Administration of the Republic of Slovenia carries out a detailed review of the implementation of inspection of imprisoned persons' technical items and, if necessary, prepares proposals for amending the regulations in the field of enforcement of criminal sanctions in this section.

**23.** When preparing and implementing security plans for prisons, the Ombudsman advises that the Prison Administration of the Republic of Slovenia ensures that the entry of prison officers into the living quarters of imprisoned persons during night-time rest causes minimum nuisance.

**24.** The Ombudsman recommends that the Prison Administration of the Republic of Slovenia continues its efforts to ensure the access of imprisoned persons to telephone services at prices comparable to regular market prices.

**25.** The Ombudsman recommends again that the Ministry of Justice in cooperation with the Ministry of Labour, Family, Social Affairs and Equal Opportunities and other competent authorities adopts all measures necessary to ensure that suitable accommodation and assistance with everyday and other required care is provided to all prisoners who require additional assistance due to age, illness, disability or other impairments in order to ensure their dignified life and care.

**26.** The Ombudsman recommends that the Ministry of Health invests more effort into a speedy preparation of the list of providers of the security measure of mandatory psychiatric treatment at liberty and publish it in agreement with the Ministry of Justice in the Official Gazette as per the provision of paragraph three of Article 148 of the ZIKS-1.

**27.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities in cooperation with other responsible authorities adopts additional measures that will fully regulate the status of wards in social care educational institutions where children and adolescents with severe mental health problems and disorders in mental and physical development are placed, so that their accommodation and treatment will be consistent with the Mental Health Act.

**28.** The Ombudsman recommends that the Ministry of the Interior and the Police publish (at least significant) findings of the monitoring of the return of foreigners accompanied by the police to ensure transparency of the implementation of return procedures and the transparency of police operations in this field.

**29.** The Ombudsman recommends that the Ministry of the Interior together with the Centre for Foreigners adopts additional measures that will contribute to the consistent observance of foreigners' human rights if accommodation under stricter police supervision is ordered.

**30.** The Ombudsman recommends that the Ministry of the Interior together with the Centre for Foreigners adopts additional measures that will contribute to the consistent observance of foreigners' human rights if coercive measures are used.

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**6 (ongoing task).** The Ombudsman recommends that prisons consistently observe the rights of the accused persons who are in custody or deprived of their liberty to be able to correspond and talk to their counsel freely and without supervision.

**7 (ongoing task).** The Ombudsman recommends that the Prison Administration of the Republic of Slovenia ensures due consideration of complaints of imprisoned persons and their analysis, as well as the elimination of identified irregularities.

**8 (ongoing task).** The Ombudsman recommends to all psychiatric hospitals and social care institutions that, when deciding on the introduction of a special protection measure and its implementation, they strictly comply with the applicable regulations and the standards and recommendations of the profession.

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## 2.15 Pension and disability insurance

**31.** The Ombudsman recommends that the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ), in possible other cases that are comparable to the one under consideration, annuls applicable interim decisions based on which only a Slovenian pension is paid to the complainants, and issues new interim decisions determining the pension for the insured persons at least in the amount they received before the reassessment procedure.

**32.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the Ministry of Health take necessary measures to ensure that the recognition of disability benefits is made possible not only for disabled persons with physical impairments as a result of injuries at work or occupational diseases, but also for all those persons with disabilities whose physical impairments occurred before the ZPIZ-2 came into force.

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**9 (ongoing task).** The Ombudsman recommends that the ZPIZ consistently observes all relevant data in the informative calculation of the amount of pension.

**10 (ongoing task).** The Ombudsman recommends that the ZPIZ makes its decisions within the statutory deadlines.

**11 (ongoing task).** The Ombudsman recommends that the ZPIZ observes accordingly the Decree on administrative operations, which stipulates in Article 17 that an authority is obliged to respond to all letters from which it is possible to ascertain the expectation of the authority's response and the sender's identity within 15 days of the receipt of the letter, unless the content of such letters refers to procedures that are still underway, the letter is of harassing nature or the authority has already replied to the sender's similar substantive question.

**12 (ongoing task).** The Ombudsman advises that the ZPIZ observes the Ombudsman's position regarding the conduct of complaint and review procedures in such a way as to

properly separate them and not consider them simultaneously. The ZPIZ should also consistently observe the principle of randomness.

**13 (ongoing task).** The Ombudsman recommends that the ZPIZ appropriately explains its decisions in a way that will prevent violations of the ZPIZ-2 and the ZUP.

**14 (ongoing task).** The Ombudsman recommends that the ZPIZ promptly conducts procedures related to pension and disability matters without undue delay.

**15 (ongoing task).** The Ombudsman recommends that the ZPIZ, when deciding on the rights of the persons with disabilities, consistently observes the implementation of the judgment *Kranjc v. Slovenia* (ECHR).

