PARLIAMENTARY OMBUDSMAN OF FINLAND

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SUMMARY OF THE ANNUAL REPORT 2015

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To the reader

The Constitution (Section 109.2) requires the Parliamentary Ombudsman to submit an annual report to the Eduskunta, the parliament of Finland. This must include observations on the state of the administration of justice and any shortcomings in legislation. Under the Parliamentary Ombudsman Act (Section 12.1), the annual report must include also a review of the situation regarding the performance of public administration and the discharge of public tasks as well as especially of implementation of fundamental and human rights.

The undersigned *Petri Jääskeläinen,* Doctor of Laws and LL.M. with Court Training, served as Parliamentary Ombudsman throughout the year under review 2015. My term of office is from 1.1.2014 to 31.12.2017. Those who have served as Deputy-Ombudsmen are Doctor of Laws *Jussi Pajuoja* (from 1.10.2013 to 30.9.2017) and Licentiate in Laws *Maija Sakslin* (from 1.4.2014 to 31.3.2018).

Doctor of Laws, Principal Legal Adviser *Pasi Pölönen* was selected to serve as the Substitute for a Deputy-Ombudsman for the period 15.12.2011–14.12.2015 and again for the period 15.12.2015–14.12.21019. He performed the tasks of a Deputy-Ombudsman for a total of 51 work days during the year under review.

The annual report consists of general comments by the office-holders, a review of activities and a section devoted to the implementation of fundamental and human rights. It additionally contains statistical data and an outline of the main relevant provisions of the Constitution and the Parliamentary Ombudsman Act. The annual report is published in both of Finland's official languages, Finnish and Swedish.

The original annual report is about 350 pages long. This brief summary in English has been prepared for the benefit of foreign readers. The longest section of the original report, a review of oversight of legality and decisions by the Ombudsman by sector of administration, has been omitted from it. However, the chapter dealing with the oversight of covert intelligence gathering is included in this summary.

I hope the summary will provide the reader with an overview of the Parliamentary Ombudsman's work in 2015.

Helsinki 1.4.2016

Petri Jääskeläinen
Parliamentary Ombudsman of Finland

Contents

Decisions marked with an asterisk * (for example 123/4/10*) can be found as press releases on the Ombudsman's web site: www.ombudsman.fi/english.

Photos

The pictures in the page spreads feature items from Aimo Katajamäki's sculptures series Wood People (2006), which is in the entrance foyer of the Little Parliament annex building. Photos Anssi Kähärä / Werklig Oy

Ville Lehvonen p. 12
Uusimaa / Janne Kallio p. 17
Photo archive of the Parliament of Finland p. 22, 43, 44 (upper), 46, 48
Photo archive of the Parliamentary Ombudsman of Finland p. 40, 44, 76, 118
Laura Oja p. 58

1 General comments

Parliamentary Ombudsman
Mr Petri Jääskeläinen

The Parliamentary Ombudsman oversees the rights of persons with disabilities

CRPD ratification

On 3 March 2015, the Finnish Parliament adopted the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, and passed the acts that bring into force the provisions of the Convention and its Optional Protocol pertaining to legislation and amending the Parliamentary Ombudsman Act.

Before the final CRPD ratification, however, the Parliament required an assurance that the requirements for ratifying Article 14 of the Convention are in place in national legislation. This Article safeguards the right of persons with disabilities to liberty and security of person, and it cannot be brought into force before appropriate provisions on measures that restrict the right to self-determination of persons with disabilities are first included in the legislation. However, the relevant government bill (HE 108/2014 vp) lapsed as the parliamentary term ended, and a new government bill (HE 96/2015 vp) was submitted to the new parliament. This delayed the completion of the ratification process. Finland deposited its instrument of ratification with the UN Secretary General on 11 May 2016. The Convention and its Optional Protocol entered into force for Finland on 10 June 2016.

Finland had signed the Convention and its Optional Protocol as early as in 30 March 2007. Unfortunately, the slowness of the process to ratify international human rights conventions is a rule rather than an exception in Finland. As ratification is delayed, a similar delay affects the creation of those structures and procedures that allow the implementation of the rights secured in the conventions. Finland was one of the last three EU Member States to ratify the Convention on the Rights of Persons with Disabilities.

With the ratification of the Convention, the Parliamentary Ombudsman becomes part of the mechanism referred to in Article 33(2) of the Convention designated to promote, protect and monitor the implementation of the rights of persons with disabilities. This is the second special task assigned to the Parliamentary Ombudsman under an international treaty. The first task of a similar nature was based on the Optional Proto-

col to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Since 7 November 2014, the Ombudsman has acted as the National Preventive Mechanism referred to in the Optional Protocol, inspecting places where those deprived of their liberty are kept. The OPCAT ratification process took over ten years.

Purpose and objectives of the Convention

The CRPD is the first legally binding international document that concerns the rights of persons with disabilities. Rather than establish new rights, the Convention reaffirms the entitlement of persons with disabilities to enjoy the rights guaranteed in other international human rights treaties. A special feature of the CRPD is that the convention highlights the right of persons with disabilities to be involved in preparing and making decisions on issues that concern them.

While existing human rights conventions basically guarantee the same rights to all people, the rights of persons with disabilities have not been fully realised. The possibilities of persons with disabilities to lead independent lives as well as their right to self-determination and inclusion in society have been restricted by structural obstacles in society, attitudes and lack of information.

The Convention imposes on the State Parties the obligation to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. The Convention contains provisions on both civil and political rights and economic, social and cultural rights.

Non-discrimination is the leading principle of the CRPD. It not only forbids discrimination against persons with disabilities but also imposes on the State Parties duties that aim for the full implementation of disabled persons' equality. Other key principles of the CRPD are accessibility and respecting the right to individual autonomy, participation and inclusion of persons with disabilities in society.

The Convention defines persons with disabilities as those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. The depiction of disability is based on the person's relationship with society around him or her, not a definition based on a medical diagnosis. Neither is the concept of disability fixed and immutable.

International supervisory mechanism

The CRPD establishes the Committee on the Rights of Persons with Disabilities. Each State Party submits a report to the Committee on fulfilment of their obligations under the Convention and the development achieved. The first report is to be submitted within two years after CRPD ratification, and subsequent reports are due every four years or whenever the Committee so requests. On the basis of the report, the Committee issues suggestions and general recommendations. The Committee issues a report on its activities to the UN General Assembly and to the Economic and Social Council.

Finland has also adopted the Optional Protocol to the Convention, which enables the submission of individual complaints. Finland thus acknowledges the competence of the Committee on the Rights of Persons with Disabilities to receive and consider communications from individuals or groups who claim to be victims of a violation by Finland of the provisions of the Convention. As a result of a complaint, the Committee may issue suggestions and recommendations.

The Committee may also proceed to an inquiry if it receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention. The inquiry may include a visit to a State Party's territory. As a result of an inquiry, the Committee may issue comments and recommendations and monitor their implementation.

National implementation and monitoring mechanism

Under Article 33 of the CRPD, the national monitoring mechanism consists of three parties. Firstly, the State Party shall designate a *focal point* within its government. The task of the focal point is to manage CRPD implementation, including the drafting of legislation, information activities, commissioning of studies, gathering of information and utilisation of statistics related to the Convention. The focal point is also responsible for periodic reporting to the Committee on the Rights of Persons with Disabilities. The focal points in Finland will be the Ministry for Foreign Affairs and the Ministry of Social Affairs and Health.

Secondly, the State Party shall give due consideration to the establishment or designation of a *coordination mechanism* within its government to facilitate action related to CRPD implementation in different sectors and at different levels, for example by highlighting needs for studies and development targets. In Finland, the coordination mechanism tasks will be assigned to a new body to be established under the auspices of the Ministry of Social Affairs and Health, which will replace the National Council on Disability operating in connection with the Ministry. The coordination mechanism will include representatives from different ministries and disability associations among other members.

Thirdly, the State Party shall establish or designate a *framework* to promote, protect and monitor CRPD implementation. This framework should be compliant with the so-called Paris principles of the UN that concern the position and operation of National Human Rights Institutions. In Finland, the duties of this framework were assigned to the Parliamentary Ombudsman, the Human Rights Centre that operates in connection with the Ombudsman's office, and the Centre's Human Rights Delegation. This reform was implemented by adding to the Parliamentary Ombudsman Act a new Chapter, 3 b, which contains the new Section 19 f §.

In my opinion, the Parliamentary Ombudsman, the Human Rights Centre, and the Centre's Human Rights Delegation, which together constitute Finland's National Human Rights Institution, are excellently placed to assume this new task. The International Coordination Committee of National Human Rights Institutions ICC (now GANHRI, or the Global Alliance of National Human Rights Institutions) granted the so-called A status to the Finnish National Human Rights Institution in December 2014. This means that the institution fully complies with the Paris principles referred to in the CRPD.

I regard performing the tasks of the framework referred to in Article 33(2) of the CRPD as an outstanding example of the possibilities offered by the structure of our National Human Rights Institution. Promoting, protecting and monitoring the rights of persons with disabilities is precisely the kind of task that could not be fulfilled without all three arms of the institution, whose different duties support each other when striving to reach common goals.

If the rights of persons with disabilities are to be effectively implemented, there must be an opportunity to investigate individual cases and conduct inspections, which are among the tasks of the Ombudsman. Secondly, the task entails human rights education and training as well as human rights research and information, which belong to the duties of the Human Rights Centre. These may influence people's attitudes and awareness of the rights of the disabled. Thirdly, there will be a need for cooperation between fundamental and human rights actors and for the involvement of disabled people. The Human Rights Delegation provides an excellent forum for this.

The full participation of persons with disabilities and their representative organisations in the monitoring process as required in the Convention may be implemented in all parts of the institution. The Human Rights Centre works closely together with disability organisations and has, among other things, organised numerous consultations with them. The Human Rights Delegation, on the other hand, is specifically a coop-

eration body. When appointing a new Human Rights Delegation for the four-year term that began on 1 April 2016, I secured the inclusion of persons with disabilities by appointing an adequate number of persons with disabilities or persons representing disability organisations to the Delegation. These persons may further be nominated to the Human Rights Delegation's section on the rights of persons with disabilities that the Delegation will select among its members.

Cooperation with persons with disabilities and disability organisations will also play a bigger role in the activities of the Parliamentary Ombudsman. As one form of inclusion, persons with disabilities could participate in inspections conducted by the Parliamentary Ombudsman in the capacity of experts. The Parliamentary Ombudsman's duties as the National Preventive Mechanism under OPCAT also support the new tasks under the CRPD, as some of the housing units for the disabled persons are covered by OPCAT. The legislation allows the Parliamentary Ombudsman to rely on the assistance of experts when performing the duties of the National Preventive Mechanism.

Preparing for the new task

As the Ombudsman has known about the new tasks to be assigned to him for some time, preparations have been made for them in different ways.

Firstly, issues related to the rights of persons with disabilities have been organised as an independent category, while they previously were included in such different categories as social welfare, social insurance or education. The dedicated category makes it easier to obtain a general picture and facilitates the monitoring of and reporting on issues related to the rights of persons with disabilities.

The Parliamentary Ombudsman's Annual Report 2014 contained for the first time a dedicated section on "The rights of persons with disabilities", which provides an overview of decisions made on complaints in particular. Based on the number of complaints received alone, the new category was rather large. In the reporting year, 200 complaints relating to this category were received and resolved.

Secondly, the implementation of the rights of persons with disabilities was already selected as a so-called special theme of fundamental and human rights in 2014, and focus on this theme continued in the reporting year. For example, the theme was monitored and issues related to it were brought up on each inspection visit made by the Parliamentary Ombudsman.

Accessibility was emphasised as part of the theme. On the inspections carried out by the Parliamentary Ombudsman, this meant paying attention to access to premises and facilities and the general surroundings as well as the accessibility of information and services from the perspective of different actors. A leading idea was to investigate, in the spirit of the CRPD, whether the environment restricts the participation and activities of persons with disabilities. For details of the observations made during the inspections, see section 3.6 in the Annual Report 2014 and this report.

Thirdly, the new task has been taken into consideration by directing a larger share of the inspections to housing units for persons with disabilities. In particular, units for customers with intellectual disabilities were inspected, some of which are also covered by the OPCAT. For details of the observations made in the role of the National Preventive Mechanism, see section 3.3 in the Annual Report for 2014 and this report.

Shortcomings in realising the rights of persons with disabilities

The results of investigations of complaints and observations made during inspections indicate that the realisation of the rights of persons with disabilities are fraught with many problems. The following problems, for example, were encountered repeatedly.

Problems related to restricting fundamental rights in special care for persons with intellectual disabilities

In many decisions on complaints and observations made during inspections, attention was paid to shortcomings in the treatment of persons with intellectual disabilities, restrictions on their right to self-determination, and different operative practices in housing units and institutions.

Shortcomings in the preparation of service plans and special care programmes

In the investigation of cases in the area of oversight of legality, it has been noted that statutory plans are not always prepared, they are inadequate, or there are unjustified delays in their preparation. As a result, hearing the customer and taking their views and life situation into account may also be neglected.

Shortcomings in provision of services

In decisions made by the Ombudsman, it has come to light that the municipalities' application practices regarding disability services are inconsistent, and the instructions issued may prevent the customers from accessing statutory services. Individual problems were associated with the manner in which personal assistance or transport services referred to in the act on services and assistance for the disabled and other services are provided as well as customer fees collected in health care and social welfare services.

Delays and procedural errors in decision-making and other processes

The most common shortcomings involve delays in processing applications for benefits or services granted to persons with disabilities and neglecting the authority's duty to make decisions. Problems related to legal protection also include procedural errors and delays in processing appeals.

Shortcomings in accessibility

Shortcomings in the accessibility of premises and services and in the implementation of reasonable accommodation have been detected on the Ombudsman's inspection visits. Split levels and narrow passages are obstacles for persons with physical disabilities, whereas persons with sensory impairments encounter barriers in communication and access to information.

Conclusion

While the Parliamentary Ombudsman can expect no additional personnel resources for performing the new tasks under the CRPD, appropriations for one new post of an expert were granted to the Human Rights Centre in the 2016 budget. However, an effort to allocate resources to the Ombudsman's new tasks has also been made by means of rearrangement of duties within the Office.

Persons with disabilities are not always themselves able to file complaints, which highlights the importance of carrying out inspections. The number of housing units for persons with disabilities is so high, however, that it is only possible to inspect a very small share of them. Housing units for persons with intellectual disabilities covered by the OPCAT alone are counted in several hundred. Neither was the Parliamentary Ombudsman allocated more personnel resources for the duties of the National Preventive Mechanism.

The new duties will be performed as well as possible with the available resources.

Deputy-Ombudsman
Mr Jussi Pajuoja

How can we deliver good early childhood education and care?

Compulsory education has a long tradition in Finland. In 1921, seven years was laid down as the age for starting primary school. This age was also recorded as the basic age for starting school in the current Basic Education Act.

This situation changed in real terms, however, as participation in pre-primary education became compulsory from 1 August 2015. In practice the age of compulsory education has been lowered to six years, as the child is now obliged to attend pre-primary education or other activity that fulfils the objectives of pre-primary education during the year preceding the compulsory education age.

As a result, pre-primary education is a transition point between two stages. Prior to this, the child is cared for at home, in a day-care centre or in family day care as a rule. The last two forms of child care are included in the general concept of early childhood education and care.

Early childhood education and care are directed by the Ministry of Education and Culture

The drafting of legislation on early childhood education and care and their administration and steering were transferred to the Ministry of Education and Culture a few years ago. The National Board of Education serves as the expert agency in this field and prepares the national core curriculum for early childhood education and care. Local early childhood education and care plans for individual service providers, units, groups or forms of activity are formulated on this basis.

In a day-care centre and family day care, an individual early childhood education plan is prepared for each child.

The aim is to complete the national core curriculum by the end of October 2016 and to introduce local plans at the latest in August 2017.

How can two different systems be reconciled?

Such issues as responsibility for providing transport are clearly defined in the Basic Education Act. If the distance to the school is over five kilometres, the pupil is entitled to free transport. The entitlement to free transport may also apply to shorter distances if travelling to school would otherwise be too difficult, strenuous or hazardous considering the pupil's age and other circumstances. The same provisions apply to pre-primary education.

On the other hand, these transport provisions are not applicable to early childhood education and care. Under the new early childhood education and care act, the necessary transport may be organised for a child. The same provision was already contained in the old act on children's day care for decades. However, this provision is construed as a recommendation rather than being mandatory in a strict sense.

The lack of a clear specification in the current wording or rationale of this section of when and in which situations transport should be organised must be considered a major shortcoming. The provision could at least refer to children requiring special support and state that transport must be organised when, based on individual consideration of his or her needs, it is essential for the child.

Currently, transport to early childhood education and care can mainly only be organised as services provided under the act on services and assistance for the disabled, the act on persons with intellectual disabilities, or the Child Welfare Act.

While attending pre-primary education, children often belong to two different systems: they spend part of the day in pre-primary education and part in day-care. When the distance to pre-primary education exceeds five kilometres or the journey is too difficult considering the child's age, the transport arrangements may be fraught with complications. In that case, the child is entitled to free transport from his or her home directly to pre-primary education, or from day care to pre-primary education and from pre-primary education back home or to day care.

The act on the status and rights of social welfare clients, according to which information about a person being a customer of social welfare services is confidential, is applied to pre-primary education. In the opinion of the Daycare and Preschool Education agency in the City of Helsinki, for example, this provision prevents the use of digitalisation and fails to support the objective of the act, which is working together with the child and the parents. The agency considers that it should be possible to communicate about the events and activities of the day-care centre using an electronic system that would have similar information security features as the system used by schools.

Many municipalities already use the schools' electronic pupil administration system, such as Wilma, in their pre-primary education services. In the legal sense, this may lead to a peculiar situation, as the child spends some of the time in day-care with the same provider. A strict interpretation of the act on the status and rights of social welfare clients would mean that parents and guardians could not be informed of events related to day-care in the same way as those related to pre-primary education.

Myrskylä and Helsinki – two inspections of early childhood education and care services

In early 2016, I inspected the early childhood education and care services of Myrskylä and Helsinki with the intention of obtaining an idea of the operating environment in a small and a large municipality.

Myrskylä is a bilingual municipality of some 2,000 inhabitants that cooperates with the neighbouring municipalities in many areas of service provision. The municipality has one day-care centre and a lower comprehensive school.

The municipality provides early childhood education and care, pre-primary education and

basic education in grades 1–6 in Finnish. Other services, including higher comprehensive education, are outsourced to the neighbouring municipalities.

The extent of outsourced services came as a surprise. This aspect was particularly highlighted in services provided in Swedish. The language boundary of the coastal region crosses the southern part of the municipality. For this reason, Myrskylä purchases all Swedish-speaking early childhood education and care and basic education services from Loviisa.

The special features of the municipality include not only the extensive outsourcing of service provision but also the problems associated with the large commuting zone of the Helsinki Metropolitan area. The Director of Early Childhood Education services expressed concern over the long days spent in care by some children. Because of the parents' daily commute, the children often spend over ten hours in care, whereas the relevant decree states that the days of children in full-time care should only occasionally exceed ten hours.

The pre-primary class works in conjunction with the lower comprehensive school. The group is considerably large, approximately 25 children. The majority of the children said they travelled to pre-primary education by school transport.

The scale of the Preschool service in Helsinki is quite different. At the end of last year, some 23,000 children attended early childhood education and care provided by the local government. The city owns 270 day-care centres and 65 playgrounds, and the Daycare and Preschool Education agency has almost 6,000 employees. The agency's final accounts for 2015 amounted to some EUR 380 million.

It is telling of the operating environment in the capital that Helsinki has more than ten day-care centres offering either round-the-clock or evening care. How a child's early childhood education can be meaningfully organised in shift care is another question. In Helsinki, too, long periods spent in care when the parents are doing evening and night shifts are a challenge.

On the other hand, it should be noted that children in Helsinki rarely come to pre-primary education directly from home. The number of those who come to pre-primary education directly without having previously been customers of a day-care centre or family day care is no more than a few children every year.

National Board of Education assesses the challenges facing early childhood education and care

In the context of an inspection conducted at the National Board of Education, it was noted that the new core curriculum is a binding norm intended to promote equality and harmonise the services. The challenge is that the decisions made on the scope of the entitlement to early childhood education and care and its organisation differ from one municipality to another.

Amendments to both the early childhood education and care act and the day care decree will enter into force from the beginning of August 2016. Under the new act, the main rule is that a child is only entitled to 20 hours of early childhood education or care unless the parents are working or studying full time. Previously, every child was entitled to full-time care.

On the other hand, no more than eight children per one adult may be placed in the same early childhood education and care group under the new day care decree, whereas this ratio was 1:7 in earlier legislation.

However, when organising early childhood education and care, the municipality has the right to offer its residents services that are of a higher quality or more extensive than what the minimum standards require. Some municipalities will continue the practice of offering full-time care for all children, and they will not increase the group sizes. Some will restrict the right to day-care to 20 hours but will not increase group sizes, whereas others will both restrict the right to day-care and increase group sizes.

The National Board of Education is concerned not only for the major differences between the municipalities that impact on the organisation of early childhood education and care but also for the great dissimilarities in the municipalities' capabilities for utilising such tools as information and communication technology. Typically, the municipalities' problems accumulate, and the municipalities that only offer the minimum level of early childhood education and care are also unable to invest in technology.

Changes in procedures for appealing decisions

The trend in recent years has been for a continuous expansion of the possibility of appealing decisions on educational issues. This has meant that an increasing number of cases have been referred to the Regional State Administrative Agencies, and many decisions can be appealed to the Administrative Court.

The provision of free transport to pre-primary and basic education is a highly common cause for lodging a complaint with the Parliamentary Ombudsman. As decisions on school transport can be appealed to the Administrative Court, the Ombudsman's Office has usually advised the complainant to resort to this legal remedy.

Under the act on court fees that came into force at the beginning of this year, the fee charged for proceedings before the Administrative Court is EUR 250. The Administrative Courts previously were an instance that heard a considerable share of the cases free of charge. No fee is charged, however, if the Administrative Court modifies the decision to the benefit of the appellant, or the appellant is of limited means.

However, that fact that a cost risk consisting of the court fee is, as a basic assumption, associated with appeals in the education sector is a problem.

The government proposal on court fees duly noted that subjecting many processes to a fee may increase the number of complaints filed with the overseers of legality. Unlike the Administrative Court, however, the overseers of legality cannot change the original decision. In terms of implementing legal protection, this trend is a cause for concern.

Development-oriented, healthy and safe early childhood education and care

The venue or the type of activities used to organise early childhood education and care in practice is a frequently recurring cause for complaints. The complaint may be about a child's special needs, or problems with transport services offered for the child, or the availability of services in a municipality.

The municipalities should strive to provide equal early childhood education and care. When organising a place for a child, aspects to be considered should include where the child's parents live, what the transport connections to the place of care are like, whether the child has any special needs that justify the granting of a certain place to him or her, and what the parents' working conditions and circumstances in life as a whole are like.

From these perspectives, the solution of Myrskylä municipality, which involves procuring Swedish-speaking services from a neighbouring municipality, would appear to serve well both the children's linguistic needs and the organisation of the parents' daily commutes.

As a shortcoming in the legislation, the early childhood education and care act still lacks mandatory provisions on support, intensified support and special support for a child's development and learning. The Basic Education Act contains specific provisions on these support forms. They comprise a three-tiered system of learning sup-

port, which includes the obligation to make an administrative decision on the provision of special support that may be appealed.

As the early childhood education and care act does not contain this duty to make a decision, problems related to the child's legal protection arise when the views of the early childhood education and care provider and the child's guardians on the support needed by the child, such as an assistant's services and assistive devices, are conflicting.

Indoor air problems, which are often encountered during inspections of buildings in which municipal services are provided, are an issue in their own right. Regardless of extensive development projects promoted by such actors as the parliamentary Audit Committee, these problems are nowhere near to being solved.

Deputy-Ombudsman
Ms Maija Sakslin

Fundamental rights and austerity

Trust and security

It has been said that a successful economy and fundamental rights are two sides of the same coin. Economic growth creates preconditions for the fulfilment of rights. Correspondingly, when fundamental rights are protected, the preconditions for economic growth are reinforced. When a national economy shrinks, fundamental rights come under threat as well.

Due to sluggish growth, cuts that have been implemented in order to rebalance public finances have had a marked effect on almost every fundamental right. Austerity measures have serious consequences when they affect the social and economic rights, equal treatment and legal protection of the most vulnerable persons. The legal and social policy debate surrounding the impact of public finance cuts on fundamental rights has been particularly intense in recent years, especially as economic uncertainty undermines trust in our society's ability to safeguard fundamental rights and to maintain wellbeing and security.

