



REPUBLIC OF
SLOVENIA



HUMAN
RIGHTS
OMBUDSMAN

SUMMARY OF THE WORK OF THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA FOR 2022

2022

ABOUT THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA

Peter Svetina serves in the capacity of the Human Rights Ombudsman of the Republic of Slovenia.

The powers of the Human Rights Ombudsman of the Republic of Slovenia (hereinafter: Ombudsman) are determined by the Constitution of the Republic of Slovenia (Article 159), the Human Rights Ombudsman Act and 23 sectoral acts.

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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.

Two-thirds through my term as the fifth Human Rights Ombudsman of the Republic of Slovenia, I must point out that we are becoming more and more intolerant and desensitized towards others as a society, which coincides with the decline in social standards most citizens of Slovenia experience. This position is worrying, which is why the Ombudsman does more than solve complaints submitted by individuals who deem their basic human rights or freedoms have been violated, that principles of good administration and fairness have been violated in a specific case, but also informs with increasing frequency that human right and basic freedoms are not self-evident and that each and every one of us can strive daily to help realize them in our everyday lives. **Not just history but current decisions made by decision-makers indicate that it is much easier to criticise decisions and point out human rights violations of others in politics, but it takes a lot more courage and determination to realize the human rights of all citizens without the government discriminating against them.** Human rights are universal, indefeasible, and inherent to every individual. The last year has shown that while the theory, which is the general standing up for human rights, and the practice, that is their realization through decision-making, should be the same but everyday reality points towards it not being so. That is why the Ombudsman highlighted many violations, solved specific cases, and issued many recommendations in 2022. However, we would like to see **our recommendations be realized faster as they arise from specific violations and determinations and require prompt changes in the legal framework or practices of authorities.** The general calls for human rights without the determination to take human rights and basic freedoms seriously in our daily lives without exceptions will not yield the desired results within our society that we all wish for.

I have highlighted **the importance 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 - for the functioning of a democratic society and the rule of law with a well-developed system of checks and balances already last years. The European Commission noted the same in its 2022 Rule of law report for its Member States. **The declaratory decision of the Constitutional Court on the incompatibility of the Public Finance Act and the Constitution of the Republic of Slovenia, due to the violation of the financial autonomy of the four independent state institutions, remain unrealized, even though** the implementation deadline expired in December 2021. I expect some progress to be made in this area in 2023.

2022, the year we are reporting on, is the first year after the two years of COVID marked by the pandemic and its containment measures. While we had no intense measures aimed at protecting our lives and our health that would significantly influence our lives, our way of life, and lastly, our rights and freedoms, this year has revealed many mid-term and possibly even long-term consequences of the pandemic. 2022 was significantly impacted by the aggression of the Russian Federation towards Ukraine, which began on the 24th of February 2022 and is still ongoing. This will have indubitably significant (including financial) consequences for Europe. The rise in prices also affected the increasing poverty in society, increased societal segregation, and caused even more fear. Throughout the pandemic, I pointed out that we must ensure to 'not leave anyone behind' as a society after the pandemic. However, unfortunately, it seems that this is precisely what is happening. The number of cases and matters considered has decreased, and 2022 was similar to the pre-pandemic period. However, we noticed that individuals were in ever tougher situations they had a hard time getting out of since there mostly were no measures that would give them hope or were far too slow or too unclear. We started welcoming complainants to our offices again, carrying out field visits, and conducting business outside of our offices - but we remained available by e-mail, regular mail, toll-free phone number, and social networks, just like throughout the pandemic. The majority of the employees performed their work in a hybrid manner in 2022 - remotely from home or directly from the office of the institution. This is how the employer shows his trust towards the employees and vice versa. Furthermore, we are strengthening new business practices in various fields pertaining to professional and private life balance, reducing our carbon footprint and contributing to protecting the environment as an institution.

The yearly report does not include special work on COVID-related issues. However, some questions about the consequences of the pandemic still remain and are referred to in individual substantive chapters. My goal is to help improve conditions. Thus, I will focus on the multitude of **systemic challenges in this introduction, which we had to face in 2022 and await a prompt resolution for - I will also illustrate that we can achieve good things together by highlighting some examples of good practices.**

As the Ombudsman, I was in regular contact in 2022, a year no less challenging than the two previous years, with holders of various branches of power, reminding them of the importance of compliance with the international and constitutional standards of human rights during their daily work and when making specific decisions. In 2022, we devoted much attention to various vulnerable groups, **such as children, persons with disabilities, the elderly, women, national and ethnic communities, employees, the unemployed, and foreigners.** As said, 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

We considered many more cases in 2022 than we did before the pandemic. We dealt with 5,975 cases (we had 6,863 in 2021, a few fewer in 2020, 6,852, and 4,600 in 2019), **which is about 13% less than before the pandemic when the amount of received complaints increased by one-third compared to the period before the emergence of the Covid-19 pandemic.** The cases referred to human rights and basic freedom violations and principles of good administration and fairness violations.

We dealt with 3,026 complaints in 2022, 2,398 of which were newly submitted, and 642 were carried over from 2021. **406 or 17.2% of all complaints** were substantiated, of which 181 referred to advocacy. Of the other completed complaints, 273 or 11.6%, were unsubstantiated, and 1,340 complaints or 56.8%, lacked the conditions for consideration (a complaint is referred to a legal procedure where no undue delays or significant irregularities are detected), a smaller amount of complaints has been too late or anonymous, **offensive**, or the procedure was stopped due to the complainant's non-cooperation or withdrawal of the complaint. 242 or 10.26% of all complaints were not in the purview of the jurisdiction of the Ombudsman, and in two complaints, which represents 0.08%, the advocacy consent has been withdrawn.

Among the 189 substantiated complaints, the Ombudsman established 222 violations of human rights and basic freedoms (as determined in the Constitution of the Republic of Slovenia) or other irregularities (violations of the principles of fairness and good administration, undue delay of procedures, or obvious abuse of power according to the Human Rights Ombudsman Act). A further 181 cases referring to child advocacy must be added to these 222 violations, where we did not establish violations but were dealt with as substantiated complaints and are thus counted among the 406 substantiated complaints. The larger number of rights violations compared to the number of substantiated complaints results from increased established violations in individual complaints. As such, we established up to three or more human rights and basic freedom violations or other irregularities in certain cases during complaint consideration. Among the substantiated complaints, we **established 66 violations of the principles of good administration (Article 3 of the Human Right Ombudsman Act), 29 undue delays in proceedings (Article 24 of the Human Rights Ombudsman Act), 22 violations of the equality before the law (Article 14 of the Constitution of the Republic of Slovenia) 14 violations of the principle stating that Slovenia is a social state governed by the rule of law (Article 2 of the Constitution of the Republic of Slovenia), 11 violations of the right to social security (Article 50 of the Constitution of the Republic of Slovenia), 11 violations of the rights of persons with disabilities (Article 52 of the Constitution of the Republic of Slovenia), eight violations of the right to protection of human personality and dignity (Article 21 of the Constitution of the Republic of Slovenia), and just as many violations of the right to health care (Article 51 of the Constitution of the Republic of Slovenia).**

We established these 222 human rights and basic freedom violations and other irregularities within various bodies, most often at the **Ministry of Labour, Family, Social affairs, and Equal opportunity** (MDDSZ, 47 cases), **administrative units** (22 cases), **Ministry of Health** (MZ, 19 cases), **local government administrations - municipalities** (16 cases), **the Inspectorate of**

the Republic of Slovenia for the Environment and Spatial Planning (10 cases), and just as many at the Department of Social services. A more detailed inspection and substantiation of the statistical data is listed in the substantive part of the Annual Report of the Human Rights Ombudsman of the Republic of Slovenia for 2021 within each of its respective substantive chapters.

I must emphasize that the number and percentage of substantiated complaints among the solved cases are not actual indicators of the status of safeguarding human rights in Slovenia. Firstly, not every person whose human rights are violated by state authorities turns to the Ombudsman for help, and secondly, a substantiated complaint where we established a systemic irregularity can represent a violation of the rights of hundreds or even thousands of persons. That is why we are also opening our own complaints and addressing broader substantive issues in specific areas based on data from public sources (we **opened 27 complaints at our own initiative** in 2022 and **addressed 62 broader substantive issues**, and we opened six complaints and addressed 77 broader substantive issues in 2021), to which we must add visits to places of detention, which was carried out by the state prevention mechanism, and 144 cases on the work of the Human Rights Centre.

Based on all my activities in 2022, that is, considering complaints, addressing broader substantive issues, operating various organizational units, conducting visits, and preparing expert analyses, studies, and opinions, **we issue 83 new recommendations**, of which:

- **66 recommendations which in general, frequently on the systemic level**, concern society and the observance of human rights in society, and
- an additional **25 recommendations** that represent **ongoing tasks** by various authorities.

This year, we issued even fewer recommendations than in the previous year. **However, considering the large number of unrealised recommendations and those still relevant from the past by the Ombudsman, there is still much work ahead for the competent authorities in the future.**

The importance of realising the Ombudsman's recommendations and decisions of other independent institutions

We highlight approximately 100 of the most relevant past recommendations that remain either unrealised or partly realised, which is slightly less than last year. As an ongoing task, the Ombudsman repeats last year's recommendation (ongoing task) no. 1 (2020), through 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. I expect the Government of the Republic of Slovenia or the competent ministry, as per recommendations on multiple government lines, to unify measures and prepare uniform explanations and unified responses on realising such recommendations. A more consistent and prompt realization of our recommendations can significantly improve respect for human rights and fundamental freedoms for everyone in Slovenia and contribute to a higher quality of life

for all individuals. In addition, we issue a new recommendation highlighting the necessity of coordination within the government regarding recommendations pertaining to multiple government departments.

Recommendation No. 1: The Ombudsman recommends that the Government of the Republic of Slovenia establish special coordination, which will deal with recommendations of the Ombudsman pertaining to multiple government departments and prepare a uniform standpoint and work plan to realise such pertinent recommendations.

We still point out the importance of realizing or implementing the judgements of the Constitutional Court of the Republic of Slovenia and the European Court of Human Rights. The statistics on non-implemented judgements of the Constitutional Court have somewhat improved in 2022. However, we still determine that their realization is too slow, which can detrimentally affect the trust in the rule of law. As already stated, the implementation of the decision no. U-1474/18-17 of the Constitutional Court of 10 December 2020 on the financial autonomy of four independent state institutions also remains unrealized. Thus, the Ombudsman repeats his recommendation from last year (ongoing task) No. 2 (2021) that the government establish a mechanism to provide expert support relating to the realisation of so-called declaratory decisions of the Constitutional Court.

As already reported in previous Annual reports, we observed visible progress in the realization of decisions of the European Court for Human Rights (ESČP). However, their realization must always be strived towards. Five decisions by the ESČP remained unrealized at the end of 2022 (cases Pintar and others, Q and R, Ferhatović, Dolenc, Gregor Rutar and Rutar Marketing, d.o.o.). We reiterate 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 realise the ECHR judgements further. In 2022, the Ombudsman considered a case pertaining to the Erased as well, where he determined that despite a declarator decision by the ESČP in the **case Kurić and others versus Slovenia**, there is still a systemic situation where discrimination against individuals who were erased still occurs - specifically, we highlight problems on the lack of availability of social care institutions for these individuals as well. **The Ombudsman was negatively surprised by the rejection of Recommendation No. 10 (2021) 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 Ombudsman reiterates his recommendation and expects its implementation**, as translation costs cannot be the reason for this in light of the small number of such reports or even an excuse for rendering such reports inaccessible in Slovenian. The general public has the right to take note of general measures the state adopted in Slovenian so that similar human rights violations are not repeated, which is why the Ombudsman believes that such information falls under Article 20 of the Public Use of the Slovene Language Act.

Vulnerable groups and substantive fields

In **the field of equality before the law and prohibition of discrimination**, the Ombudsman covered 106 cases in 2022, 82 of which were complaints, representing a drop in the number of cases compared to the number during the pandemic. However, it is almost double of cases covered in 2019. Eight complaints were substantiated. The predominant topic referred to persons with disabilities. Over half of the remaining covered equal opportunities regarding race, nationality, or ethnicity, and one complaint covered the question of equal opportunity regarding general identity and orientation.

Regarding other vulnerable groups, the most predominant common denominator was age. The Ombudsman highlighted that protections against discrimination limit the lawmaker's discretion, but they can opt for positive discrimination measures. **We observe that lawmakers often fail to justify the differentiation they specified convincingly. However, even in cases such as these, in principle positive measure, individuals or groups must not be treated unequally or even excluded without justification.** We determined this regarding the Act Determining Temporary Measures to Remedy the Consequences of Higher Living Costs on beneficiaries of child benefits. Despite the Ministry of Labour, Family, Social affairs, and Equal opportunity (MDDSZ) providing additional clarifications, we have not changed our initial position. The actual situation of minors and adult children, whom their parents must still support, is still the same regarding the consequences of higher living costs.

Furthermore, we cannot discern a legitimate goal this differentiation should follow regarding this type of discrimination since no actual circumstance bar age is provided for children that would justify the different treatment of families regarding eligibility for the compensatory cost-of-living allowance. **As such, we issue three new recommendations on interpreting and implementing Article 14 of the Constitution of the Republic of Slovenia for current regulation and regulation propositions (Recommendations (ongoing tasks) 7, 8, and 9).** The Ombudsman considered **a few foreign writings that banks decline their efforts to open bank accounts based on their ethnicity.** We highlight that all banks must make basic payment accounts available to all consumers. Each consumer residing in the EU legally has the right to open and use the basic payment account at a bank, which they can open without undue delays or within ten workdays (however, transaction accounts must be separated from this). I have also personally informed the governor of the Bank of Slovenia of this problem.