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## 2.16 Health care

**33.** The Ombudsman recommends that the Ministry of Health prepares an appropriate regulatory framework that will enable the adoption of necessary measures to enable the availability of regular treatment and therapies needed for children, adolescents and adults in the field of mental health in accordance with the Ombudsman's recommendation no. 57 (2016), stating that the Ministry of Health prepares legal regulations for the provision of psychotherapeutic services.

**34.** The Ombudsman recommends that the Ministry of Health adopts measures necessary to ensure suitable (urgent) paedopsychiatric treatment of children.

**35.** The Ombudsman recommends that the Ministry of Health and the ZZZS enable insured persons to pay for an above-standard service, as it is not reasonable that a patient (if they decide on "an above-standard lens") is not enabled to pay for the right from the health insurance, which they would otherwise be entitled to had they decided on a lens that is not included in the above-standard.

**36.** The Ombudsman recommends that the Ministry of Health adopts measures necessary to ensure a sufficient number of ophthalmologists.

**37.** The Ombudsman again recommends that the Ministry of Health adopts measures to ensure a sufficient number of occupational health specialists.

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**16 (ongoing task).** The Ombudsman recommends that the Ministry of Health, when dealing with complaints from patients in all health institutions, consistently observes the provisions of the Patients' Rights Act (ZPacP).

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## 2.17 Social matters

**38.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs

and Equal Opportunities takes appropriate measures for its ongoing operations when resolving requests.

**39.** The Ombudsman recommends that institutional care providers not restrict residents with intellectual and developmental disabilities whose legal capacity was not revoked if this is not necessary and exercise control over them as per the principle of proportionality.

**40.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities informs social work centres of the Ombudsman's opinion regarding the need to substantiate the issued decisions.

**41.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities drafts an instruction for social work centres to inform the beneficiaries of extraordinary cash social assistance before the expiry of the deadline for spending and remind them of the submission of evidence on spending.

**42.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities adopts measures to equalise the status of persons with disabilities in accordance with the ZZRZI regarding the receipt of solidarity allowance as persons with disabilities.

**43.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities adopts suitable measures to unify and harmonise the legislation in the field of social assistance for persons with the status of a person with disabilities who are unable to work with a more modern, so-called social model of disability, which emphasises the obstacles that an individual has due to disability and not the impairment that causes the disability, and adopts appropriate legal bases for their elimination. Persons with mental health disorders must be appropriately included in disability care. The relevant ministry should also immediately and without delay start analytically and systematically addressing the aforementioned issue and invite persons with disabilities and their associations to participate in the dialogue.

**44.** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities systemically arranges care for persons with autism so that suitable assistance will be available to all persons with ASD as a public service.

**45.** The Ombudsman advises the Ministry of Labour, Family, Social Affairs and Equal Opportunities to ensure that everyone who cares for children or adults with autism receives suitable support for their work which, as a result, affects the provision of basic human rights of children, adolescents and adults with autism and their families.

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**17 (ongoing task).** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities replies promptly to letters received.  
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## 2.18 Other administrative matters

**46.** The Ombudsman proposes that the Ministry of Finance examines the possibilities for alternative consideration of additional insurance from other insurance in the tax legislation.

**47.** The Ombudsman recommends that the Ministry of Finance amends accordingly Article 127 of the ZDoh-2 to prevent less favourable tax treatment of persons receiving pensions from abroad.

## 2.19 Judicial system

**48.** The Ombudsman proposes to the Ministry of Justice that, when drafting amendments to the Crime Victim Compensation Act, it also examines the possibility of introducing the waiver of the right to legal protection.

**49.** The Ombudsman recommends that the Ministry of Justice continues its activities of renewing the criminal record information system.

**50.** The Ombudsman recommends that the Ministry of Justice drafts amendments to the ZFPPIPP in the section regulating personal bankruptcy proceedings, so that with the finality of the decision on the discharge of obligations (as per the same Act), the restriction of legal capacity of the bankrupt party also ceases, including in those cases of personal bankruptcy proceedings in which the obligations have already been legally discharged and the proceedings have not yet been completed, but which began before the enforcement of amendments to the ZFPPIPP.

**51.** The Ombudsman recommends that the Ministry of Justice finds an appropriate solution within the framework of legislative changes, so that the filing of an appeal (only) against the costs part of the decision on the minor offence is not disproportionately aggravated.

**52.** The Ombudsman advises that the Ministry of Justice in cooperation with the Bar Association of Slovenia examines the possibilities for more appropriate legislative solutions regarding the disposal of funds on the attorney's fiduciary account and the regulation of the attorney's liability insurance.

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**18 (ongoing task).** The Ombudsman recommends to the courts that, when (re)allocating court cases, they strictly observe the pre-determined criteria in accordance with the provisions of the Courts Act and the Court Rules.

**19 (ongoing task).** The Ombudsman recommends that the (enforcement) courts pay appropriate additional (and, if necessary, increased) attention to the issue of orders, the absence of which may affect the legal position of parties to proceedings and the enforcement or realisation of their rights.

**20 (ongoing task).** The Ombudsman recommends that the Chamber of Insolvency Administrators of Slovenia informs every applicant or complainant about the status of their application and the reasons for its decision within reasonable time.