The repercussions of cuts in the public finances can pave the way for growing nationalism, xenophobia and an atmosphere of uncertainty.

The Council of Europe stresses that it is possible to turn the tide of negative development by maintaining a strong, open democracy and outlines recommendations designed to achieve this goal to the Member States: a democracy built on fundamental and human rights that creates security and trust in society.

The European Union, for its part, prepares its own pillar of social rights in order to address the growing unemployment, deprivation, poverty and exclusion. The central idea behind these effects is that by bolstering the essential social rights, principles and values, we can strengthen trust and create growth and social progress that will contribute to balancing and adjusting the economy.

Justification for human rights restriction

A number of conditions for restricting human rights on the basis of financial and budgetary considerations are becoming established in international monitoring practice. Careful consideration of alternatives is a precondition for implementing savings that undermine rights. The restrictions must be necessary and in accordance with the principle of proportionality, and are allowed only if all other possible solutions would restrict the rights even more. When making savings, the principle of equality shall be respected, and the measures taken may not be discriminatory. Savings shall also always be associated with simultaneous measures that moderate and alleviate their impacts on people who are in the most vulnerable position. Savings are only acceptable if they do not interfere with the core of the rights that the Member States have undertaken to respect, protect and implement.

The established case law of the European Court of Human Rights on economic or financial justifications is inconsistent. The European Court of Human Rights has usually allowed budgetary or financial justifications in cases related to social security and the protection of property. However, it has imposed on Member States obligations to safeguard a minimum level of security and necessary health care. Financial considerations do not constitute acceptable grounds for restricting rights in cases where the cuts have a direct and concrete impact on human dignity and the lives of vulnerable people. On the other hand, the European Court of Human Rights has not accepted economic reasons as justifications for restricting political rights and freedoms. For example, it has not condoned economic justifications for shortcomings related to access to justice, hearing a case without delay or implementation of court rulings. The Court's case law, differentiated according to the nature of the rights, has come under criticism. It has been proposed that the Court harmonise its legal practice by evaluating the saving impacts with respect to the substance and the cores of rights safeguarded by law.

In Finland, the Parliament's Constitutional Law Committee has in several occasions drawn attention to the significance of the so-called constitutional mandates in the legislator's activities and considered that they must also be taken into account when exercising budgetary power and targeting government savings. The Constitutional Law Committee has found it important to take fundamental and human rights into consideration when making decisions on structural savings and development, and to strive to find solutions safeguarding the implementation of fundamental and human rights. However, the Committee states that the current state of the national economy must be taken into account in this assessment. Therefore, the Constitutional Law Committee has generally avoided declaring the Government's saving proposals unconstitutional where social rights are at issue. Instead, it has developed certain conditions for evaluating the constitutionality of the savings. Crucial points include deciding whether the cuts result in an essential deterioration and whether they put the implementation of a fundamental right at risk. However, according to the Committee, achieving savings may to some extent be an acceptable justification for limiting the level of protection of the rights.

In keeping with the policy of the European Court of Human Rights, the Constitutional Law Committee has usually considered savings required by the state of the national economy justified for cuts that affect social rights. On the other hand, when it comes to savings that target the court system the Committee noted, in the context of the central government budget proposal, that additional savings could put the right to a fair trial at risk.

Oversight of legality

The Commissioner for Human Rights of the Council of Europe has proposed that when making decisions on budgetary cuts, the Member States should evaluate their impacts on fundamental rights and equality. He stressed the

key role of Parliamentary Ombudsmen, National Human Rights Institutions and Non-Discrimination Ombudsmen in the supervision of compliance with fundamental rights and in providing assistance for people in need of protection in a challenging economic situation. The Constitutional Law Committee in Finland has also required that the actual impacts of savings be closely monitored.

The Ombudsman's tasks include overseeing the legality in exercise of public authority and monitoring the implementation of fundamental and human rights. The Ombudsman's mandate does not extend to evaluating decisions made by the legislator, nor the underlying economic and political choices. If the Ombudsman observes shortcomings in the realisation of fundamental rights, however, he or she may make proposals on amending and complementing legislation. It is the duty of the Ombudsman to monitor the implementation of legislation and, in particular, the realisation of the rights of vulnerable people.

Based on complaints received and inspections conducted, it is obvious that there often are economic reasons in the background of illegal actions and violations of fundamental rights. Regrettably, inadequate financial resources often lead into significant failings in the implementation of rights.

While conducting inspections, it has been found that due to understaffing, persons with disabilities are locked in their rooms against their will if it is necessary for a staff member to leave the unit. The right to self-determination of persons with disabilities and elderly people may be restricted because there is not enough staff. Persons in home care become isolated, and there are shortcomings in maintaining their safety and social contacts because of understaffing. The municipalities do not have enough employees to efficiently supervise the conditions of children who have been taken into care. In addition, performance agreements limit the possibilities of the Regional State Administrative Agencies of conducting inspections.

The understaffing at prisons has led to the curtailing of time the inmates spend outside their cells in breach of international recommendations. Because of shortcomings in the prisoner transportation fleet and the low numbers of staff, prisoners are regularly tied up during transport, which is illegal. The poor condition of alarm systems in cells and delays in responding to a possible alarm due to the low numbers of warders on night duty has come up as a problem in terms of prisoner safety.

However, it is rare that inadequate financial resources and cutbacks are invoked in the accounts and statements received by the Ombudsman. For instance, in the oversight of legality, inadequate financial resources do not justify exceeding time limits laid down in the law for processing cases. In his replies to complaints concerning schools beset by mould, the Ombudsman states that the responsibility to protect the health of children and other persons working on the premises requires effective and immediate action, regardless of any budgetary restrictions.

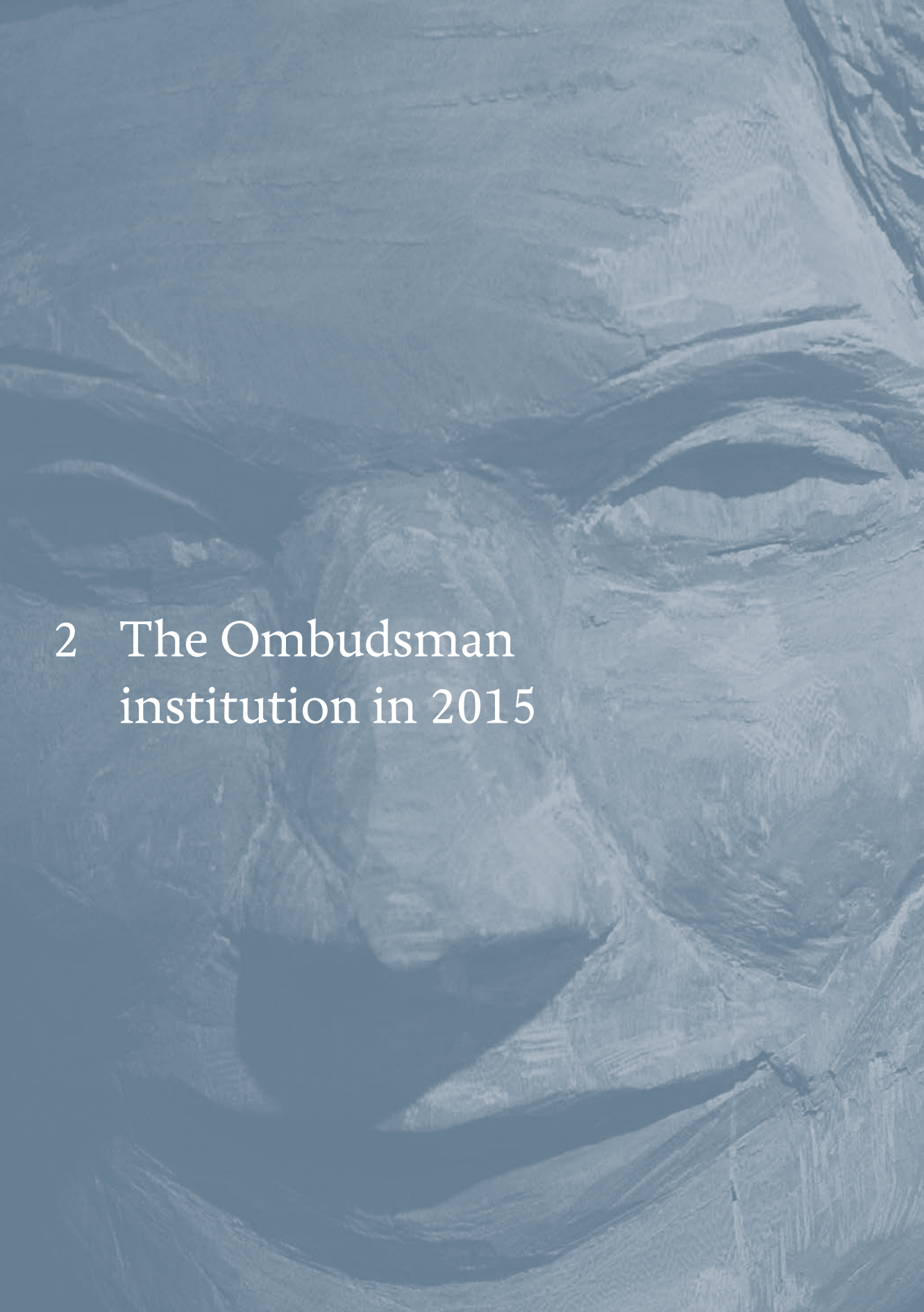
The Ombudsman has also commented on the under-budgeting of municipalities. However, allocation of resources is a political decision and not within the remit of the Ombudsman. When decisions that concern an individual are made within the limits of the appropriations granted in the budget, the customer's individual need should be assessed. If the appropriations reserved for a service are not sufficient for all customers, the services may be targeted in a pre-defined order of priority, in compliance with the principle of equality and prohibition of discrimination. The duty to promote the implementation of fundamental rights requires that a municipality assessed the needs of its residents and used them as the basis of realistic budgeting. In addition, the way in which the appropriations reserved for a service meet the service needs must be monitored continuously and systematically, also allowing for needs for urgent services.

The savings targeting the court system have resulted in long processing times and shortcomings in the structural independence of courts.

Complaints received by the Ombudsman indicate that long processing times cause serious problems in issues that require immediate action, including matters related to children's rights. Restrictions targeting the court system that concern the admissibility and processing of different issues may be critical in terms of rule of law. During the inspections conducted, the Ombudsman has also noted that inadequacy of resources compared to the workload has driven judges and other staff members to fatigue.

Savings that target legal aid and the court system are also significant in terms of the Ombudsman's own activities. Factual restrictions related to the accessibility of justice, including expensive processes, difficulty of obtaining legal aid or long geographical distances, increase the number of contacts with the overseers of legality. The Parliamentary Ombudsman is accessible and examines complaints free of charge. Thus, more and more frequently, citizens turn to the Ombudsman for assistance in cases that should be heard by a court.

Unfortunately, instead of increasing resources to ensure safeguarding fundamental rights even at a time of a finance crisis, there is pressure to reduce the allocation to the overseers of legality.



2 The Ombudsman institution in 2015

2.1 Review of the institution

The year 2015 was the Finnish Ombudsman institution's 96th year of operation. The Parliamentary Ombudsman began his work in 1920, making Finland the second country in the world to adopt the institution. The Ombudsman institution originated in Sweden, where the office of Parliamentary Ombudsman was established in 1809. After Finland, next country to adopt the institution was Denmark in 1955, followed by Norway in 1962.

The International Ombudsman Institute, IOI, currently has about 170 members. However, some Ombudsmen are regional or local; Germany and Italy are examples of countries that do not have Parliamentary Ombudsman. The post of European Ombudsman was established in 1995.

The Ombudsman is the supreme overseer of legality, elected by the Parliament of Finland (Eduskunta). He or she exercises oversight to ensure that those who perform public tasks comply with the law, fulfil their responsibilities and implement fundamental and human rights in their activities. The scope of the Ombudsman's oversight includes courts, authorities and public servants as well as other persons and bodies that perform public tasks. By contrast, private instances and individuals who are not entrusted with public tasks are not subject to the Ombudsman's oversight of legality. Nor may the Ombudsman investigate Parliament's legislative work, the activities of Members of Parliament or the official duties of the Chancellor of Justice.

The two supreme overseers of legality, the Ombudsman and the Chancellor of Justice, have virtually identical powers. The only exception is the oversight of advocates, which falls exclusively within the scope of the Chancellor of Justice. Only the Ombudsman or the Chancellor of Justice can decide to bring legal proceedings against a judge for unlawful action in an official capacity.

In the division of labour between the Ombudsman and the Chancellor of Justice, however, responsibility for matters concerning prisons and other closed institutions where people are detained against their consent as well as for the deprivation of freedom as regulated by the Coercive Measures Act has been entrusted to the Ombudsman. The Ombudsman is also responsible for matters concerning the Defence Forces, the Border Guard, crisis management personnel, the National Defence Training Association of Finland as well as courts martial.

The Ombudsman is independent and acts outside the traditional tripartite division of powers of state – legislative, executive, and judicial. The Ombudsman has the right to receive from authorities and others who perform a public service all the information he needs in order to perform his/her oversight of legality. The objective, among other things, is to ensure that various administrative sectors' own systems of legal remedies and internal oversight mechanisms operate appropriately.

The Ombudsman submits an annual report to the Parliament of Finland in which he evaluates, on the basis of his observations, the state of administration of the law and any shortcomings he has discovered in legislation.

The election, powers and tasks of the Ombudsman are regulated by the Constitution and the Parliamentary Ombudsman Act. These provisions are found in Annex 1 of the report.

In addition to the Parliamentary Ombudsman, Parliament elects two Deputy-Ombudsmen. All serve for four-year terms. The Ombudsman decides on the division of labour between the three. The Deputy-Ombudsmen decide on the matters entrusted to them independently and with the same powers as the Ombudsman.

Parliamentary Ombudsman Jääskeläinen made decisions on cases involving questions of principle, the Government and other of the highest organs of state. In addition, his oversight included matters relating to courts and administration of justice, health care, persons with disabilities, foreigners, linguistic issues and covert intelligence gathering as well as the coordination of the tasks of the National Preventive Mechanism against Torture and reports relating to its work. Deputy-Ombudsman Jussi Pajuoja assumed responsibility for matters relating to the police, the prosecution service, education, science and culture as well as labour affairs and unemployment security. He also made decisions concerning criminal sanctions, *i.e.* matters relating to the treatment of prisoners, the execution of punishment and the correctional service. Deputy-Ombudsman Maija Sakslin dealt with such matters as social welfare, children's rights, regional and local government and distraint. She was also responsible for military affairs, defence, the Border Guard, the Church as well as transport and communications. Detailed division of labour is shown in Annex 2.

If a Deputy-Ombudsman is prevented from performing his or her task, the Ombudsman can invite the Substitute Deputy-Ombudsman to stand in. Principal Legal Adviser Pasi Pölönen served as Substitute Deputy-Ombudsman for a total of 51 working days in 2015.

2.2 The values and objectives of the Office of the Parliamentary Ombudsman

Oversight of legality has changed in many ways in Finland over time. The Ombudsman's role as a prosecutor has receded into the background, and the role of developing official activities has been accentuated. The Ombudsman sets demands for administrative procedure and guides the authorities towards good administration.

Today, the Ombudsman's tasks also include overseeing and actively promoting the implementation of fundamental and human rights. Thus, the perspective has shifted from the authorities' obligations to implementing people's rights. Fundamental and human rights are prominent in virtually all the cases referred to the Ombudsman. Evaluation of implementation of fundamental rights means weighing against each other principles that tend in different directions and paying attention to aspects that promote the implementation of fundamental rights. In his evaluations, the Ombudsman stresses the importance of a legal interpretation that is amenable to fundamental rights.

The establishment of the Finnish National Human Rights Institution supports and highlights the aims of the Ombudsman in the oversight and promotion of fundamental and human rights. This report contains a separate section 3 on fundamental and human rights.

The tasks statutorily assigned to the Ombudsman provide a foundation for determining what kinds of values and objectives can be set for both oversight of legality and the work of the Office in other respects as well. The key values of the Office of the Parliamentary Ombudsman were created from the perspectives of clients, authorities, Parliament, the personnel and management.

The following is a summary of the values and objectives of the Ombudsman's Office.

The values and objectives of the Office of the Parliamentary Ombudsman

Values

The key objectives are fairness, responsibility and closeness to people. They mean that fairness is promoted boldly and independently. Activities must in all respects be responsible, effective and of a high quality. The way in which the Office works is people-oriented and open.

Objectives

The objective with the Ombudsman's activities is to perform all of the tasks assigned to him or her in legislation to the highest possible quality standard. This requires activities to be effective, expertise in relation to fundamental and human rights, timeliness, care and a client-oriented approach as well as constant development based on critical assessment of our own activities and external changes.

Tasks

The Ombudsman's core task is to oversee and promote legality and implementation of fundamental and human rights. This is done on the basis of investigations arising from complaints or activities that are conducted on the Ombudsman's own initiative. Monitoring the conditions and treatment of persons in closed institutions and conscripts, inspections of official agencies and institutions, oversight of measures affecting telecommunications and other covert intelligence-gathering operations as well as matters of the responsibility borne by members of the Government and judges are special tasks.

Emphases

The weight accorded to different tasks is determined a priori on the basis of the numbers of cases on hand at any given time and their nature. How activities are focused on oversight of fundamental and human rights on our own initiative and the emphases in these activities as well as the main areas of concentration in special tasks and international cooperation are decided on the basis of the views of the Ombudsman and Deputy-Ombudsmen. The factors given special consideration in the allocation of resources are effectiveness, protection under the law and good administration as well as vulnerable groups of people.

Operating principles

The aim in all activities is to ensure high quality, impartiality, openness, flexibility, expeditiousness and good services for clients.

Operating principles in especially complaint cases

Among the things that quality means in complaint cases is that the time devoted to investigating an individual case is adjusted to management of the totality of oversight of legality and that the measures taken have an impact. In complaint cases, hearing the views of the interested parties, the correctness of the information and legal norms applied, ensuring that decisions are written in clear and concise language as well as presenting convincing reasons for decisions are important requirements. All complaint cases are dealt with within the maximum target period of one year, but in such a way that complaints which have been deemed to lend themselves to expeditious handling are dealt with within a separate shorter deadline set for them.

The importance of achieving objectives

The foundation on which trust in the Ombudsman's work is built is the degree of success in achieving these objectives and what image our activities convey. Trust is a precondition for the Institution's existence and the impact it has.

2.3 Modes of activity and areas of emphasis

Investigating complaints is the Ombudsman's central task and activity. The Ombudsman investigates those complaints that are within the scope of his oversight of legality and with respect to which there is reason to suspect an unlawful action or neglect of duty or if he takes the view that this is warranted for any other reason. Arising from a complaint made to him, the Ombudsman takes the measures that he deems warranted from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. In addition to matters specified in complaints, the Ombudsman can also choose on his own initiative to investigate shortcomings that manifest themselves.

The Ombudsman is required by law to conduct inspections of official agencies and institutions. He has a special duty to oversee the treatment of persons detained in prisons or other closed institutions as well as the treatment of conscripts in garrisons. Inspections are also conducted in other institutions, especially those connected with the social welfare and health care sector. One priority area for the Ombudsman is the oversight of implementation of children's rights.

By virtue of a legislative amendment that entered into force in the beginning of 2014, the Ombudsman's remit concerning the special monitoring of covert intelligence gathering was extended to cover all means of covert intelligence. Previously, the Ombudsman's special monitoring task only applied to some of the covert intelligence gathering resources used by authorities, on which the authorities had to report back to the Ombudsman. The increase in the means used will also extend the scope of supervision. Covert intelligence gathering is used by the police, Customs, the Border Guard and the Defence Forces.

Covert intelligence gathering involves interfering with several constitutionally guaranteed fundamental rights, such as privacy, confidentiality of communications and protection of domestic peace. Often the use of covert intelligence gathering requires the permission of a court of law, which in turn assures that it will be used lawfully. However, the Ombudsman also plays an important role in ensuring that the investigative means used, and which are kept secret from the subject of investigation at the time, are monitored properly. The oversight of covert intelligence gathering is dealt with in Section 4.

Fundamental and human rights come up in the oversight of legality not only when individual cases are being investigated, but also in conjunction with, *e. g.*, inspections and deciding the thrust of own-initiative investigations. Emphasising and promoting fundamental rights is also reflected otherwise in determining the thrust of the Ombudsman's activities. In connection with this, the Ombudsman has discussions with various bodies that include the main NGOs. On inspections and when investigating matters on his own initiative, he takes up questions that are sensitive from the perspective of fundamental rights and have a broader significance than individual cases. In 2015, the special theme in oversight of fundamental and human rights was the rights of persons with disabilities. The content of the theme is outlined in part 3.6 of the section on fundamental and human rights.

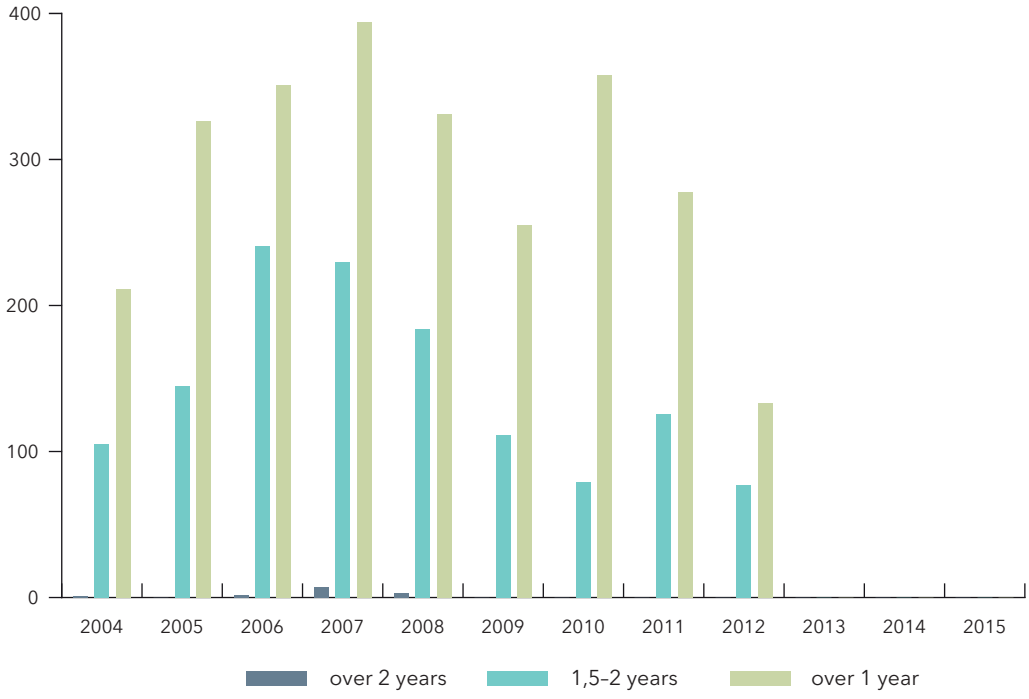
2.3.1 ACHIEVING THE TARGET PERIOD OF ONE YEAR

A reform of the Parliamentary Ombudsman Act, which entered into force in 2011, made the oversight of legality more effective by giving the Ombudsman greater discretionary powers and a wider range of operational alternatives as well as stressed the citizens' perspective. The period within which complaints can be made was reduced from five to two years. The Parliamentary Ombudsman was granted the possibility of referring a complaint to another competent authority. The amendment of the Act also enables the Parliamentary Ombudsman to invite a Substitute Deputy-Ombudsman to discharge his or her duties as and when required.

The legislative reform enabled a more appropriate targeting of resources to issues where the Parliamentary Ombudsman could help a complainant or take other measures. The aim is to help the complainant, if possible, by recommending that an error that has been made be rectified, or that compensation be paid for a violation of the complainant's rights.

Bringing the maximum processing time of complaints down to one year has been a long-term target of the Parliamentary Ombudsman. As the activities aiming to resolve complaints were made more effective, this target was achieved in 2013, despite a strong increase in the number of complaints. The target was also reached in 2014 and 2015, and by the beginning of the following year there was not one complaint pending that was more than a year old.

The average time taken to deal with complaints was 3.2 months at the end of the year, whereas at the end of 2014 it had been 3.4 months.



Complaints that had been pending over a year in 2004–2015

Average time taken to deal with complaints in 2004–2015

2.3.2 COMPLAINTS AND OTHER OVERSIGHT OF LEGALITY MATTERS

In 2015, the number of complaints received was 4,759. This is around 150 (3%) more than in 2014 (4,606). In the year under review, 4,794 complaints were resolved, approximately 50 more than the number of those that were received.