Regarding the situation of persons with disabilities, we must first appeal to strengthen the respectful attitude towards persons with disabilities. **For instance, we observed public opposition by the Divača citizen's initiative against settling persons with mental disabilities to Divača, which should have been carried within the frame of the deinstitutionalization project of the public institution Dom na Krasu. The Ombudsman expresses his concern over the response of the public regarding the deinstitutionalization process, which he strongly supports. Hence, we issued a new recommendation (No. 10) that the MDDSZ should pay particular attention to further cultivating a respectful attitude towards the rights of persons with disabilities and their dignity on a general level, especially in specific environments where deinstitutionalization projects are carried out. The Ombudsman still cautions that Slovenia has yet to name an independent body for monitoring the implementation of Article 33 of the Convention on the Rights of persons with Disabilities.**

In December 2022, we prepared a **Special report on the accessibility of centres for social work for youth persons with physical and sensory disabilities**, presented in front of the National assembly at the beginning of 2023.. **In its response to the report, the government, unfortunately, did not address one out of five total recommendations on it, namely, to devote special attention to accessibility for persons with physical and sensory disabilities in its reports which it must submit every three years to the National Assembly on the effectiveness of centres for social work and their units under Article 49. a of the Social Assistance Act (ZSD).** It has been found that neither the current government nor the previous one submitted such a report. In 2022, the Ombudsman **considered the possibilities persons with sensory disabilities (with hearing and vision impairments) have to access Slovenian courts.** We highlighted the importance of physical accessibility for persons with disabilities to courts in our 2018 report, **and we welcome the efforts of the Ministry of Justice (MP) to remove physical and communication barriers per the Equalisation of Opportunities for Persons with Disabilities Act (ZIMI).** However, the Ombudsman issues a new recommendation (No. 16) in which we recommend that courts and IT departments adopt special measures to ensure accessibility to court websites and mobile applications for easier access to court information for all users, especially persons with disabilities. Regarding the accessibility of public infrastructure, the Slovenian Paraplegic Association drew our attention to the **inaccessibility of the passage below the railway line in Grosuplje. We considered the problem of the maladjustment of the parking house at Republic Square in Ljubljana, but we could not intervene as that is a private law entity. We highlighted that organizers must organize events in a way which does not endanger the lives and health of participants or other persons, which indubitably includes the safety of persons with disabilities. The Ombudsman has already highlighted the problems of physical access to high schools in the 2019 Report and submitted two recommendations on this topic, but both remain unrealized.** On the promise by the Inspectorate of the Republic of Slovenia for Education and Sport (IRSŠŠ) to inspect the access to education for persons with disabilities within the frame of regular inspections in kindergartens, primary, and secondary schools, we analysed the realization of these predictions at the end 2022. **We determined that the IRSŠŠ failed to keep their promise,** and it listed staff shortages and a higher number of exigent complaints on an increased number of various cases of violence in school environments. **We covered the problems of persons with disabilities in various substantive fields.** For instance, problems with the implementation of personal assistance are presented within social matters, and physical access to buildings is covered in the chapter on housing problems. **Regarding persons with disabilities, we issue 25 new recommendations, of which six represent an ongoing task for authorities.**

I drew attention to the equal opportunities of deaf, hard of hearing, and deafblind persons at various events. Shifts in the field of the rights of deaf persons to learn sign language are necessary. When schools cannot guarantee the presence of an interpreter, this represents discrimination against deaf children regarding access to education. We considered a discrimination case when a child enrolled in the first year of primary school with a lower education standard did not receive a yellow ribbon.

We devoted much attention to **the situation of children with special needs** and directed special efforts to raise awareness on the necessary curtailing of institutionalization. **We strive**

towards the implementation of family assistance for children with special needs as well, ranging from increased hours to partial payment for income lost for the care of children with special needs, and, lastly, to arrange transportation for children with special needs to their place of education and back, as we established that municipalities mainly only cover a part of the transportation costs instead of organizing the transport as is required by law. Municipalities defend their position on this topic highly aggressively and are not inclined to comply with current legislation, which is unacceptable and contrary to the rule of law. We highlighted the problems of children with blindness or impaired vision eight years ago already. However, issues of the systemic inaccessibility of educational material adapted to the needs of children with blindness or impaired vision still persist in the educational process, and the same applies to proper adjustments during the participation of children in various knowledge competitions. We requested an explanation from all music schools in 2022 on the number of children with autism currently enrolled in their school and how many children with autism applied to their school of music. However, we were rejected as they failed their entry exams. Based on the responses, we concluded that Slovenian musical education is based on discovering and nurturing talent - exclusively aimed at results, that entry exams require only a good ear for music (and not any other cognitive ability), and that children with autism can have a considerable music talent, even though they mostly do not, but that such inclusiveness has a tremendous therapeutic effect on them. Children in music schools have no right to persons accompanying them or other help. We expect that the needs of children with special needs will be considered during the preparation of legislative amendments, not just during entry exams but also during the educational process. It is also unacceptable for the competent ministry to still reject our recommendation (No. 25 (2020)) that a disability must be regarded in conjunction with different obstacles which limit a person and not as a type of malfunction that causes disability. The Rules on criteria for claiming rights for children needing special care are especially egregious in this case.

We devoted much attention to the general status of children in 2022, as we considered over 400 cases in this field (of which 184 were complaints). Additionally, we tackled questions on children's rights within the frame of Child advocacy (141 complaints) and within the frame of other fields and vulnerable groups, within which discrimination through interjection is especially troubling. We highlighted the importance of the doctrine on the positive obligations of states, which is based on the premise that all authorities have a positive obligation to safeguard the rights of children, including the right to be heard and the principle of the child's best interest. Long-lasting judicial proceedings are a problem for which we always highlight that their effect on children is significantly more negative than on adults. We highlight the lack of clinical psychiatrists and pedopsychiatrists as critical. We highlight the Children's house as an example of good practice for effective inter-ministerial and inter-institutional cooperation for the benefit of children. It opened on June 8 2022, and offers protection for and an integrated approach to children who were victims of serious criminal offences. I hope this is but the beginning of forming a child-friendly or friendlier judicial system in Slovenia. We reencountered issues when kindergartens, schools, or doctors hindered access to their children's private data. We detected more complaints by parents in 2022 whose children were taken from them by a court decree or, in some instances, with a temporary decree by the centre for social work. We regularly encountered hardships resulting from poverty, problems regarding social isolation, peer

and on-line violence, the pressing matters of long-term foster care, and many problems as a consequence of divorce.

We are concerned that the competent ministry assumed a position in its response report that our recommendation No. 88 (2018) to adopt legal solutions that regulate the proper inspection of school bags and tests for the presence of drugs and alcohol for the whole field of education, will be disregarded due to disagreement. We reiterate the recommendation and submit a new, somewhat expanded recommendation regarding this issue. We hope that the subsequent favourable opinion by the Ministry of Justice (from 2023) facilitates the necessary complementation of the legislation, which would at least somewhat guarantee a higher degree of safety for children and school employees. We highlighted violence among peers and on-line as a societal problem that needs to be addressed effectively as soon as possible.

When it comes to **social activities**, it is not surprising that the **field of education** was the most current topic in 2022. Complaints primarily dealt with problems regarding enrolments in school institutions, the proper organization of the registration and de-registration of school food, the organization of safe routes to school, and the implementation of infrastructural projects tied to performing educational activities. Of the 121 cases considered, 75 were complaints, and 6 were substantiated. **A primary school student who believed school lunch rations were 'too small' approached us.** In its response, aside from referencing an expert review by the NIJZ, the school claimed that students often do not consume all ingredients and that food remains. We estimate that if some students do not pick all ingredients or leave food, this cannot constitute a justifiable reason for reducing rations. If that does happen, students must have the option to get extra food and enough time to consume it. **We issued Recommendation No. 64 to adopt measures which adequately guarantee school food to the Ministry of education and schools. In addition, we recommend that the ministry in question and schools provide the option to register or de-register for school food via the telephone or e-mail (recommendation No 65).**

In 2022, we covered various complaints where we determined systemic deficiencies in the **employed and unemployed** fields. **We spent years drawing attention to the problem of the extensive durations and consequences of inadequately effective inspection procedures in various fields, including employment.** We welcome the efforts by the line ministry and the Labour Inspectorate of the Republic of Slovenia (IRSD) to speed up inspection procedures. **However, we must repeat our recommendation from 2018 for the government to reinforce the staffing of the IRSD.** We call on the competent ministry and government again to **continue its activities to abolish precarious work.** We were contacted by employees who confirmed the issues of organizing work, unbearable working conditions, or improving the situation of an individual profession. We highlight the inadequate pay of employees in social welfare programmes and consider labour law violations by employers who employ foreign workers.

In **healthcare** (and health insurance), we highlight **that access to a medical professional and the quality of treatment are critical elements of public healthcare.** We considered 453 cases in 2022. However, the number of complaints was half of what it was the year before but double what it was during pre-Covid in 2019. 18 complaints were substantiated. The cases

considered were various, and their common denominator was poor functioning and poor access to medical services in the state. **We observe the lack of specialist medical professionals in many fields, and the amount of deficit areas is increasing yearly, with the shortage of family doctors being the most prevalent issue.** Its consequence is unequal access to doctors for insured persons, which can be observed from the unacceptably long waiting lines, which may even endanger the lives of individuals, but it lowers their quality of life. **We assess the status of healthcare in Slovenia as very bad, with the situation not improving. In fact, it seems that it is getting worse and worse every year. This is a consequence of the lack of a health system reform in Slovenia that should have been completed years ago. There seems to be a lack of vision for ensuring a sustainable, effective, and generally accessible healthcare system.** We noted the necessity for accessible treatment for persons with rare illnesses regardless of age based on a specific complaint. We also point out the increasing amount of problems regarding communication with patients who speak foreign languages based on complaints.

Many recommendations we issued in the field of healthcare also remain unrealized, and we issue 12 more recommendations. On **mental health, we have been pointing out since 2016 and reiterating the recommendation for the Ministry of Health to draft legislation for governing the exercise of psychotherapeutic services but a tangible draft or legislation is yet to be seen.** We highlight the importance of realizing the provisions in the Rules on the referral of patients, the management of waiting lists, and the maximum permissible waiting times. For instance, **we recommend that the Health Insurance Institute of Slovenia (ZZZS) amend the Rules on compulsory health insurance to ensure a timely designation of appointed doctors so that the deadline for submitting a proposal for extending temporary work incapacity aligns with the deadline within which the appointed doctor must decide on the proposal. We recommend that the Ministry of Health provide the legal basis for the ZZZS to be able to ensure the lending of medical equipment to temporarily immobile persons, as well as to ensure systemic access to information and help pertaining to healthcare, particularly for users who lack digital proficiency. We point out that the Ministry provide an adequate legal basis for carrying masks, as the current regulation does not allow the right to refuse healthcare if the person is not wearing a protective mask per ground regulations of healthcare providers.**

We considered 565 cases in the field of **social matters**, of which 372 were complaints (278 in the field), and as many as 35 were substantiated. The percentage of substantiated complaints is high, especially considering social benefits, help, scholarships (67%), and social services (33.33%). Many cases pertained to persons with disabilities, the elderly, and socially weaker individuals. I want to highlight **the problems with the implementation of personal assistance** especially. **The core issue is that while the legislative regulation has not changed, the substance of the rights did, as new experts determined by the latest amendment of the Personal Assistance Act, in general, recognize it within a smaller time frame than before.** Individuals whose health condition deteriorated and asked for a larger scope of rights could not meet the criteria for the initial time frame according to the new criteria, regardless of their condition worsening. As such, the scope of their rights has diminished. **We recommended that such submissions be adjudicated in terms of 'substantiated – unsubstantiated,' meaning that the scope of rights can only increase but not decrease, as**

the latter already represents an impairment of the already present right to personal assistance. In 2022, we once again encountered problems with individuals who cannot return to their home environment without the necessary care after completing their hospital treatment, nor is there a suitable place for them within existing social welfare services. **Thus, we call on three competent ministries that it is of utmost importance during the transitional period until the new legislation on long-term care is adopted to ensure the implementation of Article 40. a of the Rules on procedures for exercising the right to institutional care or to set a precise protocol for accommodating patients with severe illnesses and the elderly in institutionalised care, for domestic help without waiting periods, or temporary accommodations in convalescence hospitals or departments. Regarding institutionalised care, we support the de-institutionalisation process and emphasize accommodations and care within a community.** This process is still too slow and must adhere to the wishes of persons wanting to remain within their home environment.