**21 (ongoing task).** The Ombudsman recommends and encourages all authorities, especially the courts or their employees providing free legal aid and the Bar Association of Slovenia and its members, to give applicants or beneficiaries of free legal aid all the necessary information, which is important for their legal and social position, the exercise of their rights and possible occurrence of unfavourable obligations for them in a clear and comprehensive manner, if necessary several times and also with the help of leaflets.

**22 (ongoing task).** The Ombudsman recommends that city wardens in their capacity of a minor offence authority always carefully select sanctions for minor offences when dealing with homeless persons while observing the specifics of homeless persons or consider whether, instead of a sanction, the offender can be issued with only a warning if the minor offence is insignificant and the authorised person has assessed that the warning is a sufficient measure considering the importance of the action.

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## 2.20 Police proceedings, private security service, detectives and traffic wardens

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**23 (ongoing task).** The Ombudsman recommends to the Ministry of the Interior that, within the framework of training police officers who conduct conciliation procedures as per the ZNPPol, special attention is also paid to the fact that the authorised person who conducts the hearing enables the participants in the procedure to monitor the taking of the minutes on the conciliation procedure to the greatest extent possible and also duly records the statements of the participants given at the hearing in the minutes.

**24 (ongoing task).** The Ombudsman recommends that the Ministry of the Interior and the Police carefully examine every letter received that contains complaints against the work of police officers and deals with the complaint, if the conditions are met for its consideration in the complaints procedure, as per the procedure prescribed by the ZNPPol for resolving complaints against the conduct of police officers.

**25 (ongoing task).** The Ombudsman recommends that the Police carefully assess in each case whether the interest of equity requires that a person to proceedings is appointed a counsel at the expense of the state in accordance with the ZKP.

**26 (ongoing task).** The Ombudsman recommends that city wardens in their capacity of a minor offence authority always carefully select sanctions for minor offences when dealing with homeless persons while observing the specifics of homeless persons or consider whether, instead of a sanction, the offender can be issued with only a warning if the minor offence is insignificant and the authorised person has assessed that the warning is a sufficient measure considering the importance of the action.

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# NEW RECOMMENDATIONS IN CONNECTION WITH THE COVID-19 PANDEMIC

## 3.16 Restriction of personal liberty in connection with the COVID-19 epidemic

**1 (COVID-19).** The Ombudsman recommends that the Ministry of Justice legally regulates emergency measures that will ensure safety and health in prisons and the juvenile detention centre in case of extraordinary events such as an epidemic or natural disasters, while taking into account the comments and views of the Ombudsman when drafting the amendment to the ZIKS-1.

**2 (COVID-19, ongoing task).** The Ombudsman recommends that, when planning the accommodation of patients in all prisons, the Prison Administration of the Republic of Slovenia takes account of access to showers. If this is not possible (due to spatial and other limitations), we propose transferring prisoners diagnosed with the coronavirus disease to more suitable facilities..

## 3.17 Healthcare in connection with the COVID-19 epidemic

**3 (COVID-19).** The Ombudsman recommends to the Ministry of Health that citizens who have recovered from COVID-19 abroad are issued an appropriate certificate of recovery.

**4 (COVID-19).** The Ombudsman recommends that the Ministry of Health strictly complies with Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 (the Regulation), which stipulates that the EU Digital COVID Certificate must be issued to EU citizens and their family members in a Member State in which they were vaccinated, irrespective of their nationality.

## 3.18 Social matters

**5 (COVID-19).** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities takes appropriate measures so that users are not left without personal assistance due to non-fulfilment of the RVT condition.

**6 (COVID-19).** The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs and Equal Opportunities reconsiders its position regarding the interpretation of paragraph one of Article 84 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (ZZUOOP), i.e. that the legal text is understood in such a way that, during the threat of the coronavirus disease, all transfers from social

care institutions (except for short-term ones) to the home environment are considered a measure to limit the infection if the user or their relatives make such a statement.

### 3.19 Police proceedings

**7 (COVID-19, ongoing task).** The Ombudsman recommends that police officers, when securing public rallies, consistently ensure that they perform their tasks in accordance with the rules of the profession, i.e. professionally and legally.

**8 (COVID-19, ongoing task).** The Ombudsman recommends that the Ministry of the Interior in cooperation with the Police ensure conditions that will contribute to reducing the risk of discriminatory ethical profiling to the greatest extent possible.

**9 (COVID-19, ongoing task).** The Ombudsman recommends that the Police in its capacity of a minor offence authority always carefully selects sanctions for minor offences when dealing with homeless persons due to the non-compliance with the measures taken to limit the spread of the SARS-CoV-2 virus, or consider whether, instead of a sanction, the offender can be issued with only a warning if the minor offence is insignificant and the authorised person has assessed that the warning is a sufficient measure considering the importance of the action.

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## **Summary of the Work of the Human Rights Ombudsman of the Republic of Slovenia for 2021**

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