In recent years, the number of complaints sent by letter, fax or delivered in person has been declining. Correspondingly, the number received via email has substantially increased. In 2015, the vast majority (65%) arrived electronically.

Complaints received by the Ombudsman are recorded in their own subject category (category 4) in the register of the Office of the Parliamentary Ombudsman. Within about a week, the complainant is informed by letter that the complaint has been received. A notification that a complaint has arrived by email is sent immediately.

Some complaints are dealt with using a so-called accelerated procedure. In 2015, 1,023 (21%) of all complaints were dealt with in this way. The purpose of the accelerated procedure is to separate the complaints that do not need further investigation already at the reception stage. The accelerated procedure is suitable especially in cases where there is manifestly no ground to suspect an error, the time limit has been exceeded, the matter is not with in the Ombudsman's remit, the complaint is non-specific, the matter is pending elsewhere or what is involved is a repeat complaint in which no ground for a re-appraisal of the decision in the earlier complaint is evident. A notification letter about complaints that are being dealt with through the accelerated procedure is not sent to the complainant. If it emerges that a complaint is unsuitable for the accelerated procedure, it is returned to the ordinary complaints category, and the complainant is sent a notification letter from the Registry Office. In matters that are being dealt with through the accelerated procedure, a draft response is given within one week to the party deciding on the case. The complainant is sent a reply signed by the referendary taking care of the matter.

Letters of an enquiry nature received from citizens, clearly unfounded communications or that concern matters that are not within the Ombudsman's remit or are non-specific in their contents

received resolved	2014	2015
Complaints	4,558 4,757	4,727 4,794
Transferred from the Chancellor of Justice	48	32
Taken up on own initiative	60 58	89 73
Requests for submissions and attendances at hearing	84 87	74 75
Other written communications	292 294	318 313
Total	5,042 5,196	5,240 5,255

Oversight-of-legality matters received and resolved in 2014–2015

are not dealt with as complaints. Instead, they are recorded in their own category of matters (Category 6 Other communications). However, they are counted as oversight of legality matters and forwarded from the Registry Office to the Substitute Deputy-Ombudsman or the Secretary General, who distributes them to the notaries and investigating officers. Anyone sending such a letter receives a reply, which is examined by the Substitute Deputy-Ombudsman or the Secretary General. In 2015, there were 318 such communications.

While anonymous letters are not processed as complaints, the need to investigate them on the Ombudsman's own initiative is assessed.

Letters received for information only are recorded but not replied to. However, the Substitute Deputy-Ombudsman or the Secretary General examines them. Communications sent using the feedback form on the Office website are dealt with in accordance with these principles. In 2015, almost 1,100 written communications that had arrived for information were received.

Complaints received and resolved in 2004–2015

In addition, submissions and attendances at hearings in various committees of Parliament are counted belonging to oversight of legality.

In 2015, 81% of all the complaints that arrived related to the ten largest categories. Appendix 3 shows the numerical data for the 10 largest categories.

In 2015, a total of 73 matters that the Ombudsman had investigated on his own initiative were resolved. Of these, 57 (78%) led to measures on the part of the Ombudsman.

2.3.3 MEASURES

The most relevant decisions taken in the Ombudsman's work are those that lead to him taking measures. The measures are a prosecution for breach of official duty, a reprimand, the expression of an opinion and a recommendation. A matter can also lead to some other measure on the part of the Ombudsman, such as ordering a pre-trial investigation or bringing an earlier expression of opinion by the Ombudsman to the attention of an authority. In addition, a matter may be rectified while it is under investigation.

A prosecution for breach of official duty is the most severe sanction at the Ombudsman's disposal. However, if the Ombudsman takes the view that a reprimand will suffice, he may choose not to bring a prosecution even though the subject of oversight has acted unlawfully or neglected to fulfil his or her duty. He can also express an opinion as to what would have been a lawful procedure or draw the attention of the oversight subject to the principles of good administrative practice or to aspects that are conducive to the implementation of fundamental and human rights. An opinion expressed may be a rebuke in character or intended for guidance.

In addition, the Ombudsman may recommend rectification of an error that has occurred or draw the attention of the Government or other body responsible for legislative drafting to shortcomings that he has observed in legal provisions or regulations. Sometimes an authority may on its own initiative rectify an error it has made already at the stage when the Ombudsman has intervened with a request for a report.

Decisions and own initiatives that led to measures totalled 834 in 2015, which represented nearly 17% of all decisions. Complaints and own initiatives were investigated fully, *i.e.* by obtaining at least one report and/or statement in the matter, in 1,346 cases, or almost 28% of all cases. About 52% of these cases led to measures by the Ombudsman.

In about 46 % of cases (2,225 in all), there was either no ground to suspect erroneous or unlawful behaviour or there was no reason for the Ombudsman to take measures. No erroneous action was found in 295 cases (approximately 6%). The complaint was not investigated in about 31% of cases (1,497).

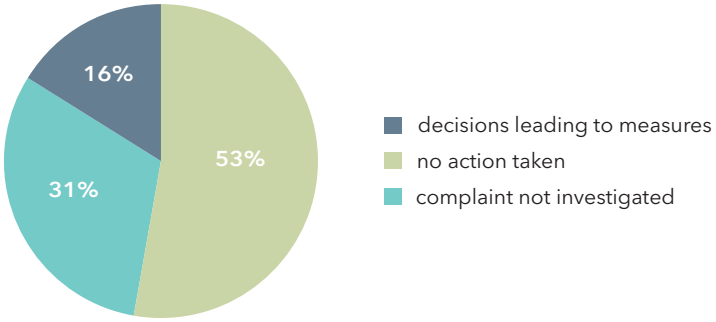
The most common reason for a complaint not being investigated was the fact that the matter was still pending in a competent authority. An overseer of legality does not usually intervene in a case that is being dealt with in an appeal instance or other authority. Matters pending with other authorities that were not investigated represented nearly 12% (556) of all complaints in which decisions were issued. In addition, matters that do not fall within the Ombudsman's remit and, as a general rule, those over two years old were not investigated.

If complaints that were not investigated are excluded from the examination, the share of all investigated complaints which led to measures was almost 24%.

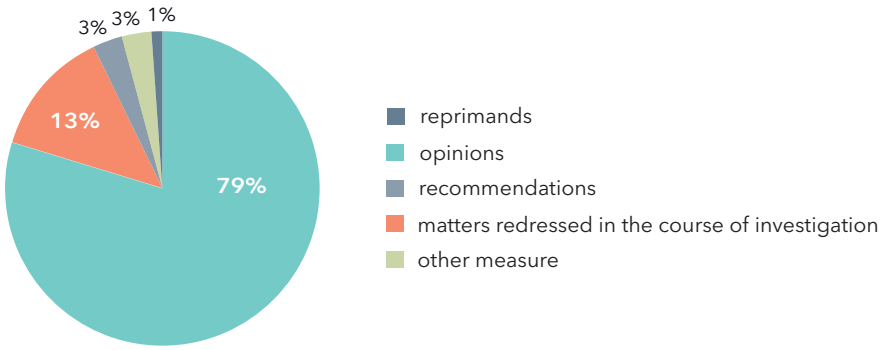
No prosecutions for breach of official duty were ordered during the year under review. 11 reprimands were issued and 644 opinions expressed. Rectifications were made in 30 cases in the course of their investigation. Decisions classed as recommendations numbered 28, although stances on development of administration that in their nature constituted a recommendation were also included in other decisions. Other measures were recorded in 121 cases. In actual fact, the number of other measures is greater than the figure shown

MEASURES TAKEN BY PUBLIC AUTHORITIES		Measure							Total number of decisions	Percentages*
		Prosecution	Reprimand	Opinion	Recommendation	Rectification	Other measure	Total		
Public authority	Social security		4	156	4	7	20	191	1,085	17,6
	- social welfare		4	130	1	7	17	159	799	
	- social insurance			26	3		3	32	286	
	Criminal sanctions		1	115	5	1	8	133	478	27,9
	Health care		3	72	6	5	24	110	501	22,0
	Police			96			4	103	731	14,1
	Labour administration			58		5	19	82	259	31,7
	Local government			27	2		4	33	177	18,7
	Education			18		7	1	26	184	14,1
	Customs			22			1	23	54	42,6
	Distraint			13	4	1	3	21	129	16,3
	Environment			14			3	17	132	12,9
	Defence			10			5	15	70	21,4
	Transport and communications		1	6	2		3	12	108	11,1
	Other subjects of oversight			5	3		4	12	149	8,0
	Courts			7			5	12	241	5,0
	- civil and criminal			5			5	10	210	
	- special			1				1	6	
	- administrative			1				1	25	
	Guardianship		1	7			4	12	96	12,5
	Public legal counsels			5			4	9	32	28,1
	Taxation			5	1	1	1	8	96	8,3
	Agriculture and forestry			4			3	7	79	8,9
	Asylum and immigration		1	2			1	4	63	6,3
	Highest organs of state			1	1		1	3	94	3,2
	Prosecutors			1				1	66	1,5
	Church								21	
	Private parties not subject to oversight								22	
	Total		11	644	28	30	121	834	4,867	17,1

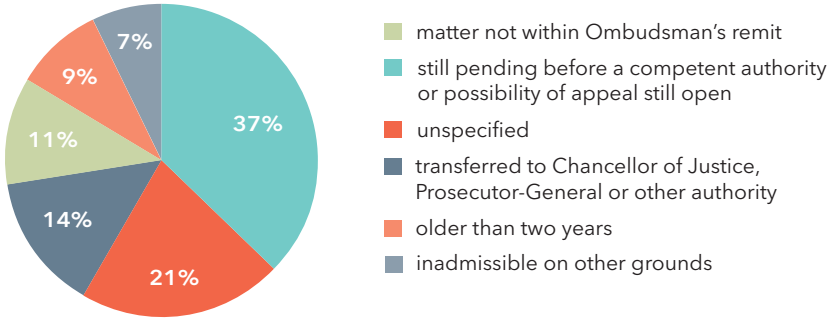
* Percentage share of measures in decisions on complaints and own initiatives in a category of cases



All cases resolved in 2015



Decisions involving measures in 2015



Complaints not investigated in 2015

above, because only one measure is recorded in each case, even though several measures may have been taken.

Annex 3 gives the statistics on measures on the part of the Ombudsman.

2.3.4 INSPECTIONS

Inspection visits to 152 places were made during the year under review. This is almost 37% more than in the previous year (111). Annex 4 gives a list of all inspections conducted. The inspections are described in more detail in connection with the various classifications.

Over half of the inspections were conducted under the leadership of the Ombudsman or the Deputy-Ombudsmen and the remainder by legal advisers. Of the inspections at closed institutions, 82 were unannounced or so-called surprise inspections.

Persons confined in closed institutions and conscripts are given the opportunity for a confidential conversation with the Ombudsman or his representative during an inspection visit. Other places where inspection visits take place include reform schools, institutions for the mentally handicapped as well as a social welfare and health care institutions.

Shortcomings are often observed in the course of inspections and are subsequently investigated on the Ombudsman's own initiative. Inspections also fulfil a preventive function.

2.4
The National Human Rights Institution of Finland

The Finnish National Human Rights Institution consists of the Ombudsman and the Human Rights Centre and its Delegation.

Parliamentary Ombudsman Mr Petri Jääskeläinen received a certificate signifying the A status granted to Finland's National Human Rights Institution in Geneva on 11 March 2015.

2.4.1
THE HUMAN RIGHTS INSTITUTION ACCREDITED WITH A STATUS

The Human Rights Centre, together with its Delegation, was established in connection with the Ombudsman's Office with the aim of creating a structure which, together with the Ombudsman, meets the requirements of the Paris Principles, adopted by the United Nations General Assembly in 1993, as satisfactorily as possible. This process, which started in the early 2000s, achieved its objective when the Finnish Human Rights Institution was awarded an A status.

National human rights institutions must apply to the UN International Coordinating Committee of National Human Rights Institutions (ICC) for accreditation. The accreditation status shows how well the institution in question meets the requirements under the Paris Principles. The highest rating, A status, indicates that the institution fully meets the requirements; a B status indicates some shortcomings; and a C status suggests the sort of defects that cannot allow the institution to be regarded as meeting requirements in any way. The accreditation status is reassessed every five years.

The Finnish National Human Rights Institution submitted its application for accreditation to the International Coordinating Committee in June 2014. The application was considered by the ICC's Sub-Committee on Accreditation (SCA), which recommended awarding the highest A status to the Finnish National Human Rights Institution. The recommendation was endorsed as a final decision of the ICC on 29 December. The A status was granted for the period 2014–2019.

The granting of an A status may be accompanied by recommendations on how to improve the institution. The recommendations given to Finland stressed, among other things, the need to safeguard the resources necessary to ensure that the tasks of the Finnish National Human Rights Institution are effectively discharged. The full text of the recommendations is provided in Annex 5 to the Ombudsman's annual report for 2014.

The A status not only has intrinsic and symbolic value but it also has legal relevance: a national institution with A status has, for example, the right to take the floor in the sessions of the UN Human Rights Council and to vote in ICC meetings. The A status is considered highly sig-

nificant in the UN and, in more general terms, in international cooperation. The Finnish Human Rights Institution has also joined the European Network of National Human Rights Institutions (ENNHRI).

2.4.2 THE HUMAN RIGHTS INSTITUTION'S OPERATIVE STRATEGY

The different sections of the Finnish National Human Rights Institution have their own functions and ways of working. The Institution's first joint long-term operative strategy was drawn up in 2014. It defined common objectives and specified the means by which the Ombudsman and the Human Rights Centre would individually endeavour to accomplish them. The strategy successfully depicts how the various tasks of the functionally independent yet inter-related sections of the Institution are mutually supportive with the aim of achieving common objectives.

The strategy outlined the following main objectives for the Institution:

1. General awareness, understanding and knowledge of fundamental and human rights is increased and respect for these rights is strengthened.
2. Shortcomings in the implementation of fundamental and human rights are recognised and addressed.
3. The implementation of fundamental and human rights is effectively guaranteed through national legislation and other norms as well as through their application in practice.
4. International human rights conventions and instruments should be ratified or adopted promptly and implemented effectively.
5. Rule of law is implemented.

2.5 New oversight duties

Oversight of the UN Convention against Torture

The Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and acts bringing into force its provisions pertaining to legislation were adopted in the spring of 2013. As a result, under an amendment to the Parliamentary Ombudsman Act, the Parliamentary Ombudsman was named National Preventive Mechanism (NPM) under the Convention (new Chapter 1(a), sections 11(a) – (h)). The amendment to the Act took effect on 7 November 2014 (Government Decree 848/2014). The NPM's tasks are described in section 3.3 of this report.

UN Convention on the Rights of Persons with Disabilities

On 3 March 2015, Parliament adopted an amendment to the Parliamentary Ombudsman Act, whereby the tasks under Article 33(2) of the Convention on the Rights of Persons with Disabilities of December 2006 would fall legally within the competence of the Ombudsman and the Human Rights Centre and its Delegation. The structure, which has to be independent, has as its task the promotion, protection and monitoring of the Convention's implementation.

However, in its statement Parliament said that, before the final ratification of the Convention, there would have to be an assurance that the requirements for ratifying Article 14 of the Convention were in place in national legislation. The statement made reference to the proposal to Parliament for a law on strengthening the right of self-determination of social welfare clients and patients and ordering restrictive measures (HE 108/2014 vp). However, the proposal lapsed at the end of the parliamentary term. The Government presented a new bill to Parliament on amending the act on special care for people with disabilities (HE 96/2015 vp). The bill is currently pending in Parliament. Amendments to the Parliamentary Ombudsman Act shall enter into force at a later date, which will be laid down in a Government Decree.

2.6
Cooperation in Finland and internationally

2.6.1
EVENTS IN FINLAND

On 16 January and 20 January 2015, Parliamentary Ombudsman Jääskeläinen attended a plenary session of Parliament to discuss the Ombudsman's report for 2013.

The Parliamentary Ombudsman's annual report for 2014 was presented to the Speaker of Parliament on 2 June 2015. The Ombudsman attended preliminary debates on the report in the plenary sessions of Parliament on 12 June and 16 June and the single reading in the plenary session on 2 October 2015.

Parliament's Constitutional Committee paid a visit to the Office on 7 October.

The Finnish Parliamentary Ombudsman institution celebrated its 95th anniversary in February 2015. To mark the occasion, a celebratory seminar was organised on 11 February. The seminar focused on the theme "*Parliamentary Ombudsman as the defender of fundamental rights*" and more specifically "*The expansion of the Ombudsman's tasks from oversight of legality to promoting individuals' rights*".

The speakers and guests invited to the seminar represented different levels of public authority and administration as well as the academia, civil society and media. Staff from the Human Rights Centre and the Office of the Parliamentary Ombudsman also addressed the guests at the event. Altogether some 200 guests were invited to the celebration.

The talks given at the seminar as well as the lyrics of the "Parliamentary Ombudsman rap", performed to lighten the atmosphere, were published in a jubilee book. The book also includes photographs and information about other seminar presentations and performances.

Parliamentary Ombudsman Mr Petri Jääskeläinen and Deputy-Ombudsmen Ms Maija Sakslin and Mr Jussi Pajuoja submitted the Ombudsman's annual report for 2014 to Ms Maria Lohela, Speaker of the Parliament, on 2 June 2015.

Led by its chairperson, Ms Annika Lapintie, the Parliament's Constitutional Law Committee visited the Office on 7 October 2015.

On 9 December, Parliamentary Ombudsman Jääskeläinen, Deputy-Ombudsman Sakslin, Director Rautio and other officials from the Human Rights Centre attended a celebration at Finlandia Hall to mark the 60th anniversary of Finland's membership in the UN. Speakers at the event included UN Secretary-General Ban Ki-moon and President of the Republic Sauli Niinistö.

On 10–11 December, the Office of the Parliamentary Ombudsman and the Human Rights Centre organised at Finlandia Hall an international conference titled "Council of Europe and the Role of National Human Rights Institutions, Equality Bodies and Ombudsman Offices in Promoting Equality". The conference was organised together with and supported by the Council of Europe. It was held to celebrate the A status granted to Finland's National Human Rights Institution in December 2014. Speakers included President Tarja Halonen, Parliamentary Ombudsman Jääskeläinen as well as Director Rautio and Expert Kristiina Kouros from the Human Rights Centre. The conference attracted approximately 190 participants, including representatives of Finnish and international human rights and equality authorities and various NGOs as well as officials from the Office of the Parliamentary Ombudsman and the Human Rights Centre.

Several Finnish authorities and other guests visited the Office of the Ombudsman to discuss topical issues and the work of the Ombudsman. During the year, the Ombudsman, Deputy-Ombudsmen and members of the Office paid visits to familiarise themselves with the activities of other authorities, gave presentations and participated in hearings, consultations and other events.

Allan Rosas, judge at the Court of Justice of the European Union, visited the Office on 29 May. Mr Rosas gave the staff a presentation of the Court's current affairs. In addition to Parliamentary Ombudsman and Deputy-Ombudsmen, several other officials from the Office also attended the event.

The 95th anniversary of the Parliamentary Ombudsman institution was celebrated in the auditorium of Pikkuparlamentti building on 11 February 2015. Mr Eero Heinäluoma, Speaker of the Parliament, was one of those who contributed their views of the theme of the celebration.

Music at the event was provided by Käsikello-orkesteri Kide.

The Ombudsman for Children Tuomas Kurttila and accompanying officials visited the Office and Deputy-Ombudsman Sakslin on 25 May. Officials from the Office also attended the meeting. The Non-Discrimination Ombudsman Kirsi Pimiä and accompanying officials visited the Office on 22 September. Parliamentary Ombudsman Jääskeläinen, Deputy-Ombudsman Pajuoja, Deputy-Ombudsman Sakslin and officials from the Office attended the meeting.

During the year, the Office also received other visitors, such as representatives of the Finnish Consripts' Union (11 June), officials from the Unit for Democracy, Language Affairs and Fundamental Rights at the Ministry of Justice (18 September), representatives of the National Administrative Office for Enforcement (6 October), lawyers from the Criminal Sanctions Agency (18 November) and a team working on disability matters at the National Institute for Health and Welfare (27 November).

Parliamentary Ombudsman Jääskeläinen gave a presentation at an administrative law theme day organised at the University of Helsinki on 21 May. He also gave a talk during an orientation programme for new Members of Parliament held at the Parliament Annex building on 26 May and in Parliament's journalist programme on 13 October.

Deputy-Ombudsman Pajuoja acted as opponent in the public examination of Sasu Tyni's doctoral dissertation on 8 May at the University of Eastern Finland. He also gave a presentation on 26 August at the XVI national law conference (*XVI Valtakunnalliset oikeustieteen päivät*) held in Joensuu.

Deputy-Ombudsman Sakslin gave a presentation at the IV Constitutional Law Day (*Valtiosääntöpäivä*). The topic of the talk was "Should the monitoring mechanism of the Constitution be reformed?" Sakslin also chaired the panel on "Reform of the monitoring mechanism of the Constitution: need, focus areas and direction".

On 18 September, Deputy-Ombudsman Sakslin gave an opening speech at a conference organised by the Defence Forces at the Defence Command. She also gave a presentation on the foundations of legal thinking at the University of Turku Faculty of Law on 30 September.

2.6.2 INTERNATIONAL COOPERATION

In recent years, the Office of the Parliamentary Ombudsman has engaged in an increasing number of international activities. During the year, the Office received a number of visitors and delegations from other countries who came to familiarise themselves with the Ombudsman's activities. Some of these were working visits, during which the visitors were given a practically oriented introduction to the work and procedures of the Office as well as the administration, and they met employees working at the Office. One of the reason for which the Finnish Parliamentary Ombudsman institution and its activities attract international interest is that the Finnish institution is the second oldest of its kind in the world.

Since August 2015, Parliamentary Ombudsman Petri Jääskeläinen and Principal Legal Adviser Pasi Pölönen have participated in a project concerning technical assistance that the Government of Cyprus has requested from the European Commission. The aim is to conduct a functional review of the activities of the Cypriot Ombudsman (Commissioner for Administration and Human Rights). The review is part of a comprehensive evaluation and reform programme concerning the public administration in Cyprus, which the Government of Cyprus has agreed to undertake as part of its collaboration with the European Commission, the European Central bank and the International Monetary Fund. The tasks include evaluating the independence, organisation and workflows of the Cypriot Ombudsman, the efficiency and effectiveness of the activities, and possible resource and development needs. The final report containing a proposal for an action plan will be presented to the Government of Cyprus in April 2016.

Other Finnish participants in the project include Eija-Leena Linkola, who has a background in working at the Ministry for Foreign Affairs, and Development Manager Marika Tammeaid from the State Treasury. The team conducted its first scoping visit to the Cypriot Ombudsman's office on 14–18 December 2015.

International visitors

Below is a list of the individuals and delegations that visited the Office in the year under review.

- 20.1. Arne Fliflet, previous Parliamentary Ombudsman of Norway
- 4.5. Zarif Alizoda, Human Rights Ombudsman of Tajikistan, and Muzaffar Ashuriyon, Head of Department for Human Rights Guarantees of the Executive Office of the President of the Republic of Tajikistan and their delegation
- 7.5. Special Rapporteur on the Rights of Persons with Disabilities Catalina Devandas Aquilar and Adviser Krista Orama (OHCHR)
- 12.5. Political advisors of the Dutch Parliament and City Council Members
- 14.7. Colombian Ambassador to Finland Fulvia Benavides and Consul Claudia Sinning
- 21.9. Members of the Parliament of Moldova (Standing Committee on Human Rights and Ethnic Relations)
- 30.9. Group of judges and prosecutors participating in the exchange programme of the EJTN
- 13.10. Chief Justice of Nepal Kalyan Shrestha and his delegation consisting of Supreme Court and District Court judges
- 14.10. Delegation of the Organisation for Security and Cooperation in Europe (OSCE)
- 19.10. Visitor group from the Korean Kyung Hee University
- 29.10. Jiří Dienstbier, the Czech Minister for Human Rights, Equal Opportunities and Legislation and Chairman of the Government Legislative Council, and Martin Tomčo, Ambassador of the Czech Republic to Finland, and entourage

Ms Catalina Devandas Aguilar, UN Special Rapporteur on the Rights of Persons with Disabilities, visited the Office in May and met Parliamentary Ombudsman Mr Petri Jääskeläinen and Ms Sirpa Rautio, Director of the Human Rights Centre among others.