We are proponents of **intergenerational solidarity** as necessary for the symbiotic cohabitation of different generations. Regarding the **at-risk-of-poverty rates and social isolation**, we establish again that it is not the same for all groups and individuals. **We also considered cases that indicate low digital literacy**, which has become paramount for the realization of the necessities of life, as communication with various groups is generally conducted via the Internet. Additionally, the various social benefits, increasingly encompassing as they may be, do not avert the numerous hardships people are facing. We considered multiple cases pertaining to the **elderly**. Allow me to highlight the importance of care for the quality of life in old age. We point out that at the state level, more preventive programmes for the recognition of violence should be implemented, including towards the elderly, as the problem is that victims often fail to recognize violence or that they are living in violent relationships. **Even though some of our recommendations on social matters are realized, many remain unrealized, and we also issue 12 new recommendations.**

In the field of **pension and disability insurance**, we recommended over three years ago that the Ministry of Labour, Family, Social Affairs, and Equal Opportunity amend stipulations in public regulation, which put persons with mental health disabilities in an unfavourable position compared to other persons with disabilities with comparable limitations. **The government supports the recommendation of the Ombudsman, and the competent line ministries should cooperate in reviewing the regulatory changes which govern the rights of persons with mental health disabilities. However, there is no tangible progress as of yet.** We also still point out that the ministry in question reviews the adequacy of the current law, which does not offer free public transportation to all persons with disabilities or persons prohibited from driving cars based on medical reasons. We expect **competent authorities to actively join in the realisation of the recommendation by the Ombudsman on the review of the exclusion from free public transportation of any persons with disabilities or of persons who are prohibited from driving cars based on medical reasons and to amend the legislation adequately if such instances are found.** We emphasize that the obligation to make a decision within a reasonable time also applies to this field. We considered a complaint regarding the protracted decision-making of a centre for social work pertaining to an application to exercise their right to receive payments for unpaid disability compensation. In the second case regarding the acquisition of a special pension in the field of culture, the Ministry of Culture has not responded since 2015. They only responded to us after an urgent

reminder. The Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) and the Ministry of Health do not make decisions within the prescribed deadlines too often. In this specific matter, we turned to both ZPIZ and the Ministry of Health. We caution that such behaviours not only constitute a violation of the principles of good management but may also constitute a violation of fair procedure and the equal protection of rights. Due to the late response by ZPIZ, after more than a year of not responding, a significant delay (a year and a half) occurred in awarding a widower's pension. **We established a lack of traceability for administrative procedures at the Pension and Disability Insurance Institute of the Republic of Slovenia, and we expect the institute to rectify it.**

The elderly received more public attention in 2022, most likely due to the consequences of the Covid-19 epidemic and other factors (uptake in ageism, digitalization of society...), which, however, does not mean that any expected progress has been made in their field. We were contacted by multiple elderly persons who alleged that they were **discriminated against regarding access to digital vouchers**. We recommended an amendment to the Promotion of Digital Inclusion Act, as **we believe the additional conditions for participation in educational programmes cannot be based on age**. We considered a **case of alleged discrimination based on age during lending procedures**. We established that the Bank of Slovenia had not issued any regulations governing the upper age limit for taking out a credit, meaning that the decision on the age limit for granting a credit lies solely in the purview of an individual bank and depends on the willingness and risk-carrying ability of the bank, and individuals are not excluded from the possibility of being granted credit solely for exceeding the age limit.

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**. **We commend the systematisation of the position of the Roma assistant**, which was implemented on September 1 2021. **We reiterate that inadequate legal and municipal services in Roma settlements threaten the realisation of the human and special rights of the Roma community and its members and the realisation of the human rights of other residents who live there.** The measures should be specific and their effect quantifiable. The percentage of Roma pupils who finish their school education in south-eastern Slovenia is a meagre 11%, and another problem tied to a lack of education is unemployment, of which only 10% enrol in a primary school for adults. In this present report, we particularly highlight the case of the Krušče settlement in the Municipality of Brežice, and the municipality finally adopted the Strategy for solving the Roma issue for 2022-2030 after years of calls by the Ombudsman. The municipality blames the state for its decades-long failure to sort the settlement, in terms of the legislation not allowing for legislative regulation of the settlement. For decades, the ministry has been adamant that the legislation is perfect and equal for everyone. That progress depends on the successful results of the dialogue between the local community and the denizens of the Roma settlement. We issue the Recommendation (No. 3) to the Ministry of Natural Resources and Spatial Planning to prepare an analysis how many municipal spatial plans that regulate the situation of the Roma have been adopted, how many Roma settlements are still not included in municipal spatial plans, and how many objects were granted building permits after the implementation of the Roma Community in the Republic of Slovenia Act, which would allow the regulation of access to water, electricity, and utilities, and how many objects in Roma settlements still lack a building permit.

We considered the **(in-)efficiency of punitive laws related to the Roma people**. Representatives told us of the Municipalities of Novo Mesto and Šentjernej that their citizens often feel that the Roma community enjoys privileges and preferential treatment during criminal or punitive proceedings, which the Police denied. However, the Police highlighted the problem of processing juvenile criminal offenders, as with the exception of the security measure of institutionalizing, there are no educational measures which would positively affect juvenile offenders. Due to the personal data protection and its associated restrictions, which result in the absence of detailed data, the thesis that the Roma community enjoys preferential treatment during criminal or punitive proceedings and that sanctions do not fulfil their intended purpose within the community cannot be substantiated or denied. **We highlight that we noticed ever-increasing issues with the coexistence of the Roma and the general population in some areas.** Customs and habits cannot justify criminal offences. **At our initiative, we dealt with the voting rights of the citizens of the Republic of Slovenia, the members of the Roma minority.** We established that the Council of the Roma Community of the Republic of Slovenia adopted the Criteria for registration in the voting rights record for the citizens of the Republic of Slovenia – members of the Roma community. The criteria were submitted to twenty municipalities but were not published in the Official Gazette as mandated by law.

At our own initiative, we considered the circumstances on the voting rights of the citizens of the Republic of Slovenia, **the members of the autochthonous Italian and Hungarian national communities.** We determined that the Hungarian national communities did not set and publish detailed criteria for determining voting rights under Article 12 of the Voting Rights Register Act, as they believe the law to be adequately determined. In contrast, all Italian national communities did it, bar the one in Koper. The practice is thus not uniform. Furthermore, we detected a certain degree of unreliability on records, as records on submitted voting rights recognition statements were not kept before 2022, and data has been lost over time. At the recommendation of the Advisory Committee of the Council of Europe on the Framework Convention for the Protection of National Minorities, the **Ombudsman presented his new General plan for promoting and communicating with minorities and ethnic groups.** The updated presentation pamphlet on the work of the Ombudsman is available in Italian, Hungarian, German, English, and three Roma languages, as well as Slovenian.

As so often in the past, we must reiterate our position that **the state should ratify the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights** as soon as possible based on our activities in 2022, which is vital for the realization of the rights of minorities as well as, for example, the right to a healthy living environment.

We considered 271 cases in 2022 in the field of **foreigners**, of which 183 were complaints, and this translates to an increase of 60% in cases compared to last year and a significant increase compared to pre-Covid 2019. It is worrying that 29 of these complaints were substantiated, so almost 32% of them all. It is one of the most diverse fields regarding the number of cases dealt with and the complexity of their content. Furthermore, we covered foreigners within the frame of various substantive fields. **Most cases, by a large margin, pertained to the entry, departure, or stay of foreigners in the country**, for which the number of cases almost doubled or pertaining to nationality, where the number of cases almost tripled. **Most complaints were on the extensive duration of procedures. Particularly, procedures at the Administrative unit of Ljubljana and the Administrative unit of Maribor have often**

proven excessively lengthy. We found multiple instances of the administrative unit calling customers to supplement their applications months after submission, and many undue procedural delays occurred during the later stages of the procedure. We highlight that these procedures must adhere to deadlines as per the General Administrative Procedure Act (ZUP), as we believe that exceeding instructional deadlines in such procedures constitutes a violation of the principles of legal security, good management, and economical procedures as per Article 14 of the General Administrative Procedure Act. On matters of review at the Ministry of Internal Affairs, we established excessively lengthy decision-making, as the expected deadline for case assignments for resolution equals six months and fifteen days. At that point, matters are generally resolved more quickly, usually within one week or up to two months. **On the other hand, we have not established undue delays in procedures pertaining to the temporary protection of displaced persons from Ukraine.**

As a matter of principle, we believe that the best approach for debating modern migration honours the respect for the human rights of migrants, including offering protection for refugees while at the same time offering security and protection for other interests of society. **We considered a complaint which opened the question of the access of foreigners to competent Slovenian agencies to issue visas.** We highlighted the legal practice of the European Court for Human Rights that, in certain cases, the unification of the family takes precedence over procedural or material demands for arranging accommodation due to the importance of the right to family life. **In the case of the Kurdish family, we pointed out the controversial legal practice when Slovenian police officers handed the family over to Croatian police officers immediately after receiving medical treatment. We pointed out that such practices are controversial from the perspective of multiple human rights, especially the prohibition of collective expulsion, refoulment, and the right to access the asylum procedure. Pertaining to the prohibition of collective expulsion and refoulment, we believe that also indicates a violation of the right to legal matters. We reiterate that foreigners must receive individual consideration before their potential return to a neighbouring country, that the circumstances must be documented consistently, and that foreigners must be guaranteed an interpreter. As such, we issue a new Recommendation (No 15) to the Ministry of Internal Affairs. Furthermore, we established cases of unjustified detention of foreigners at the Ljubljana Asylum Home, as there is no legal basis for detention in the reception room just when someone reveals their intention and waits for the submission of the application. During our unannounced visit to the Ljubljana Asylum Home in August 2022, we established that accommodation circumstances do not meet the minimal standards for most persons as set in the Reception Conditions Directive by the European Asylum Support Office.**

In the field of **the protection of dignity, personal rights, safety and privacy**, we considered a wide variety of complaints, most of which were on the protection of personal data and other aspects of privacy. We commend that Slovenia ratified the International Convention for the Protection of All Persons from Enforced Disappearance in 2022. We received a complaint on the right to life, where we reiterated our position that opponents of the artificial termination of pregnancy have the right to free speech and can, as such, advocate against abortion in various ways, even if they oppose the right granted by the Constitution of the Republic of Slovenia on the freedom of decision on the birth of children. However, this right to free speech can clash with the rights of others under certain circumstances and depending on the manner of

expression. **Regarding the so-called erased, we reported at the end of 2022 that we welcome all efforts for the legislative regulation of the status of persons whose residency in Slovenia was tolerated for years by the Republic of Slovenia, which is, in our opinion, tied to the right to private or family life as per Article 8 of the European Convention on Human Rights. We point out that, due to the ageing of this segment of the population in Slovenia, serious issues are increasingly emerging regarding the provision of social welfare services to foreigners without a permanent residence permit.** Although this specific complaint had a favourable outcome, the problem remains current at the systemic level. **We recommend that the Government draft legislative amendments that will clearly and predictably ensure access to social welfare for this part of the population.** We drafted a complaint on the possibility of paying parking fees in (public) parking areas in the Municipality of Železniki solely through a web application. **The regulation, upon which the exclusive payment of the parking fees in public parking areas over digital modes of communication is based, represents an intrusion in the right to non-discriminatory treatment.**

On the protection of private data, we considered multiple complaints on the use of audio-video surveillance by private individuals. We also considered multiple complaints about the practices of the previous and current governments. At the beginning of 2022, we submitted explanations where the former president obtained data for the purposes of sending unwanted mail to home addresses, and the new government raised some eyebrows with its decree with which it ordered ministries, authorities, and government departments to prepare a list with names of all new employments, temporary and permanent reassignments, and promotions of public employees from January 1 to January 6 2022. The common denominator for some of the complaints was the media. The publication of various photographs in media may represent a violation of legislation pertaining to the protection of privacy or the protection of personal data, but it may not.

In 2022, the indubitably most significant shift in legislation was **that Slovenia finally adopted the new Personal Data Protection Act (ZVOP-2) and the much-needed national implementations related to the General Data Protection Regulation with it. At least to some extent, the ZVOP-2 implements long-standing calls of the Ombudsman for the preparation and adoption of a legislative basis, which will enable the collection of disaggregated data based on individual personal circumstances, intending to promote equal treatment and opportunities. However, the regulation pertains only to nationality and ethnicity.**

Regarding the protection of dignity and security, we especially highlight the **position of women.** We welcome the adoption of the Action Plan for Combating Trafficking in Human Beings for 2023-2024, already at the beginning of 2023. A complainant also turned to us and asserted that a child had been stolen from the maternity ward in the 1970s; we observed multiple similar publications in the media. We highlight that such statements must be taken seriously and treated from the perspective of the violation of human rights.

We devoted more attention to the issue **of forced marriages, which we understand as a form of violence against women and men, domestic violence or violence against children, and a grave violation of human rights.** All 58 administrative units responded to our inquiry, explaining that they did not experience such an occurrence. Answers on how they would act in such a case differed, and we established that there are no uniform guidelines or protocols

for cases of suspected or confirmed forced marriages. Namely, this field is not regulated in detail. Administrative units usually associate so-called fictional marriages with forced marriages, which cannot always be equated. The question arises of how obscure this problem is that administrative units, the police, and other competent authorities do not detect it as they have issues identifying such cases and victims. As stated by the Group of Experts on Action against Trafficking in Human Beings (GRETA), timely or early identification is paramount, and it is imperative if any vulnerable groups are included, such as juvenile persons. We considered the question of forced marriages in connection with centres for social work at our own initiative. The Government Office for National Minorities of the Republic of Slovenia recently published the Handbook on the Identification of Early and Forced Marriages in the Roma community and on Interventions in these cases. However, this is not an issue exclusive to the Roma community. Forced marriages can be associated with slavery, physical or psychological violence, seizure of documents, and similar. We point out the importance of the state's beneficial measures and preventative action, especially from the perspective of the safety benefits for children and women.

Regarding the **rights of LGBTIQ+ persons**, the Ombudsman has been emphasizing that **the recommendation that 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.**

In the field of **freedom of conscience and religious communities**, we received a few complaints, and all of them were about the Islamic religion. We also received a complaint in 2022 on wearing religious headgear, specifically, a headscarf, while working in one of the general hospitals. **We reiterate Recommendation No. 11 (2021) from last year that the Ministry of Health draws 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.** Two complaints were on providing proper food from the view of religious demands - one for the adjustment of food to exclude pork in kindergarten and primary school, and the other on the eating habits of Muslim convicts serving a sentence for the duration of Ramazan. We highlighted that both the practices of the European Court for Human Rights and the Constitutional Court of the Republic of Slovenia interpret the rules about eating habits can solely be understood as a direct expression of (religious) belief and are thereby protected by the freedom of religious beliefs. The institutions tried to find an adequate solution in all cases per the financial capabilities of the institution. In the field of religious freedom and based on its visibility in the public discourse, we considered the rejection of the agreement of the performance of a holy mass by a public institution for the late so-called domobranci (Slovene Home Guard) in the chapel of the Ljubljana castle. We established that the Ombudsman has no jurisdiction for this specific case on its acts and the activity carried out by the Public Institution of the Ljubljana Castle, so we presented possible ways for solving their case to the complainant.

In the field of **freedom of expression**, we noticed again that people often connect the freedom of expressing thoughts with the right to comment on various platforms on the Internet. On the other hand, others problematize such posts on social networks and want them removed. Unfortunately, we noticed that our recommendations on preventing hate speech had not been met with much approval by the current and the previous government. However, we

believe regulating this field through the additionally recommended legislative amendments is paramount. We considered a few specific cases of alleged so-called hate speech in the media. **We reiterate our criticism that the new amendment of the Mass Media Act has still not been adopted, with which, as per the prohibition of spreading hatred in the media (Article 8), the method of protecting the public interest (inspectorate, punitive control) 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.** Furthermore, we highlight **the inadmissibility of »media prosecutions«, which is the public prejudgement of individuals on whom the competent courts have yet to make a final judgement. We welcome the realization of our recommendation from last year on ratifying the Council of Europe Convention on Access to Official Documents.**

In the field of **assembly, association and participation in the management of public affairs,** the Ombudsman points out that 2022 is considered a super election year. Many considered complaints pertained to the realization of voter rights. The need for legislative amendments to ensure an equitable election campaign was again established last year. The Ombudsman highlighted the necessary legislative amendments in his 2011 Annual report. However, we will reissue the **recommendation (No. 19) for a proposal for legislative amendments which would concretely determine the rules for the realization of pre-election debates on the Radio-Television of Slovenia (RTV) in a manner that would prevent unequal treatment and various interpretations of the law.** On the controversy on the notification of addresses where support for electoral candidates is gathered, **the Ombudsman points out that if the law does not grant the authority for certain practices to a state authority, nor the authority to regulate the process in detail with by-laws, then a state authority must refrain from such practices, otherwise it acts in contradiction with the principle of legality.** This principle should be realized particularly consistently during voter rights realization procedures, where the rules for all candidates must be the same according to the principle of equality in exercising the right to vote. **The Ombudsman estimates that the fifteen-year practice of the Ministry for Internal Affairs when addressing requests to state authorities is controversial from the point of view of the principle of legality, which is why we recommend the adoption of a legislative amendment on the notification of addresses where support for electoral candidates is gathered.** Despite this, the Ombudsman estimates that the question of the notification of addresses where support for electoral candidates is gathered had no impact on the voting process and results (this time).

Regarding signing into the electoral register, we highlighted that voters are not required to sign into the electoral register to vote in local elections as per Article 71 of the National Assembly Election Act. We detected a change in practice that the application form for absentee voting requires the submission of an appropriate medical certificate, even though the law does not determine how the existence of an illness is proven or who is to issue the certificate. **The change of the long-term practice on the options for absentee voting less than two months before the parliamentary elections has not been reconciled with all stakeholders it concerns, particularly doctors, and, as such, could not agree with the principles of good management.** After the Ombudsman intervened, the problem of abolishing the polling station at the Embassy of the Republic of Slovenia in Moscow, for which there was no legal basis, was resolved, and the voting rights of the 18 voters were ensured. Pertaining to local elections, we considered a complaint on the realization of the (active)

voting rights of female detainees where no violations were determined. **On the voting rights of persons with mental health disabilities**, we highlighted that disenfranchisement in legal proceedings does not necessarily violate the European Convention on Human Rights or the Constitution of the Republic of Slovenia. However, we hold the belief that all efforts must be made towards a regulation that does not limit the participation of persons with disabilities in political or public life but one that encourages and forms the circumstances for its realization. **We considered an important complaint on the right to referendum decision-making.** A civil initiative for the new Municipality of Golnik turned to us due to an apparent lack of adequate legal means against the decision by the National Assembly of the Republic of Slovenia on the rejection of the resolution calling the referendum. The Ombudsman established that it could not be definitively concluded that the legal order in such a case allows for effective legislative protection, but potential deficiencies in legislative protection could be revealed during specific (harmful) legal procedures.

On the rights to **free assembly**, the Ombudsman decided to draft **a brief by a friend of the court** (amicus curiae) following our jurisdiction as per Article 25 of the Human Rights Ombudsman Act, following the submission of the first lawsuit by the State Attorney's Office towards the alleged organizer of the protests, which recalled the Police and the Ministry of Internal Affairs that unauthorized protests constitute harm. We highlighted that the state is obliged to show a certain degree of tolerance under the legal practices of the European Court for Human Rights, even though the protest is unauthorized or prohibited. Tolerance must be shown regarding the application of force and during protest control, punishment, and other protest-related measures. The intent is the crucial factor when determining if an assembly constitutes the realization of the right to peaceful assembly, as opposed to the possibility of the occurrence of violence due to the response of other groups or activities. However, the freedom of association and assembly does not defend protests where violence is the intent of the organizers and participants. **On the right to peaceful assembly and association, the state has not only negative obligations but also positive ones to protect its realization actively. According to the Ombudsman, the cooperation of police forces and the protection of the protest that was the subject of the lawsuit could be considered a realization of such positive obligations.** We highlighted that **such monitoring for the post-facto punishment of alleged participants and organizers only deters protesters from using social networks to promote peaceful assembly and, therefore, has intimidation effects which have been regularly problematized in the jurisprudence of the European Court for Human Rights.**

In the field of **restriction of personal liberty**, we considered more complaints from detainees in 2022 compared to the previous year. We praise the good cooperation with the Prison Administration of the Republic of Slovenia (URSIKS), prisons (ZPKZ), and the Ministry of Justice. Regrettably, the Ombudsman established the **overcrowding** of (at least certain) prisons due to a considerable increase in the number of foreigners. Complaints by imprisoned persons indicate the necessity for the improvement of accommodation environments. **The long-term solution for these issues is the construction of a new accommodation facility in Ljubljana and the renovation of the Ig Prison, which is the only institution for female convicts and detainees. The renovation is necessary due to the poor conditions there.** We must highlight that the overcrowding problem cannot be solved entirely by constructing new prisons. **We have strived towards improving the position of vulnerable groups in said prisons, primarily 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 during their imprisonment, to ensure respect for their personality and dignity. Namely, there is a high percentage of persons requiring medical care among the complaints. ZPKZ Dob highlighted the issue of being unable to accommodate convicts in nursing homes in practice again. They submitted multiple application forms but received only rejections with the accompanying message that the convict had been placed on the waiting list for accommodation.

The problem of staff shortages in all fields of work remains prevalent in our prison system, especially in the field of expert work with the incarcerated and security, as currently, available data suggest a shortage of over 100 judicial police officers. Subsequently, we have been reintroduced to the problem of the cancellation of police escorts for imprisoned persons. According to URSKIS, courts could contribute better to alleviating this problem by taking more procedural steps in institutions. **The Enforcement of Criminal Sanctions Act was amended in 2022, bringing about the necessary systemic regulation of sanctions in case of acute security situations in prisons and juvenile correction facilities. Furthermore, the employment process of judicial police officers has been changed, as well as their improved financial starting point. Unfortunately, an act which would comprehensively regulate the treatment of juvenile offenders has still not been drafted.** We cautioned the Radeče Juvenile Correction Facility to ensure at least three hours of outside stay per day for juveniles, even after reaching the age of adulthood. It is particularly unacceptable for a person to remain accommodated in an unsuitable institution without proper treatment due to a lack of accommodations for a year or more. **Recommendation No. 26 (2021) by the Ombudsman on the preparation of the list of providers of the security measure of mandatory psychiatric treatment at liberty for the whole country remains unrealized.**

Most complaints **regarding the treatment of persons with mobility disabilities in psychiatric hospitals and social welfare services** were related to the Mental Health Act (ZDZdr) or unsolved systemic issues, such as accommodating persons in the secure wards of social welfare institutions based on court decisions, staff shortages, and accommodation issues of providers of social welfare services. The Ombudsman supports the shortening of such detentions and other treatments for persons with mental health disabilities in a home environment, that is, **the deinstitutionalization process. We reiterate the problem of the accommodation of children and minors with predominant mental health disorders and mental and physical development disorders.** As we pointed out multiple times, **the accommodation of children and minors with these issues in secure wards of specialized social welfare institutions is not adequate or appropriate if these wards are intended for adults and are not adapted in terms of space, staff, and programmes.** The National Preventive Mechanism visited five crisis centres for children and minors and one crisis centre for children in 2022. **Based on the visits, the Ombudsman established that the accommodation of children and minors in crisis centres is becoming ever longer.** Employees at the crisis centres pointed out the hardships long-term accommodations cause to the accommodated children and minors, as well as the employees. Accommodation in crisis centres can be exclusively short-term, so **we issue Recommendation No. 27 to the MDDSZ to adopt specific measures in cooperation with other competent bodies to benefit children and minors.**

We highlight the **need for improving the working conditions for employees**, the arrangement of adequate salaries for work, and the change in employee norms in expert centres.

Pertaining to foreigners and international protection applicants, we highlight that we have become familiar with a hunger strike in the Centre for Foreigners from media reports. However, all necessary measures were adopted and realised, and the foreigners stopped their hunger strike.

In the field of **the judicial system**, we considered a total of 814 cases, of which 430 were complaints, of which 11 were substantiated. **We were satisfied with the responses by the competent authorities during complaint consideration as they regularly responded to our inquests and other interventions.** In cases where complainants **accused courts of undue delays in making procedural decisions**, we primarily established that the reasons for the lengthiness of individual legal processes lay on the complainants' side. Pertaining to allegations of bias with individual judges, we predominantly presented legal options complainants have as parties in legal proceedings by invoking their right to the exclusion of a judge. According to the European Court for Human Rights, the existence of an impartial judicial system requires both the subjective criteria, where the personal beliefs of the presiding judge are determined, and the objective criteria, where it is determined if the judge ensured the realization of all procedural guarantees throughout the proceedings, to ensure that all doubts in the impartiality of the judge are ruled out. **Concerning insolvency procedures**, the Ombudsman established that individuals still do not know that information on individual insolvency procedures is available to them free of charge and is publicly accessible on the website of the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES) and that they are expected to actively follow publications, as such publication can have (even fatal) legal consequences for their legal position. The Ombudsman issues a new recommendation on this topic that courts and insolvency administrators also inform their clients of their obligations, the omission of which can result in the loss of individual rights. The information the judicial system manages to handle received cases, keeps reducing the number of unsolved cases, and successfully carries out activities to improve quality is encouraging. Pertaining to the legislature, we detected progress in protecting children who were victims of criminal offences. **Unfortunately, an act which would comprehensively regulate the treatment of juvenile offenders has still not been drafted.** In the field of prosecution, the Ombudsman **issues the recommendation (No 59), based on a specific complaint, for state prosecutors to withhold from making statements or performing practices during plea agreement negotiations, at pre-trial hearings, or at the hearing itself that current regulations do not allow for and which could give unrealistic expectations to their clients.**

Regarding **misdemeanour proceedings**, the Ombudsman emphasizes the question of using all available legal means against misdemeanour decisions issued based on regulations to prevent the spreading of the Covid-19 epidemic. **The announcement of drafting the legislative basis for the return of unlawful fines is encouraging. We must, once again, reiterate that the necessary changes or amendments to the legislation, including tax law, that would ensure better accessibility to pro bono legal aid have not yet occurred. Furthermore, the Ombudsman encourages the Ministry of Justice to keep up with activities and new solutions for improving the situation of judicial experts in the field of family law, as current activities, unfortunately, failed to bring about results, which would be evident with an increased number of assigned judicial experts in this field.**

On **police proceedings, private security services, detectives, and traffic wardens**, we received half as many complaints in 2022 as we did the year before. They referred to various aspects of police work, and the cooperation with competent authorities was good. The Organisation and Work of the Police Act was again amended, and we collaborated during the drafting process with our recommendations on provisions that could significantly protect human rights and basic freedoms. The question of the effectiveness of existing complaints or **control mechanisms over the work of security guards, traffic wardens, and detectives** remains open. The Ombudsman advocates for the systemic regulation of detective work, so respect for laws, human rights, freedoms, and the principles of the rule of law is ensured in this field, emphasising education, regular training, and improvement of detectives. A clear definition of the appellate procedure and an appeal submission deadline is necessary. **We must emphasize a large number of realized recommendations in this field. However, we point out that police officers must act under professional guidelines during the protection of public meetings and take the proportionality of the use of force against crowds into consideration when conducting police procedures (Recommendation No. 61) as part of maintaining public order, even during the supervision of unregistered gatherings. In 2022, we concluded the full consideration of police procedures during the realization of tasks on maintaining public order during the supervision of the unregistered gathering in Ljubljana on October 10. 2021. Based on the received explanations and a review of the documentation, we observed a lack of a gradual application of police powers on several occasions in the actions of the police. The considered case established that the police lack well-defined criteria for using the (appropriate) amount of tear gas in a specific outdoor area. The use of the water cannon with added tear gas was also undoubtedly problematic. The decision of the competent person on the use of coercive measures against the crowd (water jet, tear gas) not being temporarily or spatially narrowly focused on individual events (and supplemented or re-ordered per necessity) but covering the entire area where protesters were located instead led to situations where this coercive measures could have been used against a non-violent crowd in our opinion. We commend the measures adopted by the Ministry of the Interior at the end of the year, including that they will inform all police directorates and internal organizational units of the General Police Directorate on this subject matter and include it in their training.**