- 12.11. Meeting with the representatives of the International Commission of Jurists
- 18.11. Maneewon Phromnoi, Judge of the Supreme Administrative Court of Thailand, representing the International Association of Supreme Administrative Jurisdictions (IASAJ/AIHJA)
- 3.12. A group of Tunisian female Members of Parliament
- 9.12. Delegation from the National Human Rights Commission of Korea

Events outside Finland

The Parliamentary Ombudsman is a member of the European Network of Ombudsmen, the members of which exchange information on EU legislation and good practices at seminars and other gatherings as well as through a regular newsletter, an electronic discussion forum and daily electronic news services. Seminars intended for ombudsmen are organised every other year

by the European Ombudsman together with a national or regional colleague. The liaison persons, who serve as the network's nodal points on the national level, meet in Strasbourg every other year.

Deputy-Ombudsman Sakslin has been a member of the Management Board of the European Union Agency for Fundamental Rights (FRA) since 2010. In 2012, she was elected as chair of the Management Board. She took part in the meetings of the FRA Management Board and/or Executive Board on 21–22 January, 26–27 February, 4–5 March, 19–21 May and 18–20 November.

On 30–31 January, Deputy-Ombudsman Sakslin participated, as a representative of the FRA, in a seminar organised by the European Court of Human Rights in Strasbourg. The seminar topic was "Subsidiarity: a two sided coin? 1. The role of the Convention mechanism, 2. The role of the national authorities".

On 11–12 March, Parliamentary Ombudsman Jääskeläinen and Director of the Human Rights Centre Sirpa Rautio attended a meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in Geneva, to receive the document signifying the A status granted to the Finnish Human Rights Institution.

On 26–27 March, Deputy-Ombudsman Pajuoja attented the 60th anniversary seminar of the Danish Parliamentary Ombudsman. He also participated in a panel discussion with the other Nordic ombudsmen. At the event, Deputy-Ombudsman Pajuoja presented the Danish Parliamentary Ombudsman institution with an ombudsman sculpture and gave a speech.

On 23–24 March, Principal Legal Adviser Juha Haapamäki attented the seminar "Democratic policing of Public Assemblies" in Paris.

On 27–28 April, Parliamentary Ombudsman Jääskeläinen and Deputy-Ombudsman Sakslin attended the Tenth National Seminar of the European Network of Ombudsmen held in Warsaw.

On 4–5 May, Director Rautio and Principal Legal Adviser Riitta Länsisyrjä participated in a meeting on communication organised in Vienna by the European Union Agency for Fundamental Rights (FRA), the European Network of Equality Bodies (Equinet) and the European Network of National Human Rights Institutions (ENNHRI).

Deputy-Ombudsman Sakslin as well as Director Rautio and other officials from the Human Rights Centre participated in the 30th anniversary seminar of the Northern Institute for Environmental and Minority Law on 10–11 September in Rovaniemi.

Director Rautio from the Human Rights Centre participated on 16–17 September in the 3rd International Symposium on Ombudsman Institutions organised in Ankara.

On 16–17 September, Parliamentary Ombudsman Jääskeläinen and Principal Legal Adviser Jorma Kuopus attended a seminar in Tallinn on the cooperation among the ombudsmen of the Baltic and Nordic countries.

On 13–14 October, Deputy-Ombudsman Sakslin and Senior Legal Adviser Mikko Sarja participated in the Council of Europe conference "Freedom of expression: still a precondition for democracy?" in Strasbourg.

On 25–27 October, Deputy-Ombudsman Sakslin and Legal Adviser Kristian Holman attended the Seventh International Conference of Ombudsman Institutions for the Armed Forces organised in Prague.

Expert Kristiina Kouros from the Human Rights Centre and Legal Adviser Juha-Pekka Konttinen participated in the meeting of the ENNHRI Working Group on the Convention on the Rights of Persons with Disabilities (CRPD) organised in Zagreb on 26–27 October.

From 30 November to 1 December, Director Rautio from the Human Rights Centre, Principal Legal Adviser Länsisyrjä and Associate Expert Elina Hakala took part in the ENNHRI General Assembly meeting held in Utrecht.

Senior Legal Adviser Jari Pirjola has been Finland's representative on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) since December 2011. The representative is elected for a four-year term. On 8 July 2015, the Committee of

Ministers of the Council of Europe appointed Mr Pirjola for a second four-year term. During the year, Mr Pirjola attended CPT meetings and participated in CPT visits seven times. On 2 March, he attended a seminar organised in Strasbourg to mark the 25th anniversary of CPT.

Office officials attended numerous seminars and conferences abroad.

2.6.3 OMBUDSMAN SCULPTURE

In 2009, the Ombudsman commissioned a work from sculptor Hannu Sirén to celebrate the 90th anniversary of the establishment of the Parliamentary Ombudsman institution. It is a serially manufactured sculpture used in the same way as a medal.

The Parliamentary Ombudsman may award the sculpture to a Finnish or a foreign person, authority or an organisation for commendable work that promotes the rule of law and the implementation of fundamental and human rights. The silver sculpture is intended as an award for actions of extraordinary merit.

The Parliamentary Ombudsman awarded a silver ombudsman sculpture to the Danish Parliamentary Ombudsman institution on its 60th anniversary. The Danish institution is the third oldest ombudsman institution in the world. The sculpture was persented by Deputy-Ombudsman Pajuoja on 26 March.

On 11 February 2015, the Parliamentary Ombudsman awarded ombudsman sculptures to longstanding officials who had retired from the Office during the year as a token of recognition and gratitude for their contribution to promoting the rule of law and the implementation of fundamental and human rights. The sculptures were given to Principal Legal Adviser Eero Kallio, Principal Legal Adviser Raino Marttunen, Assistant Filing Clerk Päivi Karhu, Notary Pirkko Suutarinen, Principal Legal Adviser Harri Ojala and Office Secretary Pirjo Hokkanen. Ms Karhu worked at the Office for nearly 39 years, Mr Kallio for 34 years, Mr Marttunen and Mr Ojala for more than 30 years, Ms Suutarinen for more than 10 years and Ms Hokkanen for more than six years.

Parliamentary Ombudsman presented the ombudsman sculpture to Licentiate of Law Mr Lauri Lehtimaja, who served as Parliamentary Ombudsman in 1995–2001.

On 30 November 2015, the Parliamentary Ombudsman awarded an ombudsman sculpture to Licentiate of Law Lauri Lehtimaja. Mr Lehtimaja has acted as Parliamentary Ombudsman and Supreme Court Justice and has also held numerous other positions as a judge and an expert for a total of nearly 40 years. He turned 70 in November.

2.7 Service functions

2.7.1 SERVICES TO CLIENTS

We have tried to make it as easy as possible to turn to the Ombudsman. Information on the Ombudsman's tasks and instructions on how to make a complaint can be found on the website of the Office and from a leaflet entitled 'Can the Ombudsman help?'. A complaint can be sent by post, email or fax or by completing the online form. The Office provides clients with services by phone, on its own premises and by email.

Two on-duty lawyers at the Office are tasked with advising clients on how to make a complaint. The on-duty lawyers dealt with almost 1,400 telephone calls, while slightly more than 60 people visited the Office in person.

The Registry at the Office receives and registers incoming complaints and replies to enquiries about them, in addition to responding to requests for documents. During the year, the Registry received around 2,300 calls. There were approximately 140 visits from clients and 690 requests for documents/information. The archives of the Office mainly provide services to researchers.

2.7.2 COMMUNICATIONS

In 2015, the Office issued 20 press releases outlining decisions made by the Ombudsman and a brief of so-called network tip on 12 decisions. The Office publishes information on the Ombudsman's decisions if they are of particular legal or general interest. The press releases are given in Finnish and Swedish, and they are also posted in English online.

The Office commissioned an analysis of its media visibility, which showed that the Ombudsman had been visible in the online media in 2015 in the context of 1,580 news items and articles. Most of the news coverage (95%) was neutral or favourable in tone.

A total of 200 anonymous decisions were posted online. Decisions posted online are those that are of legal or general interest.

The Ombudsman's website is in English at www.ombudsman.fi/english, in Finnish at www.oikeusasiamies.fi and in Swedish at www.ombudsman.fi. At the Office, information is provided by the Registry, the referendaries (legal advisers) and an information officer.

2.7.3 OFFICE AND ITS PERSONNEL

The Parliamentary Ombudsman's office, headed by the Ombudsman, is there to do the preparatory work on cases to be decided by the Ombudsman and to assist him in his other duties as well as to perform tasks that are the responsibility of the Human Rights Centre. The Office is located in the Parliament Annex at Arkadiankatu 3.

The Office comprises four sections, with the Ombudsman and the two Deputy-Ombudsmen each heading a section of their own. The administrative section, which is headed by the Secretary General, is responsible for general administration. The Human Rights Centre at the Ombudsman's Office is headed by the Director of the Human Rights Centre.

At the end of 2015, the regular staff totalled 59. At the end of the year, there were five vacant posts, one of which was filled in March 2016. In addition to the Ombudsman and the Deputy-Ombudsmen, the permanent staff at the office comprised the Secretary General, 10 principal legal advisers, 8 senior legal advisers, 11 legal advis-

ers and 2 on-duty lawyers, and the Director of the Human Rights Centre and two experts employed there. The Office also had an information officer, 2 investigating officers, 4 notaries, an administrative secretary, a filing clerk, an assistant filing clerk, 3 departmental secretaries and 7 office secretaries. In addition, a total of 16 other persons worked in the Office for all or part of the year on fixed-term appointments. A list of the personnel is shown in Annex 5.

In accordance with its rules of procedure, the Office has a Management Group that includes the Ombudsman, the Deputy-Ombudsmen, the Secretary General, the Director of the Human Rights Centre and three staff representatives. Discussed at meetings of the Management Group are matters relating to personnel policy and the development of the Office. The Management Group met nine times. A cooperation meeting for the entire staff of the Office was held on four occasions in 2015.

The Office had permanent working groups in the areas of education, wellbeing at work, and equitable treatment and equality. The Office also has a team for evaluating how demanding tasks are, as required under the collective agreement for parliamentary officials. Temporary working groups included a working group and a steering group for a case and records management programme and a client service working group.

The electronic case and records management programme was initiated in 2013, and during the year under review it entered the implementation phase. The aim of the case and records management programme is to implement an electronic case and document management solution to aid the Ombudsman's oversight of legality and other tasks and thereby adopt an electronic working environment and eventually electronic archiving.

2.7.4 OFFICE FINANCES

To finance its activities, the Office is given a budget appropriation each year. Rents, security services and a part of the costs of information management are paid by Parliament, and these expenditure items are therefore not included in the Ombudsman's annual budget.

The Office was given an appropriation of EUR 5,793,000 for 2015. Of this, EUR 5,668,000 was used, which was EUR 125,000 less than the estimated amount. The main reason for the underuse of the estimated appropriation was savings in the payroll costs, as there were vacant posts in the Office for some months during the year. A part of the savings was generated because the costs of the case and records management programme were lower than expected.

The Human Rights Centre drew up its own action and financial plan and its own draft budget.

3 Fundamental and human rights

3.1 The Ombudsman's fundamental and human rights mandate

The term "fundamental rights" refers to all of the rights that are guaranteed in the Constitution of Finland and all bodies that exercise public power are obliged to respect. The rights safeguarded by the European Union Charter of Fundamental Rights are binding on the Union and its Member States and their authorities when they are acting within the area of application of the Union's founding treaties. "Human rights", in turn, means the kind of rights of a fundamental character that belong to all people and are safeguarded by international conventions that are binding on Finland under international law and have been transposed into domestic legislation. In Finland, national fundamental rights, European Union fundamental rights and international human rights complement each other to form a system of legal protection.

The Ombudsman in Finland has an exceptionally strong mandate in relation to fundamental and human rights. Section 109 of the Constitution requires the Ombudsman to exercise oversight to "ensure that courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights."

For example, this is provided for in the provision on the investigation of a complaint in the Parliamentary Ombudsman Act. Under Section 3 of the act, arising from a complaint made to him or her, the Ombudsman shall take the measures that he or she deems necessary from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. Similarly, section 10 of the Parliamentary Ombudsman Act states that the Ombudsman can, among other things, draw the attention of a subject of oversight to the requirements of good administration or to considerations of implementation of fundamental and human rights.

For a more extensive discussion of the Ombudsman's duty to promote the implementation of fundamental and human rights, see Parliamentary Ombudsman Jääskeläinen's article on this subject in the Annual Report for 2012 (pp. 12–17).

Oversight of compliance with the Charter of Fundamental Rights is the responsibility of the Ombudsman when an authority, official or other party performing a public task is applying Union law.

Both the Constitution and the Parliamentary Ombudsman Act state that the Ombudsman must give the Eduskunta an annual report on his activities as well as on the state of exercise of law, public administration and the performance of public tasks, in addition to which he must mention any flaws or shortcomings he has observed in legislation. In this context, special attention is drawn to implementation of fundamental and human rights.

In conjunction with a revision of the fundamental rights provisions in the Constitution, the Eduskunta's Constitutional Law Committee considered it to be in accordance with the spirit of the reform that a separate chapter dealing with implementation of fundamental and human rights and the Ombudsman's observations relating to them be included in the annual report. Annual reports have included a chapter of this kind since the revised fundamental rights provisions entered into force in 1995.

The fundamental and human rights section of the report has gradually grown longer and longer, which is a good illustration of the way the emphasis in the Ombudman's work has shifted from overseeing the authorities' compliance with their duties and obligations towards promoting people's rights. In 1995 the Ombudsman had issued only a few decisions in which the fundamental and human rights dimension had been specifically deliberated and the fundamental and human rights section of the report was only a few pages long (see the Ombudsman's Annual Report for 1995 pp. 26–34). The section is nowadays the longest of those dealing with various groups of categories in the report, and implementation of fundamental and human rights is deliberated specifically in hundreds of decisions and in principle in every case.

Information concerning various human rights events and ratification of human rights conventions are no longer included in the Ombudsman's annual report, because these matters are dealt with in the Human Rights Centre's own annual report.

3.2 The Human Rights Centre

The Human Rights Centre, which was established in 2012, operates autonomously and independently, although administratively it is part of the Office of the Parliamentary Ombudsman. The duties of the Centre are laid down in the Parliamentary Ombudsman Act. According to the law, the HRC has the following tasks:

- Promoting information provision, education, training and research on fundamental and human rights.
- Drafting reports on the implementation of fundamental and human rights.
- Presenting initiatives and issuing statements in order to promote and implement fundamental and human rights.
- Participating in European and international cooperation related to the promotion and protection of fundamental and human rights.
- Performing other similar tasks associated with the promotion and implementation of fundamental and human rights.

The Centre does not handle complaints or deal with other individual cases.

The Parliamentary Ombudsman appoints the Centre's Director for a four-year term, after having received a statement on the matter from Parliament's Constitutional Law Committee. The Parliamentary Ombudsman appointed Sirpa Rautio, Master of Laws trained on the bench, for a second term as the Director of the HRC on 21 December 2015. Her new four-year term began on 1 March 2016.

The Human Rights Centre has a Human Rights Delegation, to which the Parliamentary Ombudsman appoints 20–40 members for a four-year term after consulting with the Director of the Centre. The Director of the Centre chairs the Delegation.

3.2.1 OPERATION OF THE HUMAN RIGHTS CENTRE IN 2015

The Human Rights Centre's Plan of Action 2015 defined the priorities of the Centre's activities. These included human rights education and training, information provision and the improvement of cooperation among different actors, for example through the Human Rights Delegation. Thematic priorities included in particular broad and cross-cutting issues that are of structural and principal importance, such as implementing equality and ensuring people's access to their rights.

Because the HRC's duty is to promote both human rights and fundamental rights, its information provision, training, education and research activities focus on national fundamental rights, international human rights or the fundamental rights dimension of the European Union, depending on the target group and the topic.

Information activities, publications and events

The Human Rights Centre actively distributes information through its website (www.ihmisoikeuskeskus.fi) and on Facebook. The Human Rights Centre also opened a Twitter account (@FIN_NHRI) in December 2015.

In 2015, the information activities focused especially on topical human rights news. The first international newsletter of the Human Rights Centre, which is a collection of human rights news from key international actors, was published in February. In September, the Human Rights Centre also started publishing a domestic newsletter related to fundamental and human rights.

The newsletters are published at roughly two-month intervals, and they are intended for both the Centre's own stakeholders and anyone else interested in human rights issues.

Through its publications, the Human Rights Centre aims to raise awareness of fundamental and human rights and to support education and training related to them. For example, a separate issue publication in the electronic format on the Human Rights Delegation's recommendations concerning human rights education and training was released, a human rights glossary in Finnish, Swedish and English was produced, and translations into Finnish and Swedish of an OHCHR publication on core human rights enshrined in the UN's human rights conventions came out in 2015.

Events are a key method of providing information and training related to current fundamental and human rights topics. Among other events in 2015, the Human Rights Centre organised a seminar on the new Non-Discrimination Act together with the Ministry of Justice, a meeting of the Nordic Council of the Deaf together with the Finnish Association of the Deaf, and lunchtime information event for Members of the Parliament on a decision of the European Court of Human Rights concerning comments posted on Internet news portals. In December, a two-day conference on promoting equality and non-discrimination in the activities of the Council of Europe, National Human Rights Institutions, equality bodies and Offices of Parliamentary Ombudsmen was organised in cooperation with the Council of Europe and the Parliamentary Ombudsman.

Human rights education and training

Promoting education and training on fundamental and human rights has been one of the Human Rights Centre's priority activities during its first four years of operation. In 2014, the Human Rights Centre published the first national baseline study on the implementation of human rights education and training in the Finnish education system. The dissemination of its findings and practical implementation of the Human Rights Delegation's recommendations based on it continued in 2015. The impacts of the study were also monitored.

Towards the end of the year, the HRC conducted a mid-term evaluation of the implementation of the Human Rights Delegation's recommendations and the impacts of the study. In its recommendations, the Delegation called for the inclusion of human rights elements in all education and training and the strengthening of the human rights competence of teachers, educators, office holders and others performing public duties. The government was also urged to prepare an action plan for human rights education and training. Some positive steps have been achieved with regard to all recommendations. It is fair to say that the study has already made a significant impact on fundamental and human rights related education and training in Finland.

A special goal in 2015 was to ensure that fundamental and human rights education and training are included in the next national action plan on fundamental and human rights. By its advocacy, the HRC strived to promote the launching of action plan preparation. In October, the Ministry of Justice appointed a Government network of contact persons for fundamental and human rights. One of its tasks will be to draft the second national action plan on fundamental and human rights in 2016. A HRC representative participates in this network as an expert, and fundamental and human rights education and training are in a key role in the action plan preparation.

While the Human Rights Centre is not a training organisation, its Director and experts regularly visit different events, giving lectures and providing training on fundamental and human rights. During the reporting year, for example, lectures were given at the Ministry for Foreign Affairs, the Ministry of Justice, HAUS Finnish Institute of Public Management Ltd which provides training for civil servants, and Åbo Akademi University.

Research

In 2015, the HRC paid special attention to improving collaboration among researchers in the field of fundamental and human rights and on disseminating information on this research. Cooperation with research institutes of this field also took the form of speaking at events and training seminars.

In September, the Northern Institute for Environmental and Minority Law at the University of Lapland and the Human Rights Centre organised a seminar on fundamental and human rights research in Rovaniemi to discuss how research in this field could be developed in Finland. The plan is to make this seminar an annual event in the future, with universities conducting fundamental and human rights research taking turns organising it.

Initiatives and statements

The Human Rights Centre gave a number of statements to ministries and parliamentary committees in 2015. The topics of these statements included an amendment to the State Civil Servants Act, the Government Report on Human Rights Policy, ratification of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol, drafts for the early childhood education and care act and a new youth act, instructions for consultations associated with the drafting of statutes, training of judges, and the establishment of the Government network of contact persons for fundamental and human rights. Statements were also issued to international bodies, including the OHCHR. A full list of the statements is included in the Human Rights Centre's Annual Report.

During a break at a conference, President Ms Tarja Halonen engaged in conversation with Mr Jonas Gunnarsson (General Rapporteur on the rights of LGBT people for the Parliamentary Assembly of the Council of Europe), Mr Petr Polák (Director of the equality division at the Office of the Parliamentary Ombudsman in the Czech Republic) and Ms Pirita Näkkäläjärvi (Head of Sápmi, the Finnish Broadcasting Company's Sámi language department).

Cooperation with Finnish and international fundamental and human rights actors

In addition to stakeholders represented in the Human Rights Delegation, the Human Rights Centre also cooperates with other actors working with fundamental and human rights issues. In 2015, the HRC expanded it networks, particularly among organisations and researchers operating in different fields. Its cooperation involves, for instance, meetings, information exchange, advocacy and the organisation of events.

In order to develop cooperation and to exchange information and experiences the HRC has, since February 2014, invited authorities responsible for monitoring fundamental and human rights to joint meetings. These authorities are the Parliamentary Ombudsman, the Chancellor of Justice of the Government, the Ombuds-

man for Children, the Ombudsman for Equality, the Data Protection Ombudsman and the Non-Discrimination Ombudsman.

The Human Rights Centre maintains a dialogue with the Parliament through, for example, statements, committee hearings, events and meetings. A central focus area during the operating year was raising awareness of the HRC among new Members of Parliament. The HRC introduced itself at a training event for new Members of Parliament in May, in addition to meeting members of the Constitutional Law Committee and the parliamentary human rights group.

In spring 2015, the Director of the Human Rights Centre chaired a working group appointed by the Ministry of Justice to prepare a report on the position, division of responsibilities and resources of national fundamental and human rights actors. In its recommendations for improvements, the working group emphasised that the conclusions and recommendations addressed to Finland by international bodies monitoring human rights treaties should be seen as tools that the authorities and non-governmental actors should use in their work. Moreover, civil society actors should be consulted more often, and their opportunities to be involved and participate should be enhanced. Different actors should have clearly defined tasks, and the effectiveness of activities should be continuously evaluated. Operating methods and forms of cooperation should also be constantly developed to ensure efficiency.

The European Network of National Human Rights Institutions (ENNHRI) is one of the HRC's most important international partners. During the year, the HRC participated in ENNHRI's working group on the UN Convention on the Rights of Persons with Disabilities, a working group on corporate responsibility in the field of human rights, and an advisory group of a project examining the rights of older persons in long-term care. At the ENNHRI General Assembly meeting in November, the HRC as the representative of Finland's NHRI was elected a member of the European Coordinating Committee of NHRIs and to the Bureau of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) as of 1 March 2016.

Cooperation with the European Union Agency for Fundamental Rights (FRA) was emphasised as Sirpa Rautio, Director of the HRC, was appointed the independent representative of Finland in the FRA Management Board in summer 2015. In November, the Director of the Human Rights Centre delivered the opening remarks at a FRA meeting with national stakeholders and took part in preparing the event. The HRC also participated in the FRA's Clarity project that was started in 2013. The aim of the project is to create an online portal that provides information on where to turn to if one's rights are violated in an EU country.

Monitoring the implementation of Finland's human rights obligations

The HRC monitors the implementation of Finland's human rights obligations, in particular based on recommendations issued by international monitoring bodies, expresses its views in writing and orally in connection with periodical reporting, and responds to queries from UN human rights bodies concerning the human rights situation in Finland. It also monitors the progress made in the ratification of international human rights conventions in Finland.

During the reporting year, the HRC continued to promote the implementation of the UN Guiding Principles on Business and Human Rights at national level, for example by providing training and information on this topic and by chairing a retailers' round table discussion on implementing the UN principles in the retail trade convened by the Ministry for Foreign Affairs.

In May, the Director of the HRC chaired a session in an event organised by the European Com-

mission against Racism and Intolerance (ECRI) and the Non-Discrimination Ombudsman. The event focused on ECRI's report on Finland and the recommendations put forward in the report.

In October, the HRC met the advisory committee monitoring the implementation of the Council of Europe Framework Convention for the Protection of National Minorities as it visited Finland. At this meeting, the parties discussed the position and rights of minorities in Finland.

Rights of persons with disabilities

According to Article 33(2) of the UN Convention on the Rights of Persons with Disabilities (CRPD), States Parties shall designate or establish an independent mechanism to promote, protect and monitor the national implementation of the Convention. In Finland, this role will be taken on by the entity consisting of the Parliamentary Ombudsman, the Human Rights Centre and its Delegation. The involvement and participation of persons with disabilities and disability organisations will be realised through a permanent section established under the Human Rights Delegation.

Even though the Convention ratification process was still under way in 2015, the HRC was already preparing for its upcoming duties as part of the CRPD monitoring mechanism.

In February, the HRC issued a statement to the parliamentary Social Affairs and Health Committee, emphasising the importance of ratifying the Convention without delay. During the reporting year, a working group preparing the establishment of the section on disability rights discussed the participation of persons with disabilities in the work of the monitoring mechanism, and a Human Rights Delegation workshop was organised in May that focused on promoting, protecting and monitoring the rights of persons with disabilities. In December, the Director of the HRC spoke at a national event for municipal councils on disability, explaining the Centre's future role in promoting and monitoring the Convention. The Human Rights Centre also took part in a coordination group on international disability policy of the Ministry for Foreign Affairs.