In the field of **other administrative matters**, most complaints among the special administrative procedures referred to **tax procedures**. We considered 57 cases, of which 35 were complaints, and 5 were substantiated. We established that, despite adopted measures, the problems of the lengthy resolution of complaints at the Ministry of Finance remain, along with the subsequent non-compliance with the principles of good management. We received a complaint when one of the finance bureaus failed to inform the complainant of their lack of jurisdiction. We received complaints about the incorrect submission of the income tax by the financial administration to the taxpayer. However, we must point out that issuing a warning by the tax authority is not mandatory. **The general common denominator for the other cases in this field must be pointed out, and it is the unresponsiveness of administrative authorities.** In one case, we determined that the regional office of the Surveying and Mapping Authority violated the principles of good management and unduly delayed the procedure by not initiating the process to complete the new measurement of the parcel of the complainant and not replying to a brief for over a decade. In the other case, the Ministry for Infrastructure needed almost six years to decide the application form of the complainant

(in a repeated procedure) and only decided against the intervention by the Ombudsman. We called out that not respecting the deadline for the publication of a new administrative act as per court order can be a problem from the perspective of the attitude of the executive branch to the judicial branch of government. We received some complaints on issues with car registrations due to temporary accommodations, where the problem for the registration of such vehicles apparently lay in technical issues or systemic issues, which the Ministry of Infrastructure finally rectified. We also revisited an issue of a father having the issue registering their name on the child's birth certificate when the parents were not Slovenian citizens. We highlight that the child must be allowed for his father to register into the Register of Deaths, Births and Marriages and thus protect their right to personal identity as per the Convention on the Rights of the Child.

In the field of the **environment and spatial planning**, we must first determine that noise-related problems were the predominant issue in 2022, and in other cases, it was the unresponsiveness of authorities, in addition to questions on water. We dealt with the **conduct of the drafters of regulations, who are all too often inconsistent with the right of the public to participate in the adoption of environmental regulation** (short deadlines for discussion, subsequent substantial supplementation of draft regulations, and their insufficient explanations), which is problematic from the viewpoint of Article 44 of the Constitution of the Republic of Slovenia and represents a deviation from the implementation of the fundamental goals of the Aarhus Convention. During his visit to Slovenia, we informed the UN Special Rapporteur on Human Rights and the Environment, David R. Boyd, of such practices. For instance, one such case was the consideration procedure on the allegations of controversy of the Decree on the concession for the use of water for exploitation of alluvial deposits from Sava, Sava Dolinka, Soča, Tolminka and Bača. **We called on the Ministry of the Environment and Spatial Planning to carefully consider and implement adequate measures to eliminate established irregularities. For over two decades, the Ministry of Agriculture, Forestry and Food has not prepared what is necessary to realise the government-mandated regulation under Paragraph 7 of Article 52 of the Game and Hunting Act, which was adopted way back in 2004. Such practices are problematic from a wide variety of constitutional principles, starting with the principles of the rule of law. We have pointed this out in multiple of our Annual Reports, but this time we issue a new recommendation to fulfil its legally mandated obligation or submit legislative amendments (Recommendation No. 62). Furthermore, we highlighted the necessary remediation of the Anhovo, Soča, and Upper Mežica valleys, as well as the Celje Basin multiple times, and we have drawn the attention of the relevant authorities to the much-needed solutions. Closer inter-ministerial cooperation is necessary in conjunction with local communities and businesses. However, we welcome the legislative change brought about by the adoption of the Decree amending the Decree on the emission of substances into the atmosphere from stationary sources of pollution by the government. This determined the measures and procedures for preventing or limiting air pollution with odour, and odour concentration threshold limits have been set for certain activities. Additionally, we welcome the realization of our recommendation on ratifying the Council of Europe Convention on Access to Official Documents.**

On the issue of noise, we submitted a request to assess the constitutionality and legality of the Decree on limit values for environmental noise indicators, as we believe that it violates multiple provisions of the Constitution and that multiple of its stipulations contradict the

Environmental Protection Act. **On July 6 2022, in a procedure initiated based on a complaint by a non-government organization, the Constitutional Court decided that the Act as mentioned above violates Article 34. a of the Environmental Protection Act and, subsequently, Article 120 of the Constitution of the Republic of Slovenia and ordered the government to remedy the irregularities. Furthermore, the Ombudsman has been pointing out since 2016 that certain low-frequency noises lack any definition, but no adequate legislative response has occurred to date.** We have been dealing with the problem of issuing permits for temporary excessive noise pollution for some time, which is a consequence of various and, according to us, occasionally incorrect interpretations of the Decree on the method of using sound devices emitting noise at public events and public meetings. We received complaints from residents of the Municipalities of Novo Mesto, Ljubljana, Ptuj, Izola, and Litija on this topic again. We were critical towards the practices of the Municipality of Ljubljana in one of the considered complaints, as the municipality failed to adhere to its own guarantees and, consequently, gives the impression that the inclusion of individuals into the procedure is perceived as an (unnecessary) obstacle. **For years, we have reiterated our recommendation on the drafting and adoption of adequate guidelines which would regulate the realization of the right to drinking water as stated in the Constitution.**

Regarding **regulated activities**, most of the complaints were about traffic communication and municipal services. We considered a complaint on payment sharing of municipal services where the complainant was a co-owner of a residential house. We encountered problems with the connection to the public sewage network again. **We received multiple complaints concerning the contribution fee for carrying out radio and television activities - the so-called RTV contribution. Most of them disagreed with the required payment of the fees. We explained that this is a special form of public contribution in the field of public services.** We considered the allegations towards the Post of Slovenia regarding the "unacceptable procedural delay in the package delivery process." **Regarding traffic, we addressed the issue of excessive congestion of the road Ljubljanska Cesta, categorized under Regional Road R.209/1089 (Bled-Soteska). Because we did not detect any tangible progress, we estimated that these cases constitute a violation of the right to a healthy life and Article 72 of the Constitution. We also highlight the powers of the Slovenian Infrastructure Agency, as we established that the agency did not do everything in its power to ensure the right to a healthy living environment for citizens living there as fast as possible and to the highest degree possible.**

In the field of **housing matters**, we registered a trend of fewer matters submitted. We opened three complaints at our own initiative, in which we study the housing problem of vulnerable groups as a systemic issue, the problems of accessing multi-apartment buildings for persons with mobility disabilities, and the issue of restricting the functioning of residential units with accommodation support. As such, **in our Recommendation No. 66, we recommend the government ensure the co-financing or subsidizing the construction of elevators in multi-storey buildings and privately owned facilities with less than five storeys and to ensure the legislative basis and means for subsidies as per example of the subsidies for the energy renovation of buildings, intending to ensure access to buildings. We considered the issue of leasehold properties, where we established that the property owner, under current law, is obligated to maintain the property and communal parts of the property in a state that allows the tenants to have a normal life. Tenants often encounter various problems when**

registering permanent or temporary residences, most often objections from the property owner. We still call on the competent ministry to approach a comprehensive revision of legislation concerning housing matters, especially the Housing Act. Furthermore, we repeat the pertinent recommendation.

Operations of the Ombudsman's internal organisational units

The Ombudsman also 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 its powers, the NPM visits all places in Slovenia where persons deprived of liberty have been or could have been placed based on 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 2022, eight non-governmental organisations cooperated with us.

In 2021, the NPM visited 98 places of deprivation of liberty (some twice), 20 police stations, 17 retirement homes, 16 expert centres for children and adolescents with emotional and behavioural disorders or educational institutions, 8 prisons, 6 social care institutions, 4 psychiatric hospitals, 6 crisis centres for children and adolescent, 5 education, work and care centres, and 15 various occupational activity centres, and the Centre for Foreigners in Postojna. All visits (except four) were conducted **without prior announcement**. There were eleven control visits (when we examined the realisation of NPM recommendations from past visits in detail). *During the visits, the NPM issued a total of 571 recommendations, which is significantly more compared to the year or years before (501 for 2021 and 329 recommendations the year before that); of these, 141 were intended for police stations, 131 for prisons, 117 for occupational activity centres, 68 for retirement homes, and 61 for education, work and care centres. Of these, 243 recommendations have already been realised, 249 were accepted but not yet realised, 17 were not accepted, and the remaining ones await replies from competent institutions.* As is the case every year, an independent NPM report has been prepared about the work of the NPM, which discusses individual substantive findings on the situation at various places of deprivation of liberty in detail.

Child advocacy strengthens the voices of children. In 2022, we received **141** complaints to appoint an advocate, an increase of about one-third more than the previous year. Advocates were appointed in **67** cases, of which **39** are still being considered. **Of all complaints received, 53** were submitted by parents, **22** by the social welfare centre, **54** by circuit courts, **9** by others, and **3** by children. In 2022, **147** children received an advocate, most in the Ljubljana region, the northeastern part of Slovenia, and the Gorenjska region. The average age of children who were appointed an advocate was **10.39** years.

As part of Advocacy, we encourage helping victims of violent behaviour and support efforts to empower victims on how to report violence. We point out that if we want to help victims of violence, we must know and raise awareness of the international sign that victims can use as a call for help. The central theme of the expert consultation on child advocacy

titled 'Addressing various forms of violence in advocacy' for advocates was how to **address different forms of violence against children and juveniles**. Unfortunately, many children are exposed to violence and experience abuse, which is why it is paramount to protect them. If we interpret human rights as defined in the relationship between an individual and the state, then children's rights must be interpreted as a triangle between the child, the family, and the state.

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, the organisation of consultations, cooperation with civil society, provision of general information on the types and forms of complaints to international bodies, and cooperation with international organisations and associations. In 2022, the Centre continued to publish regular three-month notifications on the Ombudsman's work in the field of human rights of persons with disabilities. It revised the Ombudsman's brief guide titled **How and When to Complain about Human Rights Violations to International Committees of the United Nations**. As part of the Centre, we donated books on human rights to the Bežigrad Library and made them accessible to more people. We hosted an expert from the Turkish Ombudsman for a one-month internship as part of an EU project. We successfully completed the First public competition for diploma, master's, and doctoral theses in the field of human rights and announced the 2nd public competition. We prepared a revised complaint form, which is aimed at making access to the Ombudsman easier.

In 2022, the Centre began preparing the analysis of the treatment of refugees from Ukraine in Slovenia. It was published in November under the title **Provision of Training on human rights for public employees in state administration in Slovenia – Review of international standards, assessment of the Situation and the Analysis of training programmes provided by the Administration Academy (Ministry of Public Administration)**. **Based on findings and recommendations, cooperation between the Administration Academy and the Ombudsman to ensure a higher provision of training on human rights for public employees at various levels has already occurred**. In November, the Centre sent out new questionnaires to all primary and secondary schools on violence in schools and some aspects of realizing children's rights. The Centre prepared multiple recommendations, both at the request of state authorities and international organizations, and cooperated with various international organizations and institutions from the field of human rights. We must highlight the contribution of the Ombudsman to the report of the UN Special Rapporteur on migrant rights, the Report of the Ombudsman on the situation of the rule of law in Slovenia as part of the EN-NHRI project on the rule of law in the European Union, which was submitted to the European Commission, the cooperation with the Advisory Committee on the Framework Convention for the Protection of National Minorities, the meeting with the UN Special Rapporteur on human rights and the environment, the meeting with the delegation of the Group of Experts on Action against Trafficking in Human Beings (GRETA), and the cooperation with the European Commission and the European Economic and Social Committee on the rule of law in Slovenia. **Regarding the work of the Centre, multiple recommendations remain unrealised. Therefore, we reiterate them.**

We reiterate our recommendation from last year (ongoing task, No. 1) that all who participate in public discussions, particularly politicians in their statements and writing, avoid

inciting inequality, hatred, or intolerance based on any personal circumstance, and when such cases occur, to respond and condemn them immediately.

In 2022, I met with many non-governmental organizations from various fields, including paraplegics and tetraplegics, with the civil society that provides care for persons with autistic spectrum disorder, with persons from the field of intergenerational cooperation, with unions, and the civil society for the protection of the environment, nature, and spatial planning, and many others.

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, **met only once in 2022, which was actually the eighth session of the current 2019–2025 term.** The session was called to discuss the realization of the right to healthcare. Regarding the discussions of the Council, we issued a recommendation **Regarding the discussions of the Council in last year's Annual report of the Ombudsman to 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."** However, the recommendation has not been realized yet.