In autumn 2015, the HRC conducted an extensive round of interviews with disability organisations and charted advisory services offered in the field that complement official services as well as the most common problems that occue in the everyday lives of persons with disabilities. The interviewees brought up shortcomings concerning, for example, interpretation services provided to persons with disabilities, accessibility of information, electronic services and availability of information as well as mobility and transportation services. Concerns were also expressed regarding the subjecting of services to competitive tendering and the privatisation of services, the pressure of austerity in public finances and the implementation of the municipalities' obligation to provide advice. Moreover, disabled people's inclusion, individual needs and ability to influence decisions affecting their own lives are not currently implemented and taken into account in a manner that would enable them to fully participate in society.

The Human Rights Centre also participated in international CRPD cooperation, including the ENNHRI CRPD working group as well as a meeting of the EU and national CRPD monitoring mechanisms. In May, Catalina Devandas Aguilar, the UN Special Rapporteur on the rights of persons with disabilities, visited the HRC and the Parliamentary Ombudsman during her visit to Finland to learn about the rights of persons with disabilities in Finland and the NHRI's preparations for its new duties.

3.2.2 THE HUMAN RIGHTS DELEGATION

The Human Rights Delegation is composed of representatives of civil society, research into fundamental and human rights as well as other bodies that participate in promoting and safeguarding these rights. The supreme overseers of legality, the special ombudsmen and the Sámi Parliament of Finland are permanent members.

The tasks of the Human Rights Delegation are:
- to deal with matters of fundamental and human rights that are of far-reaching significance and principal importance,
- to annually approve the action plan and annual report of the Human Rights Centre, and
- to function as a national cooperative body for actors in the sector of fundamental and human rights.

The Delegation has a working committee that prepares the Delegation's meetings, and sections which also include external experts. In 2015, sections on human rights education and training and monitoring the implementation of fundamental and human rights as well as a working group preparing the establishment of a section on persons with disabilities were working under the Delegation.

During the reporting year, the Delegation paid special attention to the rights of vulnerable persons and monitored the new Government's actions in fundamental and human rights issues. Dialogue between actors that takes place within the framework of the Human Rights Delegation was strengthened further. The Delegation's meetings also discussed the improvement of advocacy and information activities related to fundamental and human rights and topical fundamental and human rights issues.

In October, the Human Rights Delegation adopted a statement on the protection of fundamental and human rights in all Government activities. With this statement, the Delegation wished to remind the Government of the legally binding nature of fundamental and human rights and of the fact that the rights enshrined in the Constitution of Finland apply to all people residing in the country. The Delegation considered it very important that the Government assess in advance how the measures it proposes affect the implementation of fundamental and human rights. The Delegation also drew attention to the rights of the Sámi people, Finland's refugee and asylum policy and the increase in hate speech, and urged the Government to prepare an action plan on fundamental and human rights.

To select the members of the next Human Rights Delegation, an open application procedure for the term running from 1 April 2016 to 31 March 2020 was organised from 8 December 2015 to 8 January 2016. A total of 110 applications were received by the deadline.

3.3
National Preventive Mechanism against Torture

3.3.1
THE OMBUDSMAN'S TASK AS A NATIONAL PREVENTIVE MECHANISM

On 7 November 2014, the Parliamentary Ombudsman became the National Preventive Mechanism (NPM) under the Optional Protocol of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Human Rights Centre (HRC), at the Office of the Parliamentary Ombudsman, and its Human Rights delegation, fulfil the requirements laid down for the National Preventive Mechanism in the Optional Protocol, which makes reference to the so-called Paris Principles.

It is the task of the Preventive Mechanism to conduct inspections in places where people deprived of their liberty are or may be held. The aim has been to make the scope of the Optional Protocol as broad as possible. Within its scope fall prisons, police departments and remand prisons, but also, for example, detention units for foreigners, psychiatric hospitals, residential schools, child welfare institutions and, under certain conditions, care homes and residential units for the elderly and those with intellectual disabilities.

There are, in all, thousands of places that fall within its scope. In practice, the procedure may involve visits to care homes for elderly people with memory disorders, where the objective is to try and prevent them from being treated badly and their right to self-determination from being violated.

The Optional Protocol highlights the role of the NPM as being the prevention of torture and other prohibited treatment by means of the performance of regular inspections. The National Preventive Mechanism has the competence to make recommendations to the authorities, for the purpose of improving the treatment and conditions of people who have been deprived of their liberty and preventing anything that is prohibited in the Convention against Torture. It must also be able to issue proposals, opinions and statements on current and planned legislation.

Under the Parliamentary Ombudsman Act, it used to be the specific task of the Ombudsman to carry out inspections in closed institutions and oversee the treatment of their inmates. However, the Optional Protocol brings with it new features and requirements with regard to inspections.

The competence of the Ombudsman in his/her capacity as National Preventive Mechanism is somewhat broader in scope than with other forms of oversight of legality. The Ombudsman's competence under the Constitution only extends to private parties in cases where they discharge a public duty.

The National Preventive Mechanism's competence, meanwhile, also extends to private individual parties in charge of places where people deprived of their liberty are held or may be held by order of an authority, or at its request, or with its consent or endorsement. This definition may also be extended to include, for example, detention facilities for people who have been deprived of their liberty on board ship or on aircraft or other means of transport carrying people deprived of their liberty in connection with certain public events and under the control and ownership of private parties.

The work of the Ombudsman has also developed in its role, other than that as NPM, to become one that can provide guidance and do more to promote fundamental and human rights. The aim on inspection visits has been more frequently to provide guidance for the site being monitored to allow it to function satisfactorily and lawfully. It has been possible to provide the staff at inspected premises with feedback on findings

made during the inspection, and give guidance and make recommendations. At the same time, it has been possible to discuss amiably how the site could go about correcting the mistaken procedures that have been observed, for example.

A record drawn up after an inspection will generally contain its findings. If they have not been gone over during the inspection itself, it has been possible to ask the inspected site to report by a certain deadline what possible action it will take in response to the findings. If, during an inspection, something has arisen that needed investigating, the Ombudsman has taken up the investigation of the matter on his/her own initiative and the issue has not been dealt with further in the record.

International bodies thought it advisable to organise the work of the Preventive Mechanism so that it would have its own separate unit. The Office of the Parliamentary Ombudsman, however, has shown that it is more appropriate to integrate the tasks of the Preventive Mechanism with the work of the Office as a whole. Several administrative branches have offices that fall within the scope of the Optional Protocol. The places, the legislation that applies to them, and the groups of people who have been deprived of their liberty differ. For these reasons, too, the necessary expertise differs on inspection visits to various places.

As any separate unit within the Office of the Ombudsman would in any case be very small, it would not be practical to assemble all the necessary expertise in such a unit, and the number of inspections carried out would also remain considerably smaller. Participation in inspections and the other tasks of the Ombudsman, especially the handling of complaints, are activities that rely on one another for support. The information obtained and experience gained from inspections can be utilised in the handling of complaints, and vice versa. For this reason too, it is important that as many as possible of the Office personnel are also involved in the responsibilities of the NPM, or at least those that cover the positions that fall within the scope of the Optional Protocol, *i.e.*, in practice, the majority of the Office legal advisers.

The Optional Protocol to the Convention requires the States Parties to make available the necessary resources for the functioning of the national preventive mechanisms. Government proposal concerning the adoption of the Optional Protocol (HE 182/2012 vp) notes that in the interest of effective performance of obligations under the Protocol, the personnel resources at the Office of the Parliamentary Ombudsman should be increased. Regardless of this, no additional personnel resources have been granted for the Ombudsman to perform the duties of the National Preventive Mechanism.

In its report on the visit to Finland in 2014, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended significantly more financial and human resources for the Finnish Parliamentary Ombudsman in his role as the National Preventive Mechanism. The Committee also suggests to set up a separate unit or department, responsible for the NPM functions, within the Parliamentary Ombudsman's Office.

In his budget proposal for 2014, the Ombudsman requested that funding for one new post focusing on supervisory tasks be added to the Office's operating appropriation. No such addition was made. In the interest of savings, the Ombudsman declined to propose a new post of a legal advisor in his budget proposal for 2015. In the budget proposal for 2016, the Ombudsman has again requested funding for the establishment of one post of a legal advisor to discharge the duties of the National Preventive Mechanism.

3.3.2 FIRST YEAR AS THE NATIONAL PREVENTIVE MECHANISM

Operating model

The tasks of the National Preventive Mechanism have been organised without setting up a separate NPM unit in the Office of the Parliamentary Ombudsman. Two public servants at the Office have

been assigned to coordinate the NPM duties for a fixed term in addition to their other tasks. One of these coordinators is mainly responsible for the international tasks of the NPM. The other carries the principal responsibility for national NPM duties, including internal coordination within the Office. This arrangement will be valid until the end of 2017.

The Ombudsman has also appointed an OPCAT team within the office. Its members are the principal legal advisers working in the areas of responsibility that carry out inspections in places where people deprived of their liberty are or may be held referred to in the Optional Protocol, or where the customers' freedom is or may be restricted.

The team has nine members, and it is led by the NPM coordinator. In its first year of operation, the team met five times. The meetings have, among other things, agreed upon common practices and discussed the recruitment and deployment of external experts as well as the planning of inspections and the contents of inspection records. The theme of one of the meetings was using experts during the inspections. This meeting was attended by a psychiatrist, who has since been invited by the Ombudsman to participate in inspections in the capacity of an external expert.

Inspections

For several years, the Office of the Parliamentary Ombudsman has striven to increase the number of inspections carried out. Inspections of 111 sites or bodies were carried out in 2014, which was nearly 25 per cent more than in the year before (89). The number of unannounced inspections increased as well. Approximately one half of these inspections fell within the NPM mandate, and about one out of three were unannounced. In 2015, a total of 152 sites were inspected, of which 82 within the NPM mandate. The clear majority of these (over 60) were carried out unannounced.

The Ombudsman also began inviting external experts to participate in inspections during the first year of NPM operation. An external medical expert took part in five inspections. These inspections targeted different branches of administration: the sites included a state mental hospital, a prison clinic, a police prison, the immigration unit of a police department, and a detention unit for foreigners. In addition, representatives of the Swedish NPM participated as experts in two prison inspections. The Office also started the recruitment of new external experts with the intention of relying on experts more frequently when carrying out inspections in the future.

Information activities

A press release on the new task was published on the day of the Ombudsman institution as the National Preventive Mechanism. A separate information bulletin on the new task and its content was also sent to the ministries that have sites covered by the NPM's inspection mandate in their branches of administration. The ministries were asked to ensure that these sites would be informed. This was considered important, among other reasons because the NPM must have unobstructed access to all sites at any time. A bulletin with similar contents was also sent to the Provincial Government of Åland, and a letter was also circulated to the Association of Finnish Local and Regional Authorities for information.

NGOs or third sector actors whose activities may be relevant to issues associated with the NPM mandate were also informed separately of the Ombudsman's role as the National Preventive Mechanism.

The NPM mandate is presented on the Ombudsman's public website. Summaries of all inspections carried out by the Ombudsman in the NPM capacity since the beginning of 2015 are also published on the website. In addition to the site inspected and the inspection date, the summaries relate the purpose of the inspection, the most im-

portant findings, and any recommendations issued or actions taken as a result.

A brochure on the NPM designed during the first year of operation was completed in 2016. The brochure is currently available in Finnish, Swedish, English, Estonian and Russian.

Training and international cooperation

On 5–6 May 2015, the Ombudsman organised a training event in Helsinki for the employees of the Office that focused on the working methods of the National Preventive Mechanism and, in particular, on integrating the preventive approach in the work.

The contents of the training were planned together with the APT (Association for the Prevention of Torture). The instructor at the training event was Detention Advisor Jean-Sébastien Blanc from the APT. The NPMs in other Scandinavian and Baltic countries were also invited to take part in the training. The event was attended by 22 people from the Office of the Parliamentary Ombudsman, as well as representatives from Sweden, Norway, Estonia and Latvia.

One public servant from the Office took part in a seminar organised by ERA (the Academy of European Law) on 7–8 May 2015, the topic of which was ”Supervising matters related to detention”.

Two public servants from the Office of the Parliamentary Ombudsman participated in a training workshop organised by the Latvian Parliamentary Ombudsman, the APT and the IOI (International Ombudsman Institute) intended for National Preventive Mechanisms. This workshop took place in Riga on 17–19 June 2015, and its theme was the practical means to prevent poor treatment (“Implementing a preventive mandate”) at the NPMs’ disposal.

The cooperation of Nordic NPMs was launched at a meeting organised in Oslo in June 2015. In addition to the Norwegian hosts, the meeting was attended by representatives of the Swedish, Danish and Finnish NPMs. NPM European Coordinator Mari Amos, (SPT, The UN Subcommittee on prevention of torture) attended as well. In connection with this meeting, a decision was made to establish a Nordic OPCAT network that would initially meet twice a year in order to exchange information and to develop inspection activities. The programme also included a prison visit.

The following OPCAT network meeting took place in Copenhagen in December 2015. It focused on aliens issues and, in particular, the supervision of return flights for deportees. In Finland, the task of supervising return flights has been assigned to the Non-Discrimination Ombudsman. Thus, the Ombudsman has not participated in the supervision of return flights, at least no so far, while he otherwise monitors the implementation of deportation in general terms.

An example of Nordic cooperation in the inspection activities was the participation of two public servants from the Swedish NPM as experts in an inspection of the family wards of Vanaja Prison and Hämeenlinna Prison.

The coordinators at the Office of the Parliamentary Ombudsman met UN Subcommittee representative Mari Amos in February and November. During these meetings, the main topics included the launching of the NPM’s work and the possibilities of working together with other NPMs and NGOs on one hand, and with the Subcommittee on the other.

The UN’s international Human Rights Day on 10 December 2015 was marked by organising a two-day conference of the Council of Europe and the Finnish National Human Rights Institution in Helsinki (”Council of Europe, National Human Rights Institutions, Equality Bodies and Ombudsman Offices Promoting Equality and Social Inclusion”).

3.3.3 THE INSPECTION OBSERVATIONS

Police detention facilities

It is the duty of the police to arrange the detention of persons deprived of their liberty not only in connection with police matters but also as part of the activities of the Customs and the Border Guard. Most of the apprehensions, over 60,000 every year, are due to intoxication. The second largest group are those suspected of an offence. In 2014, almost 25,000 people were apprehended; 9,150 were arrested, and 2,200 were held as remand prisoners. These figures have been declining in recent years. In 2010, the number of people taken in custody because of intoxication was some 80,000, while nearly 31,000 were apprehended as suspected offenders and over 11,000 were arrested. The number of remand prisoners was over 2,300. A small number of people detained under the Aliens Act are also kept in police prisons. A person can be detained in this way from a few hours to several months, depending on the reason.

Some sixty police prisons are used by the police. Their number has been reduced in recent years. The custody of remand prisoners, in particular, has been centralised to larger police departments. Some of the police prisons may be very small and/or little used. Of these holding facilities, 18 have more than 20 places, and as many as 16 have less than 10 places.

Specific problems associated with police prisons include the lengthy duration of remand custody. The main rule under the law is that a remand prisoner should be moved to a prison without delay. A remand prisoner may not be kept in a police prison for over four weeks without a very weighty reason.

The equipment in police prisons makes them unsuitable for long-term residence. Even though relatively large-scale renovations are currently being carried out in police prisons, the possibilities of changing the basic layout of existing buildings are limited.

Remand prisoners should be held in remand prisons rather than in police cells, also in the interest of safeguarding fair trials. The responsibilities for investigating an offence and holding a suspect should be kept separate, administratively and in practice. If the investigation and holding of suspects are in the same hands, this setting opens up possibilities of putting pressure on prisoners and, at the very least, suspicions that the treatment and conditions of a remand prisoner depend on his or her attitude to the investigation.

On each one of its successive inspection visits to Finland, the CPT has directed increasingly severe criticism to the practice of keeping remand prisoners in police prisons. After its inspection visit in autumn 2014, the Committee noted that the holding of remand prisoners in police prisons must end as there is no acceptable justification for it. In particular, the CPT drew attention to the fact that remand prisoners have little access to outdoor exercise or other activities, their health care is inadequate, and there is not enough natural light in the cells. Detention of intoxicated persons in police departments is also problematic. One of the reasons for this is the inadequate training of the staff to handle them.

The Ministry of Justice appointed a working group to consider alternatives for holding remand prisoners and the reorganisation of responsibilities for holding them. The working group also investigated the suitability of the current police prisons for holding remand prisoners. A report published in February 2016 (5/2016) notes that police detention facilities frequently do not meet the requirements set for the holding of remand prisoners. The working group proposes that the holding of remand prisoners in police detention facilities should be discontinued as soon as possible, but at the latest by 2025. The responsibility for the holding of remand prisoners and the arrangements for remanding prisoners in custody should be transferred step by step, as the prisons do not currently have facilities for receiving the average daily number of 80 remand prisoners currently kept in police prisons. In the first phase, the working group proposed an amendment to

the remand imprisonment act (*tutkintavankeuslaki*, 768/2005) to shorten the period for which a remand prisoner can be kept in detention facilities maintained by the police. The proposed amendment also suggested imposing more stringent conditions on the holding of remand prisoners. A remand prisoner could not be kept in a police detention facility for longer than seven days without an exceptionally weighty reason related to the remand prisoner's safety or need to isolate the prisoner. The working group further proposes that provisions on an enhanced travel ban and house arrest during investigations be added as alternatives to remanding prisoners in custody in the Coercive Measures Act.

Likewise, a police prison is not an appropriate place for persons apprehended under the Aliens Act, who should be placed in detention centres for foreigners. The opening of a new unit in Joutseno has reduced the number of foreigners held in police facilities.

The possibility of assigning the task of transporting and holding intoxicated persons to some other party than the police has been the subject of a lengthy debate. Intoxicated persons who are calm but cannot look after themselves could be taken to a detoxification centre. As such, this is the basic principle of the Act on Treating Intoxicated Persons (*laki päihtyneiden käsittelystä*, 461/1973), but not even all of the largest cities have detoxification centres. An amendment to the Act on the Treatment of Persons in Police Custody (*laki poliisin säilyttämien henkilöiden kohtelusta*, 841/2006) was passed by the Parliament in 2015. The amendment will enter into force at the beginning of 2017. Under this amendment a police department may, subject to certain restrictions, contract the duties of a detention facility warder to a person with a security sector business licence. Private guards would usually be employed together with warders in a public service employment relationship.

Dozens of inspections have been carried out in police detention facilities over the last few years. Almost all of these were unannounced. In 2015, 25 inspection visits were made to police prisons. The city's detoxification centre located in the same building was also visited in connection with one of these inspections. In addition, eight other detoxification centres were visited in the reporting year. While these centres are not actual sites supervised by the NPM, they work together with the police. An external medical expert participated in one of the police prison inspections, and the inspection thus focused particularly on the health care of persons deprived of their liberty.

The following are some of the most important findings and recommendations issued on the basis of the inspections:

Outdoor exercise facilities and possibilities for outdoor recreation and other activities

- The inspections found that there are major differences between the conditions and utilisation ratios of police prisons in different locations. As a rule, the outdoor recreation facilities are small. Some of the outdoor facilities are so enclosed and protected that there is no visual contact with outdoors. For instance, tobacco smoke remains floating in the facility for a long time. It is questionable whether being in such areas could be referred to as outdoor recreation at all.
- For resource reasons, the time for outdoor recreation in Turku police prison was cut shorter than prescribed in the law. The Deputy-Ombudsman asked the police department to establish how the inmates' right to statutory outdoor recreation can be safeguarded.
- Only a few police prisons have facilities for activities outside the cells.

Cells and their equipment

- The cells do not usually get natural light, and often they do not have TV and electrical sockets.

The photo was taken at the police prison of Rauma Police Department, which was inspected by Principal Legal Adviser Mr Juha Haapamäki and Legal Adviser Mr Juho Martikainen. Also shown in the photo is warder Mr Tero Nuppumäki.

- In two police prisons, CCTV monitoring was found to be faulty, and in one, the voice link to the cell did not work. The police reported that the faults had been repaired after the inspection.
- The disabled cell in Pasila police prison intended for persons with restricted mobility was so cramped that getting close to the bed in an ordinary wheelchair was difficult, and in an electrical one completely impossible. In addition, the separate toilet/shower room of the cell had a ceiling-mounted shower but no shower chair or seat. This could be rectified for instance by using a separate chair or a movable wheelchair intended for use in the shower.

Confidential communication with a solicitor

- In earlier years, attention was drawn to securing the confidentiality of phone calls between a prisoner and a solicitor. Confidentiality was still not realised in all police prisons, as the supervising warder was able to hear the remand prison's part of the call. *The police prison reported that it had changed its practices after the inspection.*

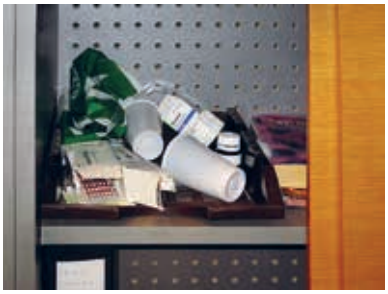
Protection of privacy

- In previous years, attention has also been paid in the supervision of legality to the fact that a prisoner was visible on a security camera while using the toilet, so there was no protection of privacy. This problem is exacerbated if the warder is of a different gender than the prisoner. In some police prisons this matter was only put in order after an inspection carried out by the Ombudsman, even if the National Police Board had already drawn the police departments' attention to it.

Health care

There was also room for improvement in health care arrangements. Most police departments do not enjoy regular visits from health care staff, and the prisoners are brought to health centres.

- The practices of distributing medicines and keeping records of them varied. Only some of the institutions had organised training in the distribution of medicines for the warders, and medicines were not always stored appropriately.



An example of inappropriate strorage of medication at a police prison.

Cooperation with authorities

Some of the shortcomings that had been observed were put to rights after the inspection. Some problems require more extensive measures, however. The Deputy-Ombudsman thus brought up the findings concerning police prisons during an inspection of the National Police Board. He questioned the adequacy of internal steering in the police if proven good practices are only spread by means of the Ombudsman's inspections, if then.

The National Police Board acknowledged that due to personnel turnover, there has unfortunately been a lack of continuity in managing police prison issues. However, a person responsible for these issues has now been appointed.

The extensive renovation programme of police prisons due for completion in 2017 was also presented to the Deputy-Ombudsman, however noting that improving the facilities is not the only solution. The Deputy-Ombudsman also brought up the fact that the warders work alone, which he considers a problem, as well as the use of police officers and untrained persons recruited on unemployment funds as warders.

In Vantaa, the Deputy-Ombudsman organised a joint meeting between the police, the prosecutor, the District Court and the prison in connection with the inspection of the police department. The meeting discussed possibilities of improving inter-authority cooperation in matters related to remand prisoners, examples of which include the content and enforcement of communication restrictions.

Defence forces detention facilities

The Defence Forces have 49 units for holding persons deprived of their liberty. They are usually located in connection with the main guards of garrisons. According to the statistics on military crime and sanctions provided by Defence Command Finland in 2015, 260 personnel members were apprehended and 15 arrested and held in the facilities of the Defence Forces. Little change has taken place in the number of persons deprived of their liberty year on year. There were no prisoners or detainees held on Defence Forces premises.

The Deputy-Ombudsman inspected four units of the Defence Forces in 2015: the Guard Jaeger Regiment, the Army Academy (Lappeenranta and Hamina), Pori Brigade (Säkylä and Niinisalo) as well as Utti Jaeger Regiment. At the same time, separate NPM inspections in the detention facilities for persons deprived of their liberty were also carried out in the garrisons. Inspections of the detention facilities for persons deprived of their liberty only were carried out in Kainuu Brigade (Kajaani) and the Jaeger Brigade (Rovaniemi headquarters).

In total, NPM inspections were thus conducted at eight sites under the Defence Forces administration. All inspections of detention facilities were unannounced.

The following were the main issues noted on these inspection visits:

- CCTV surveillance of toilets in the detention facility.
- Contents and needs to update the detention facility rules.

- Contents and needs to update the rules issued to persons deprived of their liberty concerning their treatment.
- Possibilities for outdoor recreation of persons deprived of their liberty.

In addition to the above, the obligation to provide the inspectors immediate access to detention facilities was stressed to the inspected sites.