International cooperation

In 2022, we were also active internationally, and we further strengthened relations with international associations and organisations and **attended more than 60 international events. We cooperated with the Council of Europe, the European Union, the Organization for Security and Co-operation in Europe, and their Office for Democratic Institutions and Human Rights (OSCE) at the regional level.** In May, June, and October, we attended meetings on the implementation of the two-year project titled The Improvement of the System for criminal sanctions for Adolescents and the Enhancement of the Training and Education of prison staff. In March, we participated in the internet meeting of the European Network of Ombudspersons for Children (ENOC) on the topic of the conflict in Ukraine. We attended the European Network of Ombudspersons for Children (ENOC) international conference in Warsaw in June. We participated in the public internet debate on The role of family members in caring for people with disabilities and older persons: the explosion of the phenomenon during the pandemic, organized by the European Economic and Social Committee (EESC). In October, We hosted guests from Croatia, namely, the Croatian Ombudsman for Children and the Minister of Justice and Public Administration. We devoted particular interest to the implementation of the House for Children (Barnahus) project in Slovenia. We have visited the house ourselves. In May, we participated in the consultation at the conclusion of the *MiCREATE* (Migrant Children and Communities in a Transforming Europe) project, organized by the Science and Research Centre Koper. We cooperated with the United Nations. In March, we participated in the virtual regional conference organized by the **United Nations** in Northern Macedonia and the Ombudsman of Northern Macedonia titled the Strengthening of national institutions for human rights as independent oversight mechanisms for the implementation of the United Nations Convention on the Rights of Persons with Disabilities. In October, we hosted the UN Special Rapporteur on Human Rights and the Environment, David R. Boyd.

We were highly active in international Ombudsman associations and national institutions for human rights. **We were especially active in the International Ombudsman Institute (IOI), where I perform the function of one of the directors of the International Ombudsman Institute (IOI).** As the representative of the IOI, I visited the Hungarian-Ukrainian border with the European Regional IOI President and the Greek Ombudsman Andreas Pottakis. In Budapest, we met our hosts, the Hungarian Ombudsman, Dr Ákos Kozma, who presented the institution's activities on the issue of refugees since the beginning of the war in Ukraine. We called to action for the complete protection of the basic right and freedoms and highlighted the importance of establishing a uniform mechanism for the monitoring of refugees in EU states, their non-discriminatory treatment, and proper registration, all with the goal of protecting refugees from possible abuse. Among others, we highlighted the need for solidarity towards all refugees. We expect European governments and European Commissions to strengthen the mandate of Ombudsman institutions for the realization of the monitoring of borders. We cooperated with the Association of Mediterranean Ombudsmen (AOM) and participated in various other events and activities of the European Network of National Human Rights Institutions (ENNHRI) and the Global Alliance of National Human Rights Institutions (GANHRI). The cooperation on the international level pertaining to children was intense, especially pertaining to the NPM, where we must highlight the cooperation with the Association for the Prevention of Torture in Geneva (APT) and within the framework of the Network of National Preventive Mechanisms of South-East Europe (SEE NPM Network).

Conclusion

I did not wish to highlight all recommendations, established deficiencies and violations of human rights and fundamental freedoms in the introduction. I hope you gained insight into what our work encompasses in these pages. **The Ombudsman's operations are presented in more detail in the continuation of the report** and include 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;
- an attachment with a detailed description of the Ombudsman's activities in 2022, including the explanation of specific 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 the 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. I reiterate, 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 when publications are intended primarily for individuals, it is also necessary to bear in mind that not everyone has access to information technologies or that their access is limited. To this end, only the Summary of the Work of the Human Rights Ombudsman of the Republic of Slovenia for 2022 has been printed out, as we wish to inform the broader public about our work and specific key findings.

Dear reader,

The institution of the Ombudsman is recognized and esteemed in Slovenia and abroad. This is to the credit of all the past holders of the office of the 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, where work never ceases, and after the fourth year of my term, I can ascertain that much is yet to be done in many fields. 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, but still reiterate that no tangible progress will be made without the cooperation and the active involvement of all stakeholders in the system of checks and balances. 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 this past year. **I also hope for good cooperation in the future, particularly regarding the realisation of our recommendations, and I hope I will be able to announce in the next year's report that we have realised them more successfully.** Let us put the individual, their dignity, and their problems at the centre. We are in the service of the people, and we carry great responsibility towards them, each in our field. So let us consider that as our work, not just in theory but mainly in practice.

Peter Svetina
Human Rights Ombudsman

ACCESS TO THE OMBUDSMAN AND OPERATIONS OUTSIDE THE HEAD OFFICE IN 2022

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

20

IN 2022, WE RECEIVED

35,374

INCOMING DOCUMENTS

(31,688 in 2021)

22

WE GENERATED

8,555

OUTGOING DOCUMENTS

(9,203 in 2021)

In 2022, we held 3 business meetings outside our head office, where the Ombudsman and his deputies conducted in-person interviews and visited different institutions. By conducting business outside our head office, the Ombudsman wishes to become more accessible to persons who cannot visit our head office for a conversation due to distance or other reasons. The locations the Ombudsman visited this year are Slovenska Bistrica, Maribor, and Murska Sobota.

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), established in 2020 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,
- the Ombudsman has already taken a position regarding a specific issue,
- the complaints are incomplete.

Complaints and phone calls

In 2022, **the SEP dealt with 1,056 complaints** (1,636 in 2021) **and accepted 2,859 phone calls** (3,143 in 2021). **Thus, the SEP dealt with a total of 3,915 cases in 2022** (4,779 in 2021). The reason for the significantly higher number of cases in 2021 was indubitably the issue of COVID-19.

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.** Official minutes are kept on all telephone and personal conversations, of which the Ombudsman and the Deputy Ombudsman are informed.

5,975

CASES WERE DEALT WITH BY THE OMBUDSMAN IN 2022.

In 2021, we dealt with 6,863 cases, which denotes a **12.96%** decrease in 2022.

2,859

INTERVIEWS

with callers who had not (yet) filed their complaints.

INTERVIEWS

during meetings held outside the head office.

45

31

with children

18

with complainants from the field of Child Advocacy

2,398

newly opened complaints.

642

Complaints carried forward from previous years.

2,359

78%

complaints were completed.

3,026

COMPLAINTS

were addressed by the Ombudsman in 2022, of which, as of 31 December 2022:

583

19.2%

were being dealt with.

84

2.8%

were reactivated.

406

or 17.2%

of complaints were substantiated, of which 181 were from the field of Advocacy.

273

or 11.6%

complaints were not substantiated.

1,340

or 56.8%

of complaints provided no further conditions for consideration.

242

or 10.26%

of complaints did not fall under the Ombudsman's field.

2

or 0.08%

predstavlja umik soglasja na področju zagovorništva.

2

or 0.08%

denoted a withdrawal of consent in the field of Advocacy.

94

or 3.98%

of complaints were from the field of National preventative mechanisms.

The Ombudsman determined that allegations of human rights and fundamental freedoms violations were substantiated in **189 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 189 substantiated complaints, the Ombudsman established 222 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. A further 181 cases referring to child advocacy must be added to these 222 violations, where we did not establish violations but were dealt with as substantiated complaints and are thus counted among the 406 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 ACCORDING TO FIELDS

2022	TREATMENT OF CASES				
	COMPLAINTS IN THE FIELD	ENTRY POINT - COMPLAINTS	ENTRY POINT - INTERVIEWS	TOTAL CASES IN 2021	TOTAL CASES IN 2022
FIELD OF WORK					
EQUALITY BEFORE THE LAW AND PROHIBITION OF DISCRIMINATION	62	20	24	167	106
PROTECTION OF DIGNITY, PERSONAL RIGHTS, SAFETY, AND PRIVACY	24	53	50	207	127
FREEDOM OF CONSCIENCE AND RELIGIOUS COMMUNITIES	7	1	2	14	10
FREEDOM OF EXPRESSION	15	38	8	58	61
ASSEMBLY, ASSOCIATION, AND PARTICIPATION IN THE MANAGEMENT OF PUBLIC AFFAIRS	25	3	7	20	35
NATIONAL AND ETHNIC COMMUNITIES	20	3	6	48	29
FOREIGNERS	131	52	88	158	271
RESTRICTION OF PERSONAL LIBERTY	111	25	254	318	390
PENSION AND DISABILITY INSURANCE	640	473	73	204	1186
HEALTHCARE AND HEALTH INSURANCE	105	124	224	872	453
SOCIAL SECURITY	183	95	287	596	565
LABOUR LAW MATTERS	25	59	96	325	180
UNEMPLOYMENT	4	6	14	16	24
OTHER ADMINISTRATIVE MATTERS	87	69	124	286	280
JUDICIAL SYSTEM	202	228	384	819	814
POLICE PROCEEDINGS, PRIVATE SECURITY SERVICE, DETECTIVES, AND TRAFFIC WARDENS	43	34	74	234	151
ENVIRONMENT AND SPATIAL PLANNING	51	45	48	184	144
REGULATED ACTIVITIES	26	52	57	99	135
SOCIAL ACTIVITIES	42	33	46	165	121
HOUSING MATTERS	23	28	54	157	105
PROTECTION OF CHILDREN'S RIGHTS	153	31	185	370	369
NATIONAL PREVENTIVE MECHANISM	130	0	2	94	132
CHILD ADVOCACY	369	0	80	338	449

FIELDS OF WORK

A. Vulnerable groups discussed

- 2.1 FREEDOM OF CONSCIENCE AND RELIGIOUS COMMUNITIES
- 2.2 NATIONAL AND ETHNIC COMMUNITIES
- 2.3 EMPLOYED AND UNEMPLOYED PERSONS
- 2.4 WOMEN
- 2.5 CHILDREN
- 2.6 PERSONS WITH DISABILITIES
- 2.7 ELDERLY
- 2.8 LGBTIQ+
- 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 AND HEALTH INSURANCE
- 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 based on an act issued by the authorities. These are preventive visits.

Places of deprivation of liberty in Slovenia include:

- prisons (ZPKZ) 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 and others).

In 2022, the NPM visited 98 places of deprivation of liberty (some twice), 20 police stations, 17 retirement homes, 16 expert centres for children and adolescents with emotional and behavioural disorders or educational institutions, 8 prisons, 6 social care institutions, 4 psychiatric hospitals, 6 crisis centres for children and adolescent, 5 education, work and care centres, and 15 various occupational activity centres, and the Centre for Foreigners, in Postojna. All visits (except four) were conducted without prior announcement. There were eleven control visits (when we examined the realisation of NPM recommendations from past visits in particular).

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 2022, the visited institutions received a total of 571 recommendations.

Each group implementing a visit consists of representatives of the Ombudsman and selected non-governmental organisations. Non-governmental organisations who cooperated with the Ombudsman in the implementation of NPM tasks are: **Novi paradoks – Slovensko društvo za kakovost življenja, Društvo Pravo za VSE, SKUP – Skupnost privatnih zavodov,**

PIC – Pravni center za varstvo človekovih pravic in okolja, Zavod Mirovni inštitut Ljubljana, Zveza društev upokojencev Slovenije, Spominčica – Alzheimer Slovenija – Slovensko združenje za pomoč pri demenci, and Slovenska fundacija za UNICEF.

The National Preventive Mechanism annually drafts a detailed independent report about its work, which constitutes a part of the Ombudsman's Annual Report. The report of the NPM for 2022 is its fifteenth.

CHILD ADVOCACY

Advocacy strengthens the voices 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, centres for social work and other bodies that decide on the future of a child's life. The advocate is not the child's legal representative or a court expert who would evaluate what is beneficial 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. **In 2022, an Expert consultation on child advocacy with the central theme of 'Addressing various forms of violence in advocacy' was carried out for child advocates.**

In 2022, the advocacy received 141 complaints regarding the appointment of an advocate. In 67 cases, the advocate was appointed, while 22 complaints are still being examined. **Of all complaints received, parents were complainants in 53 cases, social welfare centres in 22, circuit courts in 54, others in 9, and children in 3. In 2022, 147 children received an advocate, most in the Ljubljana region, the northeastern part of Slovenia, and the Gorenjska region. The average age of children who were appointed an advocate was 10.39 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. In 2022, the Ombudsman advocated for the realization of the recommendations by the Sub-committee on Accreditation (SCA), **which recommends several additional improvements for the legal framework in Slovenia.** Whether the Ombudsman (still) meets the conditions for (re)accreditation of A status as per the Paris Principles will be verified again under the applicable system **five years after the accreditation. Whether the Ombudsman (still) meets the conditions for (re)accreditation of A status as per the Paris Principles will be verified again per the applicable system five years after the accreditation.**

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 2022, including the First public competition for diploma, master's, and doctoral theses in the field of human rights and announced the 2nd public competition, revised the Ombudsman's brief guide titled **How and When to Complain about Human Rights Violations to International Committees of the United Nations, and established a specialized collection on human rights in the Bežigrad Library for the Ombudsman**. In 2022, it published its analysis titled the 'Provision of training on human rights for public employees in state administration in Slovenia – Review of international standards, assessment of the situation and the analysis of training programmes provided by the Administration Academy (Ministry of Public Administration),' and **monitored the treatment of refugees from Ukraine**. The Centre cooperated in preparing **a new form for submitting complaints to the Ombudsman**.

In 2022, the Centre **drafted several international reports and contributions for the Ombudsman**, including a contribution for the report of the UN Special Rapporteur on migrant rights, the report of the Ombudsman on the situation of the rule of law in Slovenia as part of the ENNHRI report to the European Commission, and cooperated with the Advisory Committee on the Framework Convention for the Protection of National Minorities. The Centre cooperated with the European Union Agency for Fundamental Rights regional project on strengthening national institutions' capabilities for human rights on the Charter of Fundamental Rights of the European Union and the rule of law. The Centre actively participated in the ENNHRI working groups within the Council of Europe and several international events. **The Ombudsman actively cooperated with various segments of civil society in Slovenia and Europe in 2022.**

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 under the principle of professional autonomy. Plural representation enables the establishment of effective cooperation between 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, Lea Benedejčič, MSc, Nataša Briški, MSc, Darja Groznik, Dr. Patrick Vlačič, Dr. Vasilka Sancin, Dr. Sara Ahlin Doljak, Dr. Aldijana Ahmetović, Alenka Ješe, Jelena Aleksić, MSc, Peter Pavlin, Dr. Marko Rakovec, and Nataša Voršič.

The Council met only once in 2022, which was actually the eighth session of the current 2019–2025 term. The session was held on 17 May 2022 and was called to discuss the realization of the right to healthcare.

INTERNATIONAL COOPERATION

In 2022, the Ombudsman actively **participated in more than 60 international events**. **International events** were finally **again held in person, in various countries and international organizations**. However, some events still **took place via virtual platforms**. The virtual format of meetings and workshops made it possible to include more participants, and the costs were also significantly reduced.

The Ombudsman Peter Svetina, who serves on the Board of Directors for Europe of the International Ombudsman Institute, visited the Hungarian-Ukrainian border, where he observed the humanitarian crisis and the treatment of Ukrainian refugees.

Table and data on international cooperation.



NEW RECOMMENDATIONS FROM THE OMBUDSMAN'S ANNUAL REPORT FOR 2022

1.1. Introduction by the Ombudsman

1. The Ombudsman recommends that the Government of the Republic of Slovenia establish special coordination which will deal with recommendations of the Ombudsman pertaining to multiple government departments and prepare a uniform standpoint and work plan for the realization of such pertinent recommendations.

1.9 The Centre for Human Rights

2. The Ombudsman recommends that the Ministry of Education comply with Phase One of the World Programme for Human Rights Education on the acceleration of education on human rights and tolerance during the reform of the curricula for kindergartens and primary schools, including a review of new and current textbooks, and to include experts on human rights, after consulting the Ombudsman, in the expert committee that will draft the reform.

1 (ongoing task). The Ombudsman recommends the Government of the Republic of Slovenia and its Ministries, as the regulation drafting authorities, to act transparently and under the principles of good management during the regulation drafting procedures and reasonably include those persons and entities the regulation or their recommendation directly applies to into the drafting process before a public debate takes place.

1.12 Child Advocacy

2 (ongoing task). The Ombudsman reiterates the recommendation that the Government of the Republic of Slovenia do everything necessary to eliminate the intolerable situation regarding the shortage of legal experts in family matters as soon as possible, as this situation can result in the violation of the rights and benefits of children, and to adopt a clear set of measures and a timeline for the realization of this recommendation.

2.2 National and Ethnic Communities

3. The Ombudsman recommends the Ministry of Natural Resources and Spatial Planning prepare an analysis how many municipal spatial plans, which regulated the situation of the Roma, have been adopted from the implementation of the Roma Community in the Republic of Slovenia Act until today, how many Roma settlements are still not included in municipal spatial plans, and how many objects were granted building permits after the implementation of the Roma Community in the Republic of Slovenia Act, which would allow the regulation of access to water, electricity, and utilities, and how many objects in Roma settlements still lack a building permit.

2.3 Employed and Unemployed Persons

4. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunity continue all activities on abolishing precarious work and drafting expected standards for precariousness and strategies, which will address the issues and set a realistic timeline.

5. The Ombudsman calls on the Government of the Republic of Slovenia, the Ministry of Labour, Family, Social Affairs, and Equal Opportunity and the Labour Inspectorate of the Republic of Slovenia to continue activities on adopting and implementing measures for greater efficiency of inspection procedures. Furthermore, The Ombudsman recommends that activities for greater efficiency of inspection controls with concrete results be made public.

6. The Ombudsman recommends that the Labour Inspectorate of the Republic of Slovenia continue performing activities to inform workers of their rights as per their employment relationship and on possible ways of realizing these rights, also through public announcements, and to act accordingly in case violations are determined.

2.4 Women

Recommendation No. 18 from section 2.11 of this Annual Report also pertains to women.

2.5 Children

7. The Ombudsman recommends centres for social work work with the Ministry of Foreign Affairs per need for the easier administration of formalities of foreigners from their domestic environment in the Republic of Slovenia.

8. The Ombudsman recommends that the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs, urgently implement European legal documents as these documents cannot be directly referenced without their implementation.

9. The Ombudsman recommends the Ministry of Health and the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to ensure the high-quality medical treatment of children and adolescents with mental health disorders.

10. The Ombudsman recommends the Ministry of Education and the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to review the findings and recommendations of the 32nd Children's Parliament[®] in cooperation with other competent authorities to address each finding and recommendation and adequately regard them when making decisions about children.

11. The Ombudsman recommends the Ministry of Education adopt legislative solutions for the whole field of education, which would provide adequate oversight on what pupils bring into the school environment, particularly the inspection of school bags and tests for the presence of dangerous objects, all types of weapons, drugs, and alcohol.

12. The Ombudsman recommends that the Ministry of Justice ensure, within the legal framework regulating the status of guardianship, that centres for social work must

provide adequate reasoning for their decisions on the objection of the person under guardianship (complainant) against the practices of their guardian in a manner which allows for a complaint to be filed as per the provisions in Articles 14, 22, and 25 of the Constitution of the Republic of Slovenia.

3. (ongoing task). The Ombudsman recommends that centres for social work offer adequate help to individuals where authorities of the Republic of Slovenia have committed no human rights violations, yet, the possibility of such violations occurring in the future is feasible.

4. (ongoing task). The Ombudsman recommends that the Ministry of Health ensure all children and adolescents are accommodated in special wards for children and adolescents. If children and adolescents are exceptionally accommodated in wards of medical facilities together with adults due to exigent circumstances, then such accommodations must be remedied as soon as possible, and children and adolescents must be ensured the same rights children accommodated in wards for children enjoy in the meantime. The Ombudsman highlights that children's rights cannot be taken away because they are accommodated in wards for adults.

5. (ongoing task). The Ombudsman recommends that the Ministry of Health ensure that children with special needs pertaining to dental healthcare be treated efficiently and preferentially.

6. (ongoing task). As an ongoing task, the Ombudsman recommends that the Ministry of Health and the Ministry of Justice adequately solve the issue of the lack of clinical psychiatrists and pedo-psychiatrists, which directly influences the length of the decision-making in legal procedures pertaining to children.

Recommendations nos. 22, 27, 28, 42, 64, and 65 from other sections of this Annual Report and **recommendation (ongoing task) no. 2** from chapter 1.9 of this Annual Report also refer to children.

2.6 Persons with disabilities

Recommendations **nos. 9, 16, 21, 22, 23, 25, 26, 28, 32, 35, 36, 41, 42, 43, 44, 45, 46, 52, and 58** from other sections of this Annual Report and **recommendations (ongoing tasks) nos. 5, 10, 11, 12, 13, and 14** from other sections of this Annual Report refer to **persons with disabilities**.

2.7 Elderly

Recommendations nos. 25, 28, 32, 34, and 51 from other sections of this Annual Report and the **recommendations (ongoing tasks) nos. 11, 12, 13, and 14** from other sections of this Annual Report refer to **the elderly**.

2.9 Foreigners

13. The Ombudsman recommends that the Ministry of Public Administration and the Ministry of the Interior intensely continue addressing systemic reasons for delays in decision-making by Departments for Foreign Citizens of Administrative units and ensure the realization of as many and as effective solutions to this end.

14. The Ombudsman recommends that the Ministry of the Interior ensure the realization of as many effective solutions as possible for resolving matters of review as per the Citizenship of the Republic of Slovenia Act in 2023.

15. The Ombudsman recommends that the Ministry of the Interior adopt additional measures that will consistently ensure the individual consideration and respect constitutional and conventional procedural guarantees and the consistent documentation of the circumstances of an individual procedure during police procedures with foreigners before their potential removal from the country.

Recommendations nos. 7, 17, 33, 49, and 50 from other sections of this Annual Report also refer to **foreigners**.

2.10 Equality before the law and the prohibition of discrimination

16. The Ombudsman recommends that courts and Centres for informatics (Paragraphs 1 and 4 of Article 70 of the Courts Act and Articles 44 and 284 of the Court Rules) adopt special measures to ensure accessibility to court websites and mobile applications for easier access to court information for all users, and especially persons with disabilities under the Accessibility of Websites and Mobile Applications Act.

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7. (ongoing task). The Ombudsman recommends all drafters of regulations, especially the Administration, who draft act proposals for the Government under Article 8 of the State Administration Act (ZDU-1), to comply with Article 14 of the Constitution of the Republic of Slovenia when making differentiations based on personal circumstances and to clearly explain the realization or ensuring of which right or freedom such differentiation is referring to, which personal circumstance among the compared specific circumstances the differentiation is based on, and why the violation of the right to non-discriminatory consideration through differentiation based on the specific personal circumstance is constitutionally permissible (which substantially justified goal is it based on and why is appropriate, necessary, and proportional in a narrow sense as per the general principle of proportionality).

8. (ongoing task). The Ombudsman recommends the Government of the Republic of Slovenia (the most common of all drafters of regulation as per the Constitution) to ensure that drafts for acts which legalise differentiation based on personal circumstances comply with Article 14 of the Constitution of the Republic of Slovenia and, as part of this, clearly explain within its legislative text the realization or ensuring of which right or freedom such differentiation is referring to, which personal circumstance among the compared specific circumstances the differentiation is based on, and why the violati-

on of the right to non-discriminatory consideration through differentiation based on the specific personal circumstance is constitutionally permissible (which substantially justified goal is it based on and why is appropriate, necessary, and proportional in a narrow sense as per the general principle of proportionality).

9 (ongoing task). The Ombudsman recommends to members of the National Assembly, before voting on a part or a provision of an act which would legalise differentiation based on personal circumstances, to comply with Article 14 of the Constitution of the Republic of Slovenia and consider the (non-)persuasiveness of the explanation by the drafting party on the realization or ensuring of which right or freedom such differentiation is referring to, which personal circumstance among the compared specific circumstances the differentiation is based on, and why the violation of the right to non-discriminatory consideration through differentiation based on the specific personal circumstance is constitutionally permissible.

10 (ongoing task). The Ombudsman recommends that the Ministry of Labour, Family, Social Matters, and Equal Opportunity pay particular attention to further cultivating a respectful attitude towards the rights of persons with disabilities and their dignity on a general level, especially in specific environments where deinstitutionalization projects are carried out

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2.11 Protection of dignity, personal rights, safety, and privacy

17. The Ombudsman recommends that the Government of the Republic of Slovenia draft legislative amendments to ensure foreigners who cannot be removed from the country or are dependent on state help for other reasons access necessary social welfare transparently and predictably.

18. The Ombudsman recommends that the Ministry of Labour, Family, Social Matters, and Equal Opportunities review the options for gathering information on personal circumstances per Paragraph 5 of Article 6 of the Personal Data Protection Act (ZVOP-2).

2.13 Assembly, association, and participation in the management of public affairs

19. The Ombudsman recommends that the Government of the Republic of Slovenia draft a legislative amendment that will precisely determine the rules for the realization of pre-election debates on the Radio-Television of Slovenia (RTV) in a manner that would prevent unequal treatment and various interpretations of the law.

20. The Ombudsman recommends that the Ministry of Public Administration draft an adequate legislative amendment for the Government of the Republic of Slovenia to determine the legal basis for the notification of addresses where support for electoral candidates is gathered.

2.14 Restriction of personal liberty

21. The Ombudsman recommends that the Ministry of Health prepare a list of providers of the security measure of mandatory psychiatric treatment at liberty and publish it in the Official Gazette in conjunction with the Ministry of Justice under the provisions in Paragraph 3 of Article 148 of the Enforcement of Criminal Sanctions Act (ZIKS-1).

22. The Ombudsman recommends that the Government of the Republic of Slovenia review the work group's findings for establishing a specialized unit for treating persons with the heaviest forms of mental disabilities without undue delays and adopt additional decisions regarding its implementation.

23. The Ombudsman calls on the Ministry of Health to adopt all necessary measures towards the necessary amendment of the Mental Health Act in compliance with the decision of the Constitutional Court of the Republic of Slovenia.

24. The Ombudsman encourages the courts, whenever possible, to conduct as many procedural acts as possible via videoconferences and to duly inform institutions on announced hearings, on decisions to summon an incarcerated person to court, and on cancelled hearings, so they can allocate judicial police officers who will perform the escorting more rationally. Furthermore, the Ombudsman recommends that the Prison Administration of the Republic of Slovenia, within the currently available staff's framework, continue looking for solutions to ensure that incarcerated persons are on time for legal and other procedures.

25. The Ombudsman reiterates the recommendation that the Ministry of Justice, in cooperation with the Ministry of Labour, Family, Social Affairs and Equal Opportunities and other competent authorities, adopt 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 to ensure their dignified life and care.

26. The Ombudsman reiterates the recommendation that the Ministry of Labour, Family, Social Affairs and Equal Opportunities, in cooperation with other competent authorities, adopts all additional measures for the appropriate accommodation and treatment of persons accommodated in secure wards of social welfare institutions based on court decisions as per the Mental Health Act.

27. The Ombudsman recommends the Ministry of Labour, Family, Social Matters, and Equal Opportunity, in cooperation with other competent authorities, to adopt all necessary measures that will prevent the long-term accommodation of children and minors in crisis centres and will ensure the work of crisis centres per their intent and for the benefit of children and minors.