Actions taken by the Defence Command legal unit as a response to the inspection findings:

- Reminding the administrative units of the Parliamentary Ombudsman's role as the National Preventive Mechanism.
- Preparing a document on the rights and obligations of persons deprived of their liberty and provisions and orders concerning the detention facilities and depriving persons of their liberty. Informing all authorities responsible for Defence Forces detention facilities about the document, and immediately starting to distribute it to persons who have been deprived of their liberty.

Border Guard and Customs detention facilities

Detention facilities at Vaalimaa border crossing

The Deputy-Ombudsman inspected Vaalimaa border crossing station, which is part of the Southeast Finland Border Guard District, and its detention facilities in 2014. Examining the conditions and treatment of persons held in these facilities was not possible in the context of the inspection, and the Deputy-Ombudsman thus decided to investigate them separately (3794/2/14).

On closer examination, it turned out that the Border Guard detention facilities had not been identified as facilities under the provisions of the Act on the Treatment of Persons in Police Custody that would have to be approved by the Border Guard before persons deprived of their liberty could be held in them. The inspected detention facilities had thus not been approved for this purpose, and it further turned out that the Border Guard did not have a single detention facility approved under the Border Guard Act.

By his decision of 28 September 2015, the Deputy-Ombudsman communicated the following views to the headquarters of the Border Guard and the Southeast Finland Border Guard District and requested that the Border Guard Headquarters report on any concrete action it has taken in the matter:

- All facilities under the Border Guard's administration in which persons deprived of their liberty are held have to pass an approval procedure carried out by the pre-trial investigation unit of the Border Guard prescribed in the Border Guard Act. In this approval procedure, the rights secured for persons deprived of their liberty in all acts referred to in section 61 of the Border Guard Act should additionally be taken into consideration.
- In order to keep track of the total duration of deprivation of liberty, it is important that appropriate records are always kept when a person is placed in a detention facility.
- The duration of the detention must be taken into consideration in the quality of the facilities; and in all cases, the conditions in the facilities must meet the requirement of treatment with human dignity that is part of fundamental and human rights.
- On the same grounds, the treatment of persons deprived of their liberty must be equal in all cases, regardless of which authority is in charge of the detention.

As the Deputy-Ombudsman was investigating the matter, he was informed that the Border Guard Headquarters had launched an examination of the detention facilities and conditions of persons deprived of their liberty that covered all districts. This examination also embraced the requirements set on detention facilities and the approval procedure in more general terms.

Airport Customs inspection facilities

In connection with an inspection of the Airport Customs, the personal search process and the facilities used for it in the passenger terminal were examined. Personal searches were carried out by asking the person to undress in a room reserved for this purpose. With the consent of the person in question, alternative methods included taking a urine sample or a so-called Pacto test, where external objects are searched for in the faeces. For this purpose, the customer may be locked up in the inspection facility, where he or she is continuously observed through a window in the door.

In general, it was noted that consent cannot be considered valid unless it is given freely. The person giving his or her consent must also be aware that he or she does not have a legal obligation to submit to the procedure.

- The Deputy-Ombudsman felt it would be necessary to investigate the processes of personal search and bodily search and the significance of consent; a decision was made to carry out an own-initiative investigation at a later date.

Detention facilities at Helsinki-Vantaa airport

The inspectors were told that the police detention facilities at the airport were used by the Border Guard and that the police had not used them for several years. At the time of the inspection, a person originating from Cameroon who was suspected of an offence had been held in the facilities for some six hours. As he was interviewed, it turned out that so far, he had not been offered anything to eat. Furthermore, he had not been explained his rights and obligations. No compilation of the provisions applicable to persons deprived of their liberty was available in the detention facilities.

- Persons having been deprived of their liberty must be informed of their rights and obligations as provided in the Act on the Treatment of Persons in Police Custody.
- Those held in the detention facilities should also be given the contact details of the Parliamentary Ombudsman, if necessary in such languages as English.
- Meals must be organised for persons deprived of their liberty, ensuring that they receive healthy, versatile and adequate nutrition.

The Criminal Sanctions field

The Criminal Sanctions Agency is in charge of carrying out sentences to imprisonment and community sanctions. The Criminal Sanctions Agency runs 26 prisons. Prisoners serve their sentences either in a closed prison or an open institution. Of the Finnish prisons, 15 are closed and 11 open institutions. The average annual number of prisoners in 2015 was approximately 3,100. In addition, an open prison ward operates in connection with certain closed prisons. In January 2016, the Health Care Unit of the Criminal Sanctions Agency was transferred to operate under the Ministry of Social Affairs and Health as the Prisoners' Health Care Unit.

The sites inspected in 2015 were Helsinki Prison (two visits) and the prison's outpatient clinic, Riihimäki Prison (three visits), Huittinen unit of Satakunta Prison (open prison), Vantaa Prison, Pyhäselkä Prison, family wards at Vanaja Prison (open prison) and Hämeenlinna Prison, Sukeva Prison and its outpatient clinic as well as Kuopio Prison and its outpatient clinic. The functioning of the prisoner information system in the Criminal Sanctions Agency's Central Administration unit, the Community Sanctions Office of Helsinki and Uusimaa as well as the supervision patrol activities of the Criminal Sanctions Region of Western Finland were also inspected. The total number of sites inspected thus was 18.

Two of the inspected prisons were open institutions and the remainder closed prisons. The emphasis of the inspections is always on closed prisons. Some of the inspections were unannounced. Rather than covering the entire prison, some of the inspections targeted certain

activities, wards or groups of prisoners. One of the inspection visits to Helsinki Prison, for example, was unannounced and targeted the position of Roma prisoners. This inspection was motivated by a complaint letter addressed to the Parliamentary Ombudsman. The particular focus of the inspection at Kuopio Prison outpatient clinic was on health examinations of incoming prisoners, and a medical expert thus participated in it.

In September–October 2014, the CPT called at the Prisons of Helsinki, Kerava, Riihimäki and Vantaa on its visit to Finland. The Finnish Government submitted its response to the CPT, which described the action Finnish authorities have taken as a result of the Committee's inspection visit, in October 2015.

Preparations for a prison inspection include examining material from a previous inspection and the records of inspections conducted by the internal oversight of legality unit of the criminal sanctions field. Any complaints to the Ombudsman received from the inspection site and the potential problems in the prison indicated by them are also examined. If the site has been notified prior to the inspection, preliminary material is requested, including information on the situation of vulnerable groups (including minors, women, foreigners and Roma), violence between prisoners, the drugs situation in the prison and the daily routines of the wards, which give indications of the time the prisoners spend outside their cells.

Prisoners are usually interviewed during an inspection. They may have been requested to register for this in advance. Instead of or in addition to this, the inspectors take the initiative in hearing such groups as prisoners placed in a special ward, minors or foreigners. Information about the way the institution operates is obtained from the staff, and initial feedback on key problems that have been observed is given in the concluding discussion.

Minutes are prepared of the inspections, and they are sent to the inspected site. The minutes are also sent to higher-ranking authorities in the administrative branch, and in case of prison inspections, to the regional government, the Central Administration unit and the Ministry of Justice. This way, the inspected site and higher-ranking authorities in the branch of administration are informed of any shortcomings that have been observed. The inspected site, and depending on the nature of the problem, higher-level authorities, may be requested to report on actions they have taken as a result of the inspection findings within a set period.

The findings may also motivate an own-initiative investigation by the overseer of legality. The findings often concern issues about which the prisoners have already complained to the Ombudsman, or complain after the inspection. The sections below describe some of the findings of inspections conducted in 2015 and the recommendations issued on their basis:

Shortness of time spent outside the cell and the planning of the sentence term

Almost without exception, closed prisons contain wards where the prisoners are forced to remain inactive in their cells the best part of the day. Acceptable justifications for keeping a prisoner in seclusion may include safety measures or seclusion as a disciplinary punishment, which are relatively short-term situations. In the worst cases, seclusion and inactivity mean that a prisoner has been housed in a special ward for a lengthy period without a justification prescribed in the law. In addition to lack of activity, the problem in this case is that the ward is not intended for actual residential use, and the conditions in it are thus not suitable for long-term living.

- The prisons have been informed of the fact that it is neither acceptable nor legal to keep prisoners inactive in their cells. Above all, this problem stems from lack of resources rather than ignorance of the provisions or unwillingness to organise activities for the prisoners. An own-initiative investigation of this problem, which afflicts the Criminal

Sanctions Agency at large, was carried out as part of oversight of legality. The Deputy-Ombudsman's own initiative investigations have also targeted the most blatant cases involving either a certain ward or an individual prisoner. Prisoners have also lodged complaints concerning such problems as being forced to live in special wards and the complete lack of activities in them.

As a response to the inspection findings, a prison reported that with the current resources, it was not possible to organise actual activities for the prisoners. The times for making telephone calls and having outdoor recreation could be extended slightly. This site was a ward for incoming prisoners who were waiting for a sentence term plan. The Assessment Centre, which is in charge of making the plans, has attempted to speed up its activities to shorten the period spent in this ward.

Due to the daily schedule of a ward, the cell door may be kept open for a relatively short period only, during which the prisoner has to fit in a number of different activities, including outdoor exercise, washing, eating and making telephone calls. As a result, they have to compromise on some things. The time for outdoor recreation, for example, may be reduced to half an hour instead of the statutory hour if the prisoner wishes to have time for other things as well.

At the beginning of a prison sentence, a sentence term plan is drawn up for the prisoners. Among other things, this plan specifies the activities in prison that will promote the prisoner's life management and reintegration in society after being released.

- The plan should be followed up and updated in prison. It has already been necessary to draw the prisons' attention to the three annual updates and compliance with the plan.

Legal protection of prisoners

- During the inspections, it has been necessary to draw the prisons' attention to the availability of, or need to update, provisions that apply to prisoners, or the contact details of the authorities that supervise the prison. *As a rule, the prisons report that they will rectify the shortcomings and provide the staff with instructions on the issue.*
- The prisoners must be heard and the end result of a case must be recorded in the information system, even when suspected breaches of order have not led into disciplinary action.
- Prisoners' trial documents containing secret information kept at the prison were not stored as required by the obligation of secrecy; instead they could, for example, be stored in open plastic bags. As attention has been paid to this issue in an earlier decision on a complaint and as the regional centre was currently investigating the storage of documents, the prison was informed of the problem in connection with the inspection.
- If prisoners are refused access to property they have requested for, or an item of their own clothing, they are entitled to appeal the decision. However, prisoners are not always given a justified decision with instructions for appealing. The importance of issuing decisions has been stressed to the prisons.

Prisoners' protection of privacy

The location and protection of telephones used by prisoners are frequently inadequate to prevent their conversations from being overheard.

- The implementation of structural solutions, for example separate telephone booths, has not started in all prisons. This situation violates the confidentiality of telephone calls and the prisoners' protection of privacy.

Even if CCTV monitoring of a prisoner in a special ward is necessary, the prisoner's use of toilet should not be monitored by a camera.

- If the purpose of the monitoring also requires monitoring of the toilet facilities, this should be as discreet as possible and, for example, take place through a sheet of coloured glass or plexiglass that obscures visibility. *The prison reported that an optical barrier was installed in the protective plexiglass in front of cell cameras that obscures the view to the part of the cell where the toilet is located.*

A prisoner was required to be fully naked in a toilet facility with mirrors on two walls when providing a urine sample. The sample-taking was supervised by two warders from a close distance, or the open door of the toilet.

- The prison was asked to report how supervision of urine sample taking could be organised without violating the prisoner's privacy and as discreetly as possible without undermining the certainty of sample collection.

There were no female warders at a women's prison ward, as both female warders who worked there were on long leaves of absence.

- Even if male warders did not carry out searches of female prisoners, the situation was found to be unsatisfactory and gave rise to concern.

Prisoner's contacts with the outside

Use of telephone

- The recommended possibility of using the telephone daily is not always provided. It is often suggested that this problem too is due to lack of resources.

The new prison telephone system has a feature that blocks call transfers; in other words, the call is cut off if it is transferred from the first dialled number to some other number. This has made it more difficult for prisoners to call their solicitors and authorities, for instance, or even prevented them from making such calls.

- The prisons have been urged to make sure that the prisoners have some alternative way of making these calls. The prison can avoid this problem by giving the prisoner a prison mobile telephone when necessary, which can be used to make the call. According to instructions issued by the Central Administration unit of the Criminal Sanctions Agency, the calls can be arranged by purchasing hands-free receivers. However, it has been unclear what types of receivers should be purchased and where.

Interval of six weeks between unsupervised visits

- The prison was asked to report how this period could be shortened in order to keep up the prisoner's family life and other social relationships.

Attention has been paid to cooperation between the prison and labour authorities, and the prisoners' ability to use labour force services.

Inspections have addressed the prisoners' possibility of taking part in electronically organised matriculation examinations. *The Central Administration unit of the Criminal Sanctions Agency has ensured that capabilities for taking part in the examinations should be in place as the electronic examinations are introduced in autumn 2016.*

Handling of letters

- An own-initiative investigation was conducted on the practices related to the handling of letters containing drugs.

A prisoner's freedom of speech

The number of books that a prisoner could have in his or her possession had been restricted.

- A prisoner must have the possibility of exchanging books and thus accessing new reading material. *The prison reported that it would change the daily schedule of the ward so that all prisoners could visit the library once a week.*

Prisoners could only take out text books as inter-library loans.

- The prison was informed of an earlier comment according to which the prison library service should also include the possibility of taking out books on inter-library loans.

Position of Roma prisoners

In some prisons, Roma prisoners are only placed in closed wards.

- Prisons have been urged to take action to improve the position, conditions and possibilities of being active of Roma prisoners and to take into consideration the operating models required in the Criminal Sanctions Agency's equality plan. According to the equality plan, persons should be appointed in each unit to look after the issues of those who belong to a minority and actively liaise with minority prisoners. The plan also requires intervention in all racist speech and recording of all cases that come to light.

Clothing, meals and appearance

- A prison's attention was drawn to the prisoner's right to wear his or her own clothes, especially during meetings.
- A prison was asked to provide information on the length of intervals between meals and the storage of perishable products to ensure that the Criminal Sanctions Agency's orders are complied with.
- Female prisoners should be provided with access to hairdressing services.

Prison facilities

Sanitary facilities

- A prison was informed of the urgent need to repair a bathroom that was in poor condition. *The prison promised to renovate the bathroom facilities.*
- A ward for female prisoners only had ceiling-mounted showers, no hand or bidet showers, which made it significantly more difficult for the prisoners to look after their personal hygiene. The prison was urged to take the matter up with the party responsible for maintaining the premises.

Accessibility

- Attention was focused on the accessibility of facilities. Some prisons have cells that are suitable for persons with restricted mobility. This makes the facilities more accessible not only for the prisoners but also for visitors and other outsiders.

Ventilation

- In two prisons, a plexiglass had been installed on the windows of cell blocks that prevented fresh air from outdoors entering the wards. This is a breech of the instructions issued by the Central Administration unit of the Criminal Sanctions Agency. *One of the prisons reported that the plexiglass had already been removed.*

- It was found on an inspection that tobacco smoke spread from the cells to the ward and neighbouring cells.

Meeting facilities

- Discussions in the facilities intended for meeting attorneys could be heard in the adjoining control room. The prison's attention was drawn to the need to safeguard the confidentiality of these discussions.
- Even if a prisoner cannot meet his or her child without supervision, a suitable, adequately comfortable area that does not place structural obstacles between the prisoner and the child must be provided. *The prison reported that two rooms suitable for meeting children had been completed.*

Outdoor recreation facilities

- The fitness equipment in the outdoor exercise yard was in poor condition, and there was no rain cover.
- Two prisons have been asked to report on action they intend to take in order to build new exercise yards. The activities of a large prison would be easier to organise if a second exercise yard were available. In another prison, female prisoners took their outdoor exercise in an unattractive area closed in by high concrete walls. The conditions for outdoor recreation for male prisoners were considerably better. In addition to the fact that the women's exercise yard was unsatisfactory as such, women were placed in a less advantageous position than men without an acceptable reason. The building of additional exercise yards would be possible in the areas of both prisons.

Family meeting facilities in Sukeva prison.

The outdoor exercise yard of Helsinki prison.

Seclusion facilities

- An seclusion cell had no furniture, television or radio, and it was also otherwise unsuitable for a prisoner to live in. While the prisoner had chosen to live away from the others, this did not make placement in a cell that was neither intended nor suitable for residential use acceptable.

Position of remand prisoners

In a remand prison, the inspection focused on overcrowding, restrictions placed on remand prisoners' communication, the possibilities of pre-trial investigation authorities of conducting interviews in the prison, and the need to transport remand prisoners to the police station for interviews.

Remand prisoners and prisoners who are serving a sentence should be placed in different wards.

- A prison had only one ward for female prisoners, in which both groups of prisoners were placed. This situation was not considered acceptable.

Placing a child in prison with a parent

A young child may be placed in a prison with a parent who is a remand prisoner or serving a sentence if this in the best interest of the child. Children and parents in prisons are placed in a family ward that has two units, one in a closed prison for remand prisoners and another for those who are serving a sentence in an open institution. The practices of placing children in prison with parents was last inspected in 2007. The situation has improved significantly since the last inspection as the activities were reorganised and took their current form in 2010. The following observations were made on the inspections of family wards.

- The contact details of supervising authorities should be posted where the prisoners can see them.
- A rain cover for prams and a sandbox would improve the conditions for the children's outdoor recreation.
- Adequate support and guidance should be available for those in the ward for remand prisoners. In this respect, the 40 hours a week that the family ward staff is on duty is too little. In particular, if there only is one remand prisoner in the ward, the lack of social contacts may be difficult. This number of hours is also small in terms of maintaining order and safety when several prisoners are held in the ward at the same time.
- Remand prisoners should have a possibility of taking part in leisure and other activities with child care provided for those intervals.
- The possibility of locking the cell door with a sliding catch enables prisoners to lock each other in the cells maliciously if several remand prisoners are held in the ward at the same time.
- In order for placements in a family ward to take place, both the authorities and the remand prisoners must be informed of the possibility of bringing a child into prison with a parent. The adequacy of information activities should be investigated. It should also be ensured that the parents of children aged under 2 who are coming to serve a prison term are informed of the family ward.
- As the placement in the family ward is gender neutral, the prison must ensure that the ward has suitable facilities for both female and male remand prisoners. In this context, it should be noted that they cannot be placed in the same ward at the same time.
- Remand prisoners should have access to using the telephone daily.
- Placement in a family ward should be possible for a prisoner serving a prison term even if the conditions for being placed in an open institution are not met in his or her case. There may be many reasons for lack of eligibility for placement in an open institution, and they do not always mean that it would be contrary to the child's best interest to be placed in prison with the parent.
- More information on the family ward is contained in the Child Welfare Handbook that can be accessed on the website of the National Institute for Health and Welfare. Inspection findings indicate that some of the informa-

tion was not up to date or did not match the provisions on prisoners' rights, and the prison was asked to correct this information.
- The prisons in which the family ward units are located, the Central Administration unit of the Criminal Sanctions Agency, the party responsible for the operation of the family ward and the National Institution for Health and Welfare were requested to report on action that may have been taken as a result of the Deputy-Ombudsman's comments. *According to the reports, most of the comments led into corrective action.*

Health care of prisoners

In the area of prisoners' health care, the inspections focus on such aspects as the adequacy of resources, including the presence of health care staff, delays in accessing treatment and examinations of incoming prisoners. The lack of health care staff who would be present in the prison during weekends is a particular problem. Nurses usually end up assuming the main responsibility for the outpatient clinic, as a doctor is only present one or two days a week. Medical care is also examined on inspections, including the distribution of medicines, the supervising staff's training related to medicines as well as the availability of self-care medicines and replacement therapy.

Access to treatment outside the prison and the organisation of guarding without violating the prisoner's protection of privacy often come up. In the interest of keeping health-related data confidential, a prisoner should also be able to make an appointment with the clinic without informing the supervising staff about the reason for the visit. The prisoners should be able to contact the clinic without delay. Attention is paid to prisoners' legal protection, for example their possibility of obtaining information about the Patient Ombudsman and the authorities that supervise health care. The inspections of prison outpatient clinics have given rise to the following findings and actions:

- The health examination of incoming prisoners should be carried out on the first day as the prisoner arrives.
- In this examination, attention should be focused on establishing if the prisoner could have been subjected to violence before arriving in the prison and while in the care of another authority. Questions should be expressly asked to establish this, and the prisoners should also be asked to remove some of their clothing to observe any injuries.
- The Ombudsman conducted an own-initiative inspection on the availability and appropriateness of dental care in prison.
- Prisoners should have access to oral health care on the same principles as other citizens.
- When a prisoner is left waiting in a small, cubicle-like waiting room intended for a single person before being seen at the clinic, they should be asked if they would prefer that the door is left slightly open.
- A prisoner reported that they had to personally look for instructions for post-operative care. It was recommended that the outpatient clinic actively contact the outside health care unit from which the prisoner has been moved back to the prison in order to receive instructions for further treatment and rehabilitation.
- The Ombudsman's own-initiative investigation was launched on the right of a prisoner who had diabetes to keep an insulin pen in their possession.
- Prisoners placed in a special ward should be monitored daily.
- Attention was drawn to the fact that no psychiatrist's services were available in the prison.
- The need to treat hepatitis C should be assessed individually.
- Attention was focused on female prisoners' potential need for gynaecological services.
- The contact details of the Patient Ombudsman and information about the complaints procedure should be kept visible for the prisoners both in the outpatient clinic and in the prison wards.

The Deputy-Ombudsman also issued a decision on the treatment of a terminally ill inmate during the reporting year. An own-initiative investigation had been motivated by observations made during the inspection of a prison outpatient clinic (625/2/12). In his comments, the Deputy-Ombudsman stated that persons who are dying, even if they are prisoners, should have a right to proper terminal care. He was not convinced that this could be delivered in prison conditions. The Deputy-Ombudsman also found it a problem that the Health Care unit of the Criminal Sanctions Agency did not have instructions or a plan for the treatment of a dying patient. The Deputy-Ombudsman informed the Central Administration unit and Health Care unit of the Criminal Sanctions Agency of his views.

Inspection of support patrol activities

In addition to prisons, inspections targeted the activities of criminal sanctions authorities that supervise sentences served outside prison.

A prisoner may be placed outside the prison for a trial period and supervised by means of technical equipment and other methods before conditional release. Some short prison terms may be converted into a penalty served under supervision outside the prison. Persons sentenced to this type of a penalty may only move within a specified area outside their homes. Their movements are supervised by technical methods. The criminal sanctions authorities supervise the serving of both types of penalties by means of unannounced inspection visits to homes, workplaces or other areas where these persons spend time. This supervision is carried out by so-called supervision patrols. Supervision patrol activities were inspected in two criminal sanctions regions. The inspections did not give rise to action.

Cooperation

The Deputy-Ombudsman has usually paid yearly visits to the Central Administration unit of the Criminal Sanctions Agency to discuss any problems observed and to obtain information about on-going projects in this branch of administration. A meeting between public servants at the Office of the Parliamentary Ombudsman and the lawyers responsible for the internal oversight of legality at the Criminal Sanctions Agency was organised in 2015. At this meeting, problems observed in the course of oversight of legality were addressed, and ways of informing the entire administrative branch as widely as possible of the Ombudsman's comments and recommendations were discussed. Regular meetings with the management of the Criminal Sanctions Agency to discuss development needs are also planned in the future.

Alien affairs

Some 32,000 asylum seekers arrived in Finland in 2015, which is about ten times more than in 2014. Under Section 121 of the Aliens Act, asylum seekers can also be held in detention in certain situations. For example, this is possible in order to establish a person's identity or to secure the implementation of a deportation decision.

There are two detention units for foreigners in Finland. Joutseno detention unit has 30 places, 20 of which have been reserved for families, while Metsälä unit has 40 places. In exceptional circumstances, foreigners may also be held in police or Border Guard facilities.

213 people were taken into custody in Joutseno detention unit in 2015. Of these, 82% were men. The average time spent in custody was 33 days, while the longest period was 351 days. Nine decisions to keep a person in seclusion were made. In Metsälä detention unit, on the other hand, 904 people were taken into custody, 90% of whom were men. The average time in custody was 12 days, while the longest period was 113 days.

The Office of the Parliamentary Ombudsman carried out two inspections in Joutseno detention unit during the reporting year within its mandate as the National Preventive Mechanism. The objective of the first inspection (by the Deputy-Ombudsman), which was unannounced, was to obtain information about the treatment, well-being and living conditions of families with young children placed in the reception centre and the detention unit.

The second inspection (by the Parliamentary Ombudsman) was announced in advance, and its aim was to examine the operation of Joutseno detention unit and also any challenges it faces. Particular attention during the inspection was paid to how the rights of persons taken into custody were implemented and how they were treated in the detention unit. The inspection themes included the procedure for keeping persons taken into custody in seclusion and the provision of health care for persons taken into custody.

The Ombudsman also inspected the aliens unit of Southeast Finland Police Department and the detention facilities of Helsinki-Vantaa airport. The inspection of the detention facilities at the airport was unannounced (for the findings of this inspection, see section 3.3.5). During the inspection of the Police Department, the Ombudsman familiarised himself with the operation of the aliens unit and, in particular, arrangements for the deportation of persons who have been denied asylum.

By the Ombudsman's invitation, a psychiatrist participated in the inspection of Joutseno detention unit and Southeast Finland Police Department as an expert.

Legal advisers from the Office of the Parliamentary Ombudsman also conducted an unannounced inspection at Tornio registration centre for asylum seekers. One of the aims of this inspection was to establish whether the registration centre has detention facilities in which asylum seekers who have been deprived of their liberty can be held. No such facilities were found.

Joutseno detention unit

Persons held in custody were interviewed during the inspections. No claims of the staff mistreating the persons in custody were made during these interviews. Some complaints were made about restrictions on purchasing tobacco or smoking. Many were worried about the possibility of being deported. The detainees were mainly satisfied with the actions of the staff.

Daily outdoor recreation and exercise

Many asylum seekers in the detention unit reported themselves that they did not wish to take part in daily outdoor recreation and exercise, even if an opportunity for this was offered, and suitable clothes were available.

- The detention unit should consider methods for promoting participation in outdoor recreation. Regular outdoor exercise would improve the well-being of the detainees and could also prevent problems associated with living in an institution. Detainees should also be provided with possibilities of taking enough exercise.

Fire safety

A fire alarm went off during the inspection. It was reportedly triggered by the cooking smells as the asylum seekers prepared their meals. Such false alarms occurred frequently.

- Action should be taken to eliminate false alarms, for the simple reason that they result in unnecessary costs and appeared to have made the residents and staff indifferent to the alarms. Fire safety should always be taken seriously.

- The inspectors did not have access to the detention unit's rescue plan and escape safety description, which it is required to have under the Rescue Act. No information was also available about how fire safety of tents had been arranged and whether escaping had been practised in the detention unit.

Health examinations

- A health examination should be carried out on each person arriving at the detention unit within the first 24 hours.
- It was also recommended that a health examination be carried out on a foreigner who has been returned to the unit after an unsuccessful deportation attempt if such an examination has not already been carried out elsewhere. The examination should take place as soon as possible after the person's return. This was required by the CPT (13th General Report of the CPT 2003).
- In other respects, too, it would be appropriate that, after being transported by the police, a person would be met and interviewed by health care staff to establish whether a health examination is needed.
- A questionnaire filled in during the health examination does not contain questions about becoming a victim of torture or other degrading treatment, even when asylum seekers claim that they have been persecuted in their home countries and some originate from countries where torture and other cruel treatment is not unusual. The Ombudsman considered this a shortcoming.

Health care

The inspectors noted that in general, health care staff are committed to their work and the residents were approached as individuals. However, this approach may come under threat as the number of residents grows, and there is a risk that especially silent customers who have lost hope may go unnoticed.

- It was considered possible that in the future, it may be necessary to develop some type of a screening system or monitoring and reporting model.

The reception centre's guidelines for hunger strikes were mainly intended for situations where an individual goes on hunger strike of his or her free will and in his or her own residence. The guidelines would be considerably less useful if a group hunger strike or similar were began in the unit. Getting individuals out of this situation may prove extremely difficult if they are exposed to significant group pressure, and especially if the hunger strikers receive instructions from outside the unit.

- The detention unit should have a procedural guideline suitable for its specific conditions in case of mass hunger strikes.

Seclusion facilities

- The narrow doorway of the seclusion room raised the question of how a person who resists seclusion can be appropriately and safely got into the room.
- The inspectors remained unclear about how often health care staff visits an isolated person and how the visits are recorded. As a basic principle, it would be appropriate for the health care staff to visit such persons daily.

Aliens unit of the Southeast Finland Police Department

Transport of asylum seekers

The transport services of the Police Department could not be inspected as the fleet used for the transportation was elsewhere at the time of the inspection.

- Due to issues that had come to light in connection with the interviews conducted at Joutseno detention centre, the Ombudsman decided to launch an own-initiative inspection of how the transport was organised.

Executive assistance provided by the police for health care staff in the context of deportations

The National Police Board's order concerning the use of coercive measures in deportations notes that deportees may not be administered medicines against their wishes. On the other hand, the order instructs the police to provide executive assistance for health care staff who administrate medication prescribed by a psychiatrist to a deportee against his or her will.

The Ombudsman stated that a doctor does not, in this situation, have a right based on law to prescribe a medication to a deportee against his or her wishes. A doctor only has this right when a person has been committed to a psychiatric hospital for observation or examination, or ordered to undergo treatment under the Mental Health Act.

- The Ombudsman considered that the police cannot provide executive assistance in cases referred to in the order when a person is about to be deported.

The National Police Board reported to the Parliamentary Ombudsman that it is currently working on an extensive update of the instructions on deportations, which is to be completed in spring 2016. In this connection, the reference to executive assistance provided by the police for health care staff in cases of medication administrated against the patient's will is be removed from the new order.

Social welfare – child protection

Substitute care referred to in the law is organised for children who have been taken into care, placed as an emergency measure, or placed under a temporary court order (children aged 0–17 years) at institutions, family homes operating under a so-called institutional permit, and in family care. According to statistics kept by the National Institute for Health and Welfare, some 18,000 children were placed outside their homes in 2014, of whom over 14,000 were taken into care or placed as an emergency measure. Over one half of these children are placed in family care.

Under the Child Welfare Act, only children placed in an institution or similar may be subjected to restrictive measures referred to in legislation. The contacts of a child placed in family care may be restricted as prescribed in the Child Welfare Act. Substitute care may be provided by units owned by municipalities, or the municipality responsible for the placement may buy substitute care services from units maintained by private service providers. The National Supervisory Authority for Welfare and Health (Valvira) only keeps records of private service providers providing substitute care. The total number of these units is 110 units (69 service providers).

While the Ombudsman's inspection visits have mainly targeted institutions and similar, it is likely that corresponding restrictive measures referred to in the Child Welfare Act are also used in other types of substitute care that is organised as family care in private homes. For the part of services provided at home, the regulation on supervision is inadequate.

During the inspections, attention has been paid to the use of restrictive measures, implementation of publicity of documents to interested parties, drawing up of documents, arrangements

of school attendance and instruction, health care provision, realisation of linguistic and cultural rights, and the implementation of the child's right to information. A specific theme of all social welfare inspections was questions related to accessibility. Child welfare inspections are as a rule always conducted unannounced and in the daytime or in the evening. The inspections have regularly included confidential interviews with children placed in care.

The observations are sent to the institution and the municipality responsible for organising substitute care that placed the child. As the inspection findings cannot, apart from online communication, be disseminated universally to all operating units, copies of the inspection minutes and the observations they contain have been sent to the regional supervisory authority, or the Regional State Administrative Agency.

After the inspections, the institution or the municipality that placed the child in it are asked to look into the shortcomings or problems that were detected and to propose ways in which they could be rectified. The accountable authorities and the units responsible for providing substitute care have as a rule always reported that they have intervened in the shortcomings observed during the inspection. In some cases, the inspections and their findings have motivated a more detailed examination, and an own-initiative investigation has been initiated on the matter.

In 2015, four child welfare institutions were inspected, and attention was paid to the following issues:

- Pursuant to the Child Welfare Act, a child has the right to meet his or her social worker for confidential discussions, for example about issues that have an impact on his or her substitute care. Keeping records of the meetings between a social worker and a child and the way in which the meetings are conducted has been considered a good practice that promotes the realisation of the child's rights.
- The Child Welfare Act also contains provisions on the child's right to receive the services he or she needs in the municipality in which he or she has been placed. Under the law, the municipality in which the child has been placed as a measure supporting open care, placed in substitute care, or is receiving after-care (the municipality in which the child is placed) shall organise the services for the child that his or her care and maintenance require together with the municipality responsible for organising the service (the municipality that placed the child). A municipality has the duty to respect the rights of a child placed in care, regardless of any dispute about which municipality or other authority or party is responsible for the costs or reimbursements related to the services or other support provided for the child.
- Organisation of special medical care services that a child needs and safeguarding the continuity of treatment and care when the child is moved to another place of substitute care.
- The duty to revise the customer plan and the promotion and implementation of a child's rights to information. A child must be informed of the measures that an authority is taking or intending to take regarding him or her and the impact of these measures on the child's position. The child must also be informed of the rights and obligations he or she has in the matter.
- Keeping documents concerning a child up to date, disclosing information about documents concerning the child, and implementation of publicity of documents to interested parties.
- Accessibility of an institution's facilities and cold floor surfaces.

Warranted by the inspections, own-initiative investigations were launched on the following matters during the reporting year:

- Issues related to using restrictive measures, informing the customer of decisions on restrictive measures, and data protection.

- How the school attendance of children placed in an institution is safeguarded and what types of special teaching arrangements are made for them.
- What means of keeping discipline and maintaining a peaceful working atmosphere schools have at their disposal and how the pupils' right to a safe learning environment is implemented.
- Exchanges of information between the school and a child welfare unit using the Nappula information system.

Social welfare – elderly people

The inspections conducted in the role of the National Preventive Mechanism targeted care units that are owned by municipalities or to which municipalities have outsourced the provision of intensified 24-hour care. The residents of the units were elderly people with memory disorders who were in need of special care and attendance. Formally, their housing had been organised as open care, even if the care provided was similar to institutional care in view of the amount of care and the intensity and nature of the care-giving. In 2014, there were less than 60,000 intensified care places. According to statistics produced by Valvira, there were 830 private service providers (463 service providers). The statistics do not show, however, which share of these was reserved for dementia sufferers.

Issues on which attention was focused during the inspections included the way in which the care unit implemented the elderly people's right to privacy, how the rehabilitation services for elderly people living in the unit were organised, and how the unit provides terminal care and the associated pain relief. The inspectors also investigate elderly people's right to outdoor recreation and their possibilities of taking part in different activities within the limits of their physical fitness and psychological condition. Additionally, attention was paid to accessibility. The inspections were unannounced, and they were conducted in the daytime or in the evening. Due to their condition, it was usually not possible to interview the elderly people themselves.

The inspection observations are sent to the institution and the municipality responsible for organising the service. Copies of the inspection minutes and the observations they contain have been sent to the regional supervisory authority, or the Regional State Administrative Agency. The accountable authorities and the units responsible for providing substitute care have as a rule always reported that they have intervened in the shortcomings observed during the inspection. In some cases, own-initiative investigations have also been initiated to examine further the findings of these inspections.

Ten inspections of units providing intensified care for elderly people were carried out in 2015. All inspections were announced. Attention was paid to the following issues:

- When a unit is being closed down, the individual needs of the elderly persons receiving care there should be taken into consideration when transferring them to a new unit. When making decisions on a new placement for an elderly person, the person's own opinion, family members' views and, to an adequate degree, the views of the care staff concerning the need for care should be taken into account. If the transfer involves moving into a social welfare institution, a decision that can be appealed must be made after hearing the customer and the family members. Usually, a transfer also always means that the decision on customer fees must be revised.
- The possibilities of elderly people for outdoor recreation should be improved in all seasons.
- The rooms on the ground floor of a unit did not seem appropriate for long-term residence, as their occupants did not have the possibility of freely moving from common facilities to their own rooms similarly to the second floor residents.

- The indoor air condition of care units providing 24-hour housing services should be good enough in quality not to harm the health of the residents or the staff. Adequate attention should be paid continuously to the cleanness of indoor air and the efficiency of ventilation.
- Extra carers were not available when necessary for periods of terminal care.
- Elderly people should have a right to privacy, both as residents and in terminal care. Privacy should also be ensured in shared rooms in wards for people with memory disorders.
- Inspections of elderly people's oral hygiene did not meet the requirements of the self-monitoring plan.
- Immediate intervention is needed in the causes of a strong smell of urine.

The Ombudsman launched own-initiative investigations on the following issues:

- How access to 24-hour housing services is safeguarded.
- Resource allocation to terminal care.
- Fees charged for a restrictive device and the basis for calculating customer fees.
- Questions related to transporting a deceased person.

Persons with disabilities

It has been estimated that there are some 40,000 persons with intellectual disabilities in Finland. In the service structure of care for the disabled, a trend that favours assisted living rather than institutional care has continued throughout the 2000s. At the end of 2014, a total of 1,117 people were long-term residents in institutions for persons with intellectual disabilities, which is 16 per cent less than the year before. As long-term residents are deemed those placed in long-term care by a decision or those who have been in care for over 90 days. The target in reducing institutional living is that by 2016, at most 500 people with intellectual disabilities live in institutions.

When private providers of social welfare and health care services operate within the regions of more than one Regional State Administrative Agency, their operating licences are granted by Valvira. Valvira's register lists 66 assisted living units with intensified support for persons with intellectual disabilities. The number of assisted living units providing intensified support that operate under a licence granted by a Regional State Administrative Agency is 306. In addition, some persons with intellectual disabilities depend on the institutional or housing services of one of the 15 special catchment areas. However, the volume of institutional care is constantly being reduced at a great speed. In addition, persons with intellectual disabilities may live in units owned by municipalities. The number of these units is not known accurately.

Traditionally, the Ombudsman has inspected central institutions of special catchment areas. As the service structure has changed, inspections have also targeted residential units of private service providers where the residents' freedom may be restricted in a way that puts these units within the mandate of the National Preventive Mechanism.

When inspecting housing and institutional units intended for persons with intellectual disabilities, the Ombudsman especially supervises the conditions of the residents, including the nature of the assistance, care, and attendance provided as well as the treatment of the customers and the implementation of their fundamental rights, including the right to self-determination. The inspectors talk to the person responsible for the unit, the care staff and, as far as possible, to customers and their family members.

At the moment, provisions on restrictive measures are contained in the Act on Special Care for the Intellectually Disabled (*laki kehitysvammaisten erityishuollosta* 519/1977). Under this act, coercive measures may only be used on a person in special care to the extent that this is necessitated by the provision of special care or the safety of another person.

The Parliament is currently debating government bill 96/2015 vp, which proposes amendments to the Act on Special Care for the Intellectually Disabled. These amendments would contain the changes required by the ratification of the UN Convention on the Rights of Persons with Disabilities. The act would be complemented with provisions on measures to support independent coping and the right to self-determination as well as on reducing the use of restrictive measures and the general conditions for their use, including the requirement of such measures being essential and proportionate, and respect for human dignity.

The specific conditions for the use of each restrictive measure would be laid down in the act. It would also contain provisions on the procedure to be followed when making decisions on restrictive measures. The government bill proposes that restrictive measures could only be used when providing assisted living services with intensified support referred to in Section 21(4) of the Social Welfare Act, or institutional services or similar private services referred to in Section 22 of this Act.

The inspectors have also come across customers whose behavioural challenges are mainly due to psychological illnesses, with only a mild intellectual disability in the background. Due to the demanding nature of their care, however, they have not been admitted to a psychiatric hospital for treatment.

Seven inspections were conducted in residential units for persons with disabilities, six of which targeted units for residents with intellectual disabilities and one a unit for persons with other disabilities. The following are some of the most important findings and recommendations issued on the basis of the inspections:

Supporting and promoting the resident's right to self-determination

The significance of supporting and promoting the customer's right to self-determination in institutional services for persons with disabilities has been stressed in general.

- The limits of a reasonable intake of coffee (and other stimulants) should be discussed and negotiated with the customer. The customers should have the right to change their minds about what has been agreed together, in which case the issue should be renegotiated.

Treatment and conditions of customers placed in a secure room

On inspections, attention was paid to the possibility of a customer placed in a secure room to contact the staff, for example in situations where the toilet door is locked and the customer needs to use the toilet. In one housing unit, customers sometimes had to resort to using the floor sewer in the secure room instead of a toilet.

When inspecting psychiatric hospitals, the Ombudsman's long-standing view is that having access to a toilet at all times is part of an isolated patient's treatment with human dignity and good quality health and medical care. The Ombudsman has emphasised that this is another reason for which a patient in seclusion should always be able to contact the care staff without delay. Access to the toilet should also be actively offered to patients without waiting for a specific request.

- Attention was drawn to the Ombudsman's earlier comments on secure rooms. At the general level, it was found highly problematic that in the absence of specific legislation, the use of restrictive and protective measures is based on instructions issued by the joint municipal authorities themselves.

A joint municipal authority reported to the Ombudsman that the camera and the microphone in the secure room had been checked for faults. It was thus discovered that the CCTV system had not been programmed, as a result of which the image was transmitted to three different monitors while the sound was not. The system supplier had been contacted. The authority also reported that in the future, customers will have free access to the toilet beside the secure room, as the connecting door will be removed. The room had also been equipped with a clock.

Use of security guards

Entries made at a rehabilitation centre for young people mentioned that a security guard had held on to a customer's leg during a coercive measure.

- As stressed by the inspectors, the Ombudsman has in his previous decisions found that security guards working for a private company used in units may not take part in measures that can be considered part of treatment, or tasks related to treatment which have been prescribed as the care staff's duties. Restrictive measures should be deemed care-related tasks in which guards may not participate. On the other hand, a guard may ensure the safety of such measures within his or her authorities.

Keeping doors locked

In practice, coercion or restrictions – including locking customers in their rooms or in a seclusion room – are used not only in intensified assisted living services or institutional care but also in many residential units.

- Customer who have been locked up, even in their own rooms, should have the possibility of contacting the staff immediately.

Toilet doors in an inspected unit were kept locked because of the behaviour of one resident. The inspectors were told that the carers unlocked the toilet doors for the residents on request. A similar system was also used in the night time. According to the staff, the residents are familiar with the system and ask for the door to be unlocked. Some of the customers wore incontinence products.

- In the Ombudsman's opinion, it was unsatisfactory that the residents always have to specifically ask the care staff to open the toilet door. It would be better to find other ways of intervening in the undesirable behaviour of a single resident, other than locking the toilet door to all residents.
- Attention was also paid to the fact that the facilities of one ward had been divided into three enclosed spaces with intermediate walls, and at the time of the inspection, the doors in both walls were locked.

Record-keeping practices

Institutions and other units providing services have drawn up their own instructions on coercive measures and prepared forms in which the staff is expected to record any restrictive measures used. The Ombudsman has frequently stressed the importance of keeping appropriate records of coercive measures.

- In these records, attention should be paid to describing the events in detail (for example, what led to the use of coercive measures). This is important for the legal protection of both the customer and the care staff and makes it possible to evaluate the legality of coercive measures at a later date. The keeping of records also supports the work community's work aiming to reduce the use of restrictive measures.

The inspection of a joint municipal authority care unit in a hospital district showed that involuntary medical treatment is not always understood, or at least not recorded, as involuntary treatment.

- The unit's attention was drawn to the careful recording of involuntary medical treatment.

Restricting the right to self-determination of housing unit residents

The external doors of a private housing unit intended for persons with disabilities were kept locked, and the doors were monitored by a CCTV system. Wrist bands were given to residents whom the staff wished to prevent from leaving the unit without letting the staff know. These wrist bands alerted the carers if the resident tried to leave. Residents were not locked in separate rooms as a restrictive measure, but it was necessary to restrain them in other ways.

According to the staff, many of the residents had challenging behaviours, and sometimes the carers had to escape from aggressive residents and take shelter in the office. All the employees were women. The restrictive measures used in the unit, for example high sides on beds, were based on a decision made by a doctor. Many residents were under heavy doses of medication, which were also used to sedate them. An agreement had been reached with some residents about restricting smoking. According to the staff, agreements on smoking and intoxicant use were necessary because of the residents' problems with intoxicant abuse. The safety alarms in the rooms of some residents did not work.

- The Ombudsman urged the unit to repair the faulty safety alarms immediately.
- The importance of realising that restrictive and protective measures are a last resort of supporting the client's right of self-determination, and of promoting that right in the provision of institutional and residential services for the disabled were highlighted.
- It was considered important that meaningful and individual stimulating activities be organised for the residents and that possibilities for sufficient outdoor recreation be secured for them.

Health care

According to statistics kept by the National Institute for Health and Welfare, the number of patients in psychiatric special care in Finland was 26,561, and these patients had 38,000 in-patient treatment periods in 2013. The number of days spent by patients in psychiatric special care was nearly 1.3 million. A reduction of almost 29% has taken place in this figure since 2006. An accurate number of those health care units where persons deprived of their liberty are or may be held was not available.

In 2015, the National Preventive Mechanism inspected the adult psychiatric ward and the psychiatric wards for children and young people at Paihola hospital as well as the psychiatric ward for adults and, in particular, the ward for examinations and treatment of minors requiring challenging care (NEVA unit) at Niuvanniemi hospital. The secure room of Kuopio University Hospital emergency care district was also examined during an unannounced inspection. A psychiatrist participated in the inspection of Niuvanniemi Hospital as an external expert invited by the Ombudsman.

The general inspection theme of the Office of the Parliamentary Ombudsman in the reporting year was implementing the rights of persons with disabilities, which was also taken into consideration during NPM inspections. Particular attention was paid to accessibility of facilities and the way in which the special needs of patients with visual or hearing impairments are met.

Inspections of psychiatric hospitals and further measures

The aim of the inspections carried out at psychiatric hospitals was to become acquainted with the conditions and treatment of the patients and the realisation of their fundamental rights. An essential part of this was establishing how the patients are advised and informed of their rights and how their family members are taken into account in this context. The following are some of the most important findings and recommendations issued on the basis of the inspections:

Paihola Hospital

Seclusion conditions

The inspectors met a patient who had been kept secluded in their room for some time. When inspecting the seclusion rooms of another ward, it was noted that the air in a room used for restraining patients was hot and stuffy.

- The Ombudsman decided to launch an own-initiative inspection to examine the grounds for secluding a patient for an extended period and the conditions of seclusion (2045/2/15).
- Attention was paid to the shortcomings in the conditions of the restraint room. In this respect, the Ombudsman made reference to prior decisions of the overseer of legality stating that a seclusion room at a psychiatric hospital should have windows and be in good condition, clean, fresh, well aired and sufficiently warm, and have appropriate bedding and protective clothing as well as other equipment (including a clock). When they wish, the patients should have the possibility of contacting the staff using a buzzer or otherwise. Secluded patients also have the right to have in their possession magazines, a telephone and objects that make them feel better, if permitted by their state of health.

Instructions on restrictive measures

Under the Mental Health Act, a hospital that provides psychiatric care should have written and adequately detailed instructions on how restrictions of the patient's right to self-determination are implemented.

- The hospital was urged to complement the instructions concerning the restrictions due to the fact that they were inadequate.
- Attention was drawn to the provision contained in the Mental Health Act according to which the state of a restraint patient or a minor patient must be monitored continuously so that the care personnel is always in visual and aural contact with the patient. This duty cannot be met by CCTV monitoring alone, and in general, CCTV monitoring cannot take the place of personal interaction between the patient and the care staff.

Information distributed to patients and their families

On its inspection visit to Finland in 2008, the CPT had expressed its concern over the failure to comply with its long-term recommendation according to which all new patients admitted to a hospital and their families should be systematically given a brochure that sets out all of the patient's rights in a comprehensible form. The Committee reiterated its recommendation that such a brochure be prepared and systematically handed to the patients and their families as the patient is admitted. No brochures and instructions to be distributed to the patients and their family members were provided in the service area of the psychiatric ward at the hospital.

- The Ombudsman felt that the brochure on the legal position of a psychiatric patient referred to by the CPT is of great importance and recommended that it be prepared.

Niuvanniemi Hospital and its NEVA unit

Information distributed to patients and their families

The instructions on restrictive measures at the hospital were found informative and well prepared. The hospital's brochure and the instructions on restrictive measures together met rather well the requirements stated by the CPT on its visit to Finland in 2008 concerning information distributed to patients and their families. However, the material did not explain the statutory right of the patient to appeal.

- The Ombudsman recommended that the material be extended in the section regarding appeal.
- It was also proposed that a separate legal protection guide be prepared, or that the instructions related to the patients' legal position and their legal protection be compiled in some other way.

Use of restrictive measures

The reduction in the number of situations involving violence at the hospital was noted as a positive trend. In part, this was achieved by means of a new approach and training in controlling violence, key contents of which include avoiding physical contact with a patient in threatening situations. Security guards were also used less at the hospital.

Another positive development was that specific restrictions (seclusion and restraining) and long periods of seclusion were used less often. Effective training measures, contributions of experts and investments in work instruction had promoted achieving these results. Care work had been developed in cooperation with doctors so that, instead of seclusion, the patients are primarily cared for in an area larger than one room following the "open area seclusion" principle where possible, for example, in the day room of the ward.

On the other hand, restraint jackets were used more often. On its inspection visit to Finland in 2014, the CPT recommended that "the practice of using special restraint jackets be stopped in the medium term and that ways be sought actively to gradually replace them with other, less degrading means; pending this, the application of the jackets should be the subject of detailed regulations and instructions, with a view to ensuring that they are only used for the shortest period of time in extraordinary situations, based on an individual risk assessment, and not as a routine measure following seclusion."

- The Ombudsman agreed with the CPT recommendation of giving up the use of restraint jackets over the medium term. He felt it was justified for the hospital to actively look for alternatives that would make giving up the use of restraint jackets possible.

Instructions issued by wards

In instructions issued by the wards, the fact that the Mental Health Act bans the so-called institutional power as a basic principle had not been taken into consideration in all respects. This means that a patient's rights cannot be restricted by a ward's individual instructions, as any restrictions must be based on law, and they must be used on the basis of individual consideration.

- The hospital was urged to discontinue the process whereby patients are forced to seek permission for activities that should be available to them by law.
- It was recommended that the routine practice followed by some wards of supervising visits to patients be changed. This practice constitutes a restriction of communication, which may only be carried out on conditions laid down in the law, and on which a decision must be made that can be appealed.

- The need to treat patients with respect in all situations was highlighted. The hospital was asked to consider the possibility of waking the patients up later on weekend mornings; some wards had adopted the practice of waking the patients up at 7. a.m. every day by turning on the lights in their rooms and pulling the covers off.
- Attention was paid to the individual dietary needs of patients; in some wards, the patient's helpings were regulated, and the rules of another ward stated that helpings of equal sizes had been reserved for each patient.
- The hospital was urged to arrange for a possibility of blacking out patient rooms that had no curtains, for example by installing blinds, as the patient rooms of a ward had no curtains, which made it more difficult for the patients to sleep in the summer.
- The hospital was urged to change the practice followed in a ward of restricting the postal deliveries of all patients without a written decision by giving all letters received by the patients to them as copies. This practice was not legal as the inspections targeted the post received by all patients, while the Mental Health Act only permits such inspections if it is, in individual cases, justified to suspect that the consignment contains forbidden substances.

Pitkäniemi Hospital

As a result of an inspection carried out in Pitkäniemi Hospital in April 2012, the Ombudsman had launched an own-initiative investigation (4013/2/12) on the treatment of patients in the hospital's forensic psychiatry wards. The treatment periods were extremely long, and the patients were heavily medicated. They were not rehabilitated, and the treatment appeared to be preservative in nature. The restrictive measures used in the wards were agreed on with the patients, even if all patients did not even understand they had given their consent, or were unable to understand the meaning of consent. There were too few doctors in the wards.

Motivated by the inspection findings, the Ombudsman requested that the Regional State Administrative Agency of Western and Inland Finland conduct an inspection at the hospital. The Regional State Administrative Agency conducted an inspection of the forensic psychiatry wards in May 2013 together with the National Supervisory Authority for Welfare and Health (Valvira). Based on the inspection findings, the Ombudsman informed the joint municipal authority of the following views by his decision of 28 January 2015:

- Attention should be paid to the patient's ability to give conscious consent, and at the same time, the patient's potential need for guardianship not only in financial matters but also in looking after personal/health care matters should be considered.
- Any restrictive measures used and their durations should be recorded in a list as prescribed in the Mental Health Act.
- Sufficient reserves of medicines must be safeguarded – also in the holiday season.

Conditions of secure rooms at somatic hospitals

No provisions on seclusion in somatic health care are contained in the law. Keeping a patient in seclusion may sometimes be justified under emergency or self-defence provisions. In the reporting year, the Ombudsman recommended that recompense be made to a patient locked in the secure room of a somatic hospital for violations of fundamental and human rights (3721/4/14*). The duration of seclusion had been unnecessarily long, in addition to which the patient was not treated with human dignity, nor did she receive good quality care as she had to relieve herself on the floor.

The city reported to the Ombudsman that it had paid the patient an amount of money in compensation.

An inspection of the secure room in Kuopio University Hospital emergency care region found that the room did not have an alarm system for calling the staff. Instead of CCTV monitoring, the room had a small window beside the door.

Persons placed in the secure room were monitored every half an hour. There was no furniture in the room: only a thin mattress on the floor, no other bedding, and no clock. The toilet seat was placed in the middle of the room with no visual protection. The Ombudsman issued the following comments and recommendations to the hospital:

- A patient placed in seclusion in a secure room must be continuously monitored, and the patient's condition should be checked by personal observation and through CCTV monitoring providing a visual and aural contact with the patient.
- The location of the toilet seat compromised the patient's protection of privacy.
- The hospital was urged to fix the shortcomings in the conditions of the secure room and to report to the Ombudsman on the measures taken.

3.4 Shortcomings and improvements in implementation of fundamental and human rights

The Ombudsman's observations and comments in conjunction with oversight of legality often give rise to proposals and expressions of opinion to authorities as to how they could in their actions promote or improve implementation of fundamental and human rights. In most cases these proposals and expressions of opinion have had an influence on official actions, but measures on the part of the Ombudsman have not always achieved the desired improvement.

On the recommendation of the Constitutional Law Committee (PeVM 10/2009 vp), the 2009 Annual Report contained, for the first time, a section outlining observations of certain typical or persistent shortcomings in implementation of fundamental and human rights. Also outlined were examples of cases in which measures by the Ombudsman had led or are leading to improvements in the authorities' activities or the state of legislation. The Constitutional Law Committee has expressed the wish (PeVM 13/2010 vp) that a section of this kind will become an established feature of the Ombudsman's Annual Report.

The Ombudsman does not become aware of all problems relating to legality or fundamental and human rights. Oversight of legality is founded to a large degree on complaints from citizens. Information about shortcomings in official actions or defects in legislation is obtained also through inspection visits and the media. However, receipt of information about various problems and the opportunity to intervene in them can not be completely comprehensive. Thus lists that contain both negative and positive examples can not be exhaustive presentations of where success has been achieved in official actions and where it has not.

The way in which certain shortcomings repeatedly manifest themselves shows that the public authorities' reaction to problems that are highlighted in the implementation of fundamental and human rights has not always been adequate. In principle, after all, the situation ought to be that a breach pointed out in a decision of the Ombudsman or, for example, in a judgement of the European Court of Human Rights should not re-occur. The public authorities have a responsibility to respond to shortcomings relating to fundamental and human rights through measures of the kind that preclude comparable situations from arising in the future.

Possible defects or delays in redressing the legal situation can stem from many different factors. In general, it can be said that the Ombudsman's stances and proposals are complied with fairly well. When this does not happen, the explanation is generally a dearth of resources or defects in legislation. Delay in legislative measures also appears often to be due to there being insufficient resources for law drafting.

3.4.1 TEN CENTRAL FUNDAMENTAL AND HUMAN RIGHTS PROBLEMS IN FINLAND

This section in the Annual Report for 2013 described ten central fundamental and human rights problems that Parliamentary Ombudsman Jääskeläinen brought up in an expert seminar on the evaluation of the Finnish National Action Plan on Fundamental and Human Rights in December 2013. The list of problems had been put together on the basis of observations made in the course of the Ombudsman's work.

The same ten problems mainly remain topical today. Any changes have been accounted for in the following descriptions.

Shortcomings in the conditions and treatment of the elderly

There are tens of thousands of elderly customers living in institutional care and assisted living units. Shortcomings related to nutrition, hygiene, change of diapers, rehabilitation and access to outdoor recreation are identified continuously. These shortcomings are often consequences of insufficient staffing, which may also lead into excessive use of medication.

There are also shortcomings in safety, outdoor recreation arrangements and services for running errands.

Measures limiting the right to self-determination in the care of the elderly should be based on law. However, the required legislative foundation is entirely lacking.

There are insufficient resources for internal overseeing of the administration. The regional state administrative agencies do not, in all cases, have the means to supervise the activities. Sufficient means of supervising services provided at home are lacking. In practice, the only means of supervising the adequacy and quality of services for the elderly provided at home are the authorities' self-monitoring and ex post supervision.

Shortcomings in child protection and the handling of child matters

A general lack of local government resources for child protection and the low number of tenures, in particular those of social workers, have a negative impact on the quality of child protection services. Their quality is further undermined by inadequate training and poor availability of social workers as well as high employee turnover.

The supervision of foster care in child protection is insufficient. The child protection authorities at the municipal level do not have enough time to visit foster care locations and they are not sufficiently familiar with the conditions and treatment of the children. The regional state administrative agencies do not have enough resources for inspections. There is little scope for supervising family care, in particular.

Mental healthcare services for children and the youth are lacking. It is difficult to arrange the treatment needed by children placed in foster care.

The insufficiency and delays of open welfare support services for families cause problems for families that need services. This insufficiency is manifested as an increased need for child protection and is reflected in children's mental health problems. A new Social Welfare Act (1301/2014) entered into force on 1 April 2015. Its objective is to improve basic services and thus reduce the need for corrective measures. The idea is to lower the threshold for seeking help by providing social welfare services in connection with other basic services.

The total handling time in matters related to the care of a child and other matters often becomes unreasonably long from the perspective of the child's interest. In particular, preparing a report of the child's circumstances takes an excessively long time.

Shortcomings in the guarantee of the rights of persons with disabilities

Equal opportunities for participation are not realised for persons with disabilities. There are shortcomings in the accessibility of premises and services and the implementation of reasonable adaptation measures.

The policies for limiting the right to self-determination vary in institutional care. The social and health services for children with disabilities are insufficient.

Statutory service plans and special care programmes are not always prepared, they are inadequate, or there are unjustified delays in their

preparation. The municipalities' application practices regarding disability services are inconsistent, and the instructions issued may prevent the customers from accessing statutory services.

Not enough support is provided for the employment of persons with disabilities. In many cases, persons with mental disabilities work at activity centres for a salary lower than minimum wage.

Policies limiting the right to self-determination at institutions

Measures limiting the right to self-determination often lack legal grounds, for example, when they are based only on "institutional power". In unregulated situations, limiting measures may be excessive or inconsistent.

The supervision of policies limiting self-determination is insufficient, and the controllability of these measures has shortcomings as there are no procedural guarantees of protection under the law.

Problems with the detention of foreigners and insecurity of immigrants without documentation

Holding persons who have been deprived of their liberty under the Aliens Act in police prisons is problematic, as these cells are not suitable for long-term detention, and they impose unnecessary restrictions on the freedom of the persons kept in them. The opening of a detention centre in connection with Joutseno Reception Centre in autumn 2014 to complement the facilities of Metsälä Detention Centre has essentially improved this situation. As the number of asylum seekers increases, however, this may again lead into situations where foreigners are held in police prisons.

Shortcomings and ambiguities have been identified in meeting the basic needs of immigrants without documentation, such as social and health services and a primary education. A government bill was submitted to the Parliament in 2014 (HE 343/2014 vp) that would have improved the right to health services of certain groups among the so-called undocumented persons (including pregnant women and minors), but the bill lapsed.

Flaws in the conditions and treatment of prisoners and remand prisoners

For many prisoners, the lack of activities is a serious problem. Some prisoners must be in their cells 23 hours per day. The Council of Europe anti-torture committee (CPT) recommends that prisoners have at least eight hours per day outside of their cell.

Toiletless cells used for confining prisoners are against the international standards of prison administration and can violate the human dignity of the prisoners. Despite being criticised for many years by the Ombudsman and the CPT, 180 toiletless cells were still in use in Finnish prisons during the reporting year.

In 2015, Finland made the following response to the CPT: "If the proposals in the facilities plan of the Criminal Sanctions Agency are implemented, the use of cells without toilets will end at all Finnish prisons over the next few years. The number of such cells currently is 180 in total, 73 of which are located in Helsinki Prison and 107 in Hämeenlinna Prison. Plans for renovations or newbuildings at both prisons are in the process of being drawn up. These investments are to be realised by the end of 2018. A decision has already been made to renovate the wards with toiletless cells in Helsinki Prison."

A completely new prison will be built in Hämeenlinna. The renovations in Helsinki will be completed at the end of 2016, after which cells without toilets will no longer exist in Helsinki Prison.

Remand prisoners are still excessively detained at police prisons. CPT has criticised Finland for this for 20 years. According to international prison standards, crime suspects should be kept in remand prisons rather than police detention facilities, where conditions are suitable only for short stays and where remand prisoners are at risk of being put under pressure. The CPT issued its report on an inspection visit made to Finland in 2014 during the reporting year. While the CPT's criticism of the practice of holding remand prisoners in police prisons was more strongly worded than before, there is no certainty that changes can be made rapidly in this respect.

Shortcomings in the availability of sufficient health services

There are shortcomings in arranging for statutory health services. For example, there are problems with the distribution of care supplies and the handing over of assistive devices for medical rehabilitation. For financial reasons, sufficient quantities of supplies and assistive devices are not always handed out.

The round-the-clock dentist service required by the Health Care Act has not been implemented completely.

The access to treatment assured under Treatment Guarantee legislation has still not been implemented in full. In many cases, the queues for treatment are too long.

There are shortcomings in the healthcare of special groups, such as conscripts, prisoners and immigrants without documentation.

Shortcomings in the learning environment of basic education

Bullying at school is often left to run its course. The schools do not have the means of identifying aggressors and intervening in bullying.

Indoor air problems are continuously identified at schools. There are major differences between municipalities. Some have effective working groups on indoor air, while others do not even have a pre-agreed operating model for what should be done when problems come up.

The availability of student care, rehabilitation and other school-related and learning support depends on the child's place of residence and the financial situation of the home municipality. The unique needs of the child cannot always be taken into consideration. A new act on student and pupil welfare (opiskelija- ja oppilashuoltolaki 1287/2013) entered into force on 1 August 2014. The purpose of this act is, among other things, to harmonise the practices of organising and implementing pupil and student welfare. Based on inspection findings, the municipalities have complied reasonably well with the statutory periods for access to student welfare services.

Shortcomings are associated with the accessibility of school and study environments. This may impede the realisation of the local school principle, for example, and in general hamper the integration of disabled schoolchildren in general education.

Lengthy handling times of legal processes and shortcomings in the structural independence of courts

Delayed trials have long been a problem in Finland. This has been identified in both the national oversight of legality and in the ECHR legal praxis. Despite some legislative reforms that have improved the situation, trials can still last an unreasonably long time. This can be a serious problem in particular for matters that require urgent handling, such as child-related matters.

In terms of the structural independence of courts, the fact that the justice system is directed by a Ministry, that there is a large number of temporary judges, and that the local councils in practice select jury members for District Courts on the basis of political quotas are problems.

Continuous under-resourcing undermines the operation of the courts. With respect to the independence of the courts, an alarming example is that in 2013, a supplementary budget was necessary to finance a single criminal case (the so-called "Wincapita" case).

Shortcomings in the prevention and recompense for fundamental and human rights violations

Fundamental and human rights violations are not always taken seriously, which partly results from insufficient human rights training and education.

International human rights treaties are not ratified quickly enough in Finland. This, in turn, slows down the creation of the structures and procedures aimed at securing the rights guaranteed by the treaties.

The legislative foundation for the recompense for basic and human rights violations is lacking.

3.4.2 EXAMPLES OF POSITIVE DEVELOPMENT

This section of Parliamentary Ombudsman's reports for 2009–2014 has usually contained examples of cases in different branches of administration where, because of a comment by the Ombudsman or a proposal contained in it or otherwise, there has been favourable development with respect to the fundamental or human rights. The examples have also described the impact of the Ombudsman's activities. In the current report, this section no longer contains such cases.

For the Ombudsman's recommendations concerning recompense for mistakes or violations and measures for the amicable settling of matters, see sub-chapter 3.5. These proposals and measures have mostly led to positive outcomes.

3.5 The Ombudsman's proposals concerning recompence and matters that have led to an amicable solution

The Parliamentary Ombudsman Act empowers the Ombudsman to recommend to authorities that they correct an error that has been made or rectify a shortcoming. Section 22 of the Constitution, in turn, obliges the public authorities to ensure implementation of fundamental and human rights. Making recompense for an error that has occurred or a breach of a complainant's rights on the basis of a recommendation by the Ombudsman is one way of reaching an agreed settlement in a matter.

The Ombudsman has made numerous recommendations regarding recompense over the years. These proposals have in most cases led to a positive outcome. The Constitutional Law Committee likewise took the view in its report (PeVM 12/2010 vp) that a proposal by the Ombudsman to reach an agreed settlement and effect recompense in clear cases was a justifiable way of enabling citizens to achieve their rights, bring about an amicable settlement and avoid unnecessary legal disputes. The grounds on which the Ombudsman recommends recompense are explained more extensively in the summary of the annual reports of 2011 (page 84) and 2012 (page 65).

The Act on State Indemnity Operations (*laki valtion vahingonkorvaustoiminnasta*, 978/2014) entered into force at the beginning of 2015. It centralises the processing of most claims for damages addressed to the central government to the State Treasury. The act is applied to the processing of a claim for damages from the central government if the claim is based on an error or neglect of a central government authority.

According to information obtained from the State Treasury, a total of 537 claims for damages were submitted in the reporting year. Most of these cases were initiated as claims for damages filed with the State Treasury or the relevant authority. Six cases were initiated as a result of a proposal for recompense made by the Parliamentary Ombudsman. The State Treasury issued a total of 333 decisions.

A significant share of these, or over 200 decisions, concerned the administrative branch of the Ministry of Justice and, in particular, financial losses incurred in guardianship services. They included failures to apply for subsistence subsidy, care and housing allowance, and collection charges ensuing from late payments. All proposals concerning recompense made by the Parliamentary Ombudsman to the State Treasury led into the payment of compensation.

Making recompense was recommended by the Ombudsman in 20 cases in the reporting year. In addition, during the handling of complaints, communication from the Office to the authority often led to the rectification of the error or insufficient action and, therefore, contributed to an amicable settlement. In numerous other cases, guidance was also provided to the complainants and the authorities by explaining the applicable legislation and the practices of administration of justice and oversight of legality as well as the means of appeal that are available.

3.5.1 RECOMMENDATIONS FOR RECOMPENSE

The recommendations for recompense that the Ombudsman made during the year under review are set forth below. The authorities' responses have not yet been received in all cases.

Right to be treated with human dignity and right to indispensable subsistence and care

Inhuman treatment of a child in substitute care

A child placed in substitute care had been repeatedly and cruelly abused in a children's home. The abuse took place in situations where the children had been left unsupervised. According to the police interview protocol, the child had suffered cigarette burns in the hand, palm, crook of the arm, left side of the chest and buttock and been repeatedly beaten with an electric cable, degraded by spitting into the mouth, and forced to eat a slug and rinse his mouth with urine. Money had also been extorted from the child.

The Deputy-Ombudsman considered that the Social Services and Health Care Department had neglected its responsibility for organising and supervising services in this case, resulting in a violation of the child's right to personal integrity safeguarded in the Constitution. The actions of the Social Services and Health Care Department and the children's home had been contrary to the child's best interest and could seriously endanger the implementation of rights that belong to a child in substitute care.

In the Deputy-Ombudsman's opinion, the measures proposed by the Social Services and Health Care Department in its statement aiming to rectify the shortcomings in supervision and provision of substitute care were not adequate. The information provided did not specify how the child's psychological state was examined after the incidents and what type of further treatment was offered in the case. The information may be interpreted to indicate that the child's psychological after-care was left exclusively to the parents.

As the right to receive appropriately organised substitute care needed by the child was not implemented in the children's home, the Deputy-Ombudsman decided to propose that the Social Services and Health Care Department pay compensation to the child (2696/4/14).

The Social Services and Health Care Department reported that it has paid the child EUR 5,000 in compensation.

Seclusion of a patient

The Ombudsman found that a hospital had violated the human dignity and personal freedom of a female patient as she was locked up in a secure room in the hospital. No provisions on seclusion in somatic health care are contained in the law. However, keeping a patient in seclusion may be justified under emergency or self-defence provisions. The Ombudsman found it obvious that the patient was kept in seclusion for longer than the state of emergency necessitated. Her personal freedom had thus been violated. Additionally, the patient had not been treated with human dignity, nor had she received good quality care, as she was forced to relieve herself on the floor. The Ombudsman proposed that the city's health services pay compensation for the violations of the patient's fundamental and human rights (3721/4/14*).

The director of the city's health services reported that they had decided to pay the patient a one-off sum of EUR 1,000 in compensation for the violation of her fundamental and human rights.

A remand prisoner was forced to spend the night in the prison's temporary cell immediately after giving birth

The prisoner's privacy was not protected during childbirth as two warders, one of whom was male, were present in the delivery room. Even if a screen was placed between the woman and the warders, the guarding of the prisoner during childbirth had not been arranged as discreetly and with respect for the prisoner's privacy as it should and could have been done.

The prisoner was placed in the prison's temporary cell only three hours after giving birth, which was inhuman and put her health at risk. The temporary cell had no sanitary facilities, and the prisoner had no possibility of looking after her personal hygiene. Additionally, there was no indication in the report provided that the status of the prisoner in the temporary cell would have been monitored.

In such exceptional circumstances, it would have been essential for the supervising staff to show initiative by visiting the prisoner in order to check her state of health and potential need for assistance and keep records of these visits and observations. When the prisoner was placed in the temporary cell, it was already noted that she was in an "obviously poor condition". Regardless of this, the maternity hospital had not been contacted, contrary to the hospital's instructions. There also was a clear deterioration in the prisoner's state of health during the night spent in the temporary cell.

The Deputy-Ombudsman proposed to the State Treasury that the central government pay compensation for this failure to treat the remand prisoner with human dignity during childbirth and following it (2465/4/14).

The State Treasury considered EUR 3,500 reasonable compensation for these violations of fundamental and human rights.

Lack of hygiene in prisons

A visitor who had come to meet a prisoner was forced to urinate into a rubbish container in the presence of family members as there had been a delay of more than half an hour in letting the visitor out of the meeting room to use the toilet (4854/4/14). Regardless of a request to use the toilet, a prisoner was forced to defecate on the cell floor, as the warders did not have time to take him to the toilet (801/4/14).

In both cases, the State Treasury reported that it had paid EUR 500 in compensation.

Unlawful deprivation of personal liberty

Under the Mental Health Act, a referral to observation must contain a well-founded opinion on whether or not the conditions for ordering the patient to treatment are likely to be met. According to the Ombudsman, this means that the referral must accurately describe the factors that make sending a person to a hospital for observation justified.

The grounds for the referral for observation drawn up for a complainant had been described in the referral and the patient documents in such vague terms that it was impossible to reliably assess on their basis whether or not justifications in compliance with the Mental Health Act existed for writing the referral. The referral drawn up by the doctor had too many flaws to meet the requirements laid down in the Mental Health Act.

Consequently, the commitment of the complainant to the hospital for observation had not taken place "in accordance with a procedure prescribed by law" in compliance with the European Human Rights Convention. The doctor had thus acted unlawfully.

In the Ombudsman's opinion, the complainant had been subjected to unlawful deprivation of personal liberty. In this case it was no longer possible to rectify the violation. The Ombudsman urged the social and health services centre to consider how it could make recompense for the unlawful deprivation of personal liberty to which the complainant had been subjected (1931/2/12).

The social and health services centre reported that it had paid out EUR 1,000 as compensation for the unlawful deprivation of the complainant's personal liberty.

Violation of freedom of speech

A municipality had issued a PE teacher with a written warning as a result of his contribution at a parents' evening. The teacher had announced that, with the children's best interest in mind, he wished to know when the pupils would have the possibility of choosing additional PE lessons. The municipality considered that the teacher had been in breach of the curriculum and promoted his own interests, which had adversely affected the atmosphere and mutual trust within the school.

The Parliamentary Ombudsman found that in this case, issuing a warning to the complainant for exercising his freedom of speech constituted a breach of the European Convention on Human Rights and the Constitution of Finland. The municipality had failed to sufficiently assess the balance between a public servant's freedom of speech and duty of loyalty. Issuing a warning was also not proportionate and necessary in a democratic society. The municipality did not come anywhere near to achieving a fair balance between a public servant's freedom of speech and the interests of the municipality in this case.

The Ombudsman felt it was natural for a PE teacher to bring up issues concerning the subject he or she teaches without being motivated by self-interest. The teacher's contribution was of general interest, at least in the local context, and it was made in the name of the best interest of children and related to children's welfare. The Parliamentary Ombudsman found no grounds for interfering with the teacher's freedom of speech. The Ombudsman issued a reprimand for the violation of a teacher's freedom of speech to the headmaster and requested that the municipality consider how the violation could be rectified and compensated (285/4/14*).

The municipality reported that an event had been organised for the entire educational services staff, where the chief executive of the municipality and the headmaster had apologised to the complainant for the violation of his freedom of