2.15 Pension and disability insurance

28. The Ombudsman recommends the Ministry of Labour, Family, Social Matters, and Equal Opportunity to review the issue of meeting the requirements for retirement pen-

sion, Paragraph 28 of Article of the Pension and Disability Insurance Act (ZPIZ-2), and realize it so the right in question would make parents, whose child dies before the first year of age, be equal to parents who adopt and biological parents whose child was adopted before the first year of age. Otherwise, this would violate the constitutionally guaranteed right to equality before the law.

11. (ongoing task). The Ombudsman recommends that the Ministry of Labour, Family, Social Matters, and Equal Opportunity enact all necessary measures to ensure the urgent and efficient decision-making of social welfare centres, per the principles of good management.

12. (ongoing task). The Ombudsman recommends that the Ministry of Health and the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) ensure that their decision-making is urgent and efficient, per the principles of good management.

13. (ongoing task). The Ombudsman recommends that the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ) ensure their decisions are adequately explained under provisions in Articles 22-25 of the Constitution, following the principles of fair and honest decision-making.

14. (ongoing task). The Ombudsman recommends that the Pension and Disability Insurance Institute of the Republic of Slovenia ensure the appropriate traceability of administrative procedures per the principles of good management.

2.16 Healthcare and health insurance

29. The Ombudsman recommends that the Health Insurance Institute of Slovenia (ZZZS) amend the Rules on compulsory health insurance to ensure a timely designation of appointed doctors so that the deadline for submitting a proposal for extending temporary work incapacity aligns with the deadline within which the appointed doctor must decide on the proposal.

30. The Ombudsman recommends that the Ministry of Health and the Health Insurance Institute of Slovenia (ZZZS) adopt all necessary measures for the timely designation of appointed doctors at the ZZZS.

31. The Ombudsman recommends that the Ministry of Health provide the legal basis for the ZZZS to be able to ensure the lending of medical equipment to temporarily immobile persons.

32. The Ombudsman recommends that the Ministry of Health solve the problems on the accommodation and treatment of persons whose health condition does not allow them to live independently after completing their hospital treatment and of persons who suffered brain damage, as the lack of this regulation constitutes a violation of the rights to social and health security.

33. The Ombudsman recommends that the Ministry of Health establish a network of professional interpreters specialising in interpretation and medical terminology and whose services medical institutions could use.

34. The Ombudsman recommends that the Ministry of Health ensure access to information and help pertaining to health care on a systemic level, especially for users who lack digital proficiency.

35. The Ombudsman recommends that the Government of the Republic of Slovenia ensure that all persons with blindness or impaired vision have access to materials written in a format they can comprehend during all procedures before state authorities, local government authorities, entities who exercise public authority, or providers of public services on a systemic level under Article 7 of the Equalisation of Opportunities for Persons with Disabilities Act (ZIMI).

36. The Ombudsman recommends that the Ministry of Labour, Family, Social Matters, and Equal Opportunity and the Ministry of Health ensure that persons older than 19 years of age and suffering from Prader–Willi syndrome (PWS) be included in programmes where they could lose weight in appropriate institutions under medical supervision.

37. The Ombudsman recommends that the Ministry of Health provide an adequate legal basis for carrying masks, as the current regulation does not allow the right to refuse healthcare if the person is not wearing a protective mask under the ground regulations of healthcare providers.

38. The Ombudsman recommends that the Health Insurance Institute of Slovenia (ZZZS) adopt appropriate measures on decision-making on appeals against decisions on temporary incapacity for work to reduce undue delays during decision-making.

39. The Ombudsman recommends that the Health Insurance Institute of Slovenia ensure direct payment of the monetary compensation to beneficiaries whose employer did not pay their salary compensation for an absence due to illness for the duration of the absence.

40. The Ombudsman recommends that the Medical Chamber of Slovenia adopt decisions transparently and provide an appropriate explanation in cases where an application for the review of the professionalism of the treatment was submitted.

2.17 Social matters

41. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities comply with the recommendation of the Ombudsman on the re-evaluation of the eligibility for personal assistance when an applicant submits a request for the increase of the already existing scope of personal assistance and when the re-evaluation of the eligibility for personal assistance is finished the scope of personal assistance is not reduced, even if no change in the status of the beneficiary has not changed. According to the Ombudsman, the reduction of an already granted right to personal assistance can only be substantiated by the health improvement of the

beneficiary. This applies to all matters where the Ministry of Labour, Family, Social Affairs, and Equal Opportunities receives a complaint from an individual due to a reduced scope for personal assistance. The Ministry of Labour, Family, Social Affairs, and Equal Opportunities should issue the directive to all social welfare centres that in case of an application for the increase in the scope of personal assistance, regardless if the application is granted and the scope is increased, or the application is denied, and the scope of the already granted personal assistance is not increased. Furthermore, no reductions of the already granted scope of hours of personal assistance may occur during this decision-making process (save, of course, in case of improving health).

42. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities ensures that individuals who believe that their already granted scope of personal assistance has been reduced without justification due to being enrolled in an educational programme carried out remotely or at home or in other cases when they deem the reduction be a consequence of the application of provisions from Article 9 of the Personal Assistance Act, must be guaranteed the option to assert their position through legal means. According to the Ombudsman, the reduction in the scope of the already granted right to personal assistance is only possible if the individual is ensured another service with a comparable scope for necessary care. The regulations according to which an interference with the already granted right is allowed without the assurance of another replacement with a comparable scope for necessary care within the frame of another service could constitute a violation of Articles 14 and 50 of the Constitution of the Republic of Slovenia.

43. The Ombudsman recommends to the Ministry of Labour, Family, Social Affairs, and Equal Opportunities that final decisions issued before the amendments to the Personal Assistance Act be untouchable as that would not be in accordance with Article 158 of the Constitution of the Republic of Slovenia.

44. The Ombudsman recommends the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to take situations where the beneficiary of personal assistance is in a situation where they actually receive a significantly reduced scope of personal assistance (for instance, one day per month or hours per day, which is significantly lower than the granted scope) into account when calculating their service co-financing obligations. Otherwise, this constitutes a violation of the rights of persons with disabilities under Article 52 of the Constitution of the Republic of Slovenia.

45. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities appropriately regulate and issue instructions to personal assistance service providers to guarantee an adequate replacement for beneficiaries in case of the absence of their personal assistant.

46. The Ombudsman recommends the Ministry of Labour, Family, Social affairs, and Equal opportunities ensure that individuals with long-term physical, mental, intellectual, or sensory disabilities, which can limit the individual in various ways, so they may efficiently and in full partake like others in all fields of life, to have the same possibili-

ties, higher autonomy, level of activity, and an equal inclusion in society, and in accordance with the provision in the United Nations Convention on the Rights of Persons with Disabilities, regardless of their granted right to personal assistance whose costs should be covered by the state, cannot perform specific activities or partake in specific events because they lack material sources for paying the transportation costs for their personal assistant or paying other costs which are necessary for the realization of personal assistance, have their costs covered, otherwise, this represents a violation of the rights of persons with disabilities as per Article 52 of the Constitution of the Republic of Slovenia.

47. The Ombudsman recommends the Ministry of Labour, Family, Social Affairs, and Equal Opportunities ensure that all decisions pertaining to the field of social security when deciding on the rights of individuals, be substantiated in an understandable manner, why a decision was made as it was, in accordance with the provisions under Article 22 of the Constitution of the Republic of Slovenia.

48. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities ensure that all decisions pertaining to the field of social security be substantiated on all crucial facts when it comes to decisions on the rights of individuals so that judicial safety against them can be realized as per Article 25 of the Constitution of the Republic of Slovenia.

49. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities provide the required upgrade of the information systems of social welfare centres which is actually necessary for the realization of the right, following the position of the Ombudsman (which the Ministry in question already adopted) that paragraph 2 of Article 51 of the Foreigners Act (ZTuj-2) on 'the timely submission of forms for the issuing and extending of temporary residency permits by the competent authority to the foreign person, which is to be treated as a temporary residency permit, until the final decision on the form is made,' must be interpreted so that the issued permit grants the same status and rights as an issued temporary residency permit, except for parts which are precisely determined by the law.

50. The Ombudsman recommends the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to ensure that persons who do not have regulated residency status in the country, despite living in the country permanently and being permanently connected to it but have found themselves in a position where they are in dire need for institutionalized care, be ensured treatment comparable with persons who have regulated residency status in the country and, thus, allow them access to social security services under the provisions of Article 8 of the European Convention on Human Rights.

51. The Ombudsman recommends the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to ensure that single persons or families be granted financial social support as a form of special financial social support if it is established that the single persons or families found themselves to suffer from material vulnerability for reasons beyond their control or if they exhibit exceptional costs tied to survival they cannot

cover from their income or the income of their families under Article 33 of the Social Assistance Payments Act.

52. The Ombudsman recommends that the Ministry of Labour, Family, Social Affairs, and Equal Opportunities adopt all necessary measures on lengthy decision-making on legal means against decisions tied to the scope of the right to personal assistance.

2.18 Other administrative matters

53. The Ombudsman recommends that the Ministry of Finance continue adopting measures on respecting judicial deadlines for making decisions on complaints.

2.19 Judicial system

54. The Ombudsman recommends that courts and insolvency administrators also inform their clients in-depth not just about their rights during such procedures but also their obligations (such as actively following publications on the AJPES websites in insolvency procedures), the omission of which can result in the loss of individual rights.

55. The Ombudsman recommends that the judicial system continue strengthening the trust in its work by ensuring trials without delay and with quality and fair decisions and encourages authorities of the executive branch to ensure all necessary financial, staffing, and spatial conditions for the work of the courts.

56. On criminal matters, the Ombudsman recommends that courts return items confiscated during procedures that were placed in storage, and when the items are returned, clearly define possible consequences (referencing the applicable regulation) that can ensue if the owners fail to take possession of their item following a court mandate. The courts should adequately inform both the owner and the subject mandated with storing the item of the plethora of possible consequences resulting from this (for instance, incurred costs and others) within the decision to return the item.

57. The Ombudsman recommends that the courts take the nature of an individual judicial procedure into account when using video-conference systems for submitting evidence in judicial procedures, as well as possible specific circumstances of individual participants in these procedures.

58. The Ombudsman recommends that hearings pertaining to matters on placing adult persons under guardianship under conditions as determined by the law be only exceptionally carried out via video conferences, for instance, when a court expert from the field of psychology advises against a hearing at court, a remote hearing is recommended, or if it is stated that communication with the person is impossible or difficult.

59. The Ombudsman recommends that state prosecutors withhold from making statements or performing practices (during plea agreement negotiations or in court) that current regulations do not allow for and which could give unrealistic expectations to their clients.

60. The Ombudsman recommends that the Ministry of Justice prepare an adequate legislative regulation of liability insurance for lawyers in cooperation with the Slovenian bar association.

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

61. The Ombudsman recommends that the Ministry of the Interior adopt (additional) measures in coordination with the Police to ensure the proportionality of the use of force against crowds.

15. (ongoing task). Ombudsman recommends the Polite, as per findings based on appeal procedures under the Police Tasks And Powers Act (ZNPPol), monitoring the realization of conciliation procedures and activities carried out within the frame of the considered appeal in front of Appeals panels of the Ministry for the Interior (MNZ), to meticulously implement all recommended measures by the Ministry of the Interior to improve the work of police officers during the performance of police tasks.

16. (ongoing task). The Ombudsman recommends that the Police ensure the urgent investigation of criminal acts and notify the competent state attorney of the gathered information and evidence.

17. (ongoing task). The Ombudsman recommends that police officers act with exceptional diligence and consequently respect all rights of arrested suspects during arrest procedures.

2.21 Environment and spatial planning

62. The Ombudsman recommends the Ministry of Agriculture, Forestry, and Food demand, under Paragraph 2 of Article 58 of the State Administration Act, the Government clarify its position or provide guidelines on the (non-)adoption of the by-law from Paragraph 7 of Article 52 of the Game and Hunting Act and to draft the necessary general legislative act (by-law regulation or amendment of the law) for the government under this position or guidelines.

2.23 Social activities

63. The Ombudsman recommends the Ministry of Labour, Family, Social Affairs, and Equal Opportunities to harmonize Article 10 of the Rules on awarding of scholarships with the decision of the Labour and Social Court with case number PSP 94/2021 dated 26 May 2021.

64. The Ombudsman recommends the Ministry of Education adopt measures to guarantee school food as follows adequately:

- that the principal pay special attention to the issue of sufficient lunch time and arrange the schedules or student attendance during the last school hour in a manner that ensures more than 15 minutes will be available between students leaving class and the departure of the school bus;
- that the nutrition group also addresses the issues of the quantity of the individual components of school lunch;
- that the school soon conducts a parent satisfaction survey on meals and includes the highlighted issue of the quantity of individual components in school lunch and the available time for students to eat. The results should then be adhered to during the organizational process.

65. The Ombudsman recommends that the Ministry of Education and schools provide the option to register or de-register for school food via the telephone or e-mail.

2.24 Housing matters

66. The Ombudsman recommends the government ensure the co-financing or subsidizing the construction of elevators in multi-storey buildings and privately owned facilities with less than five storeys and to ensure the legislative basis and means for subsidies as per example of the subsidies for the energy renovation of buildings, intending to ensure access to buildings.



Summary of the work of the Human Rights Ombudsman of the Republic of Slovenia for 2022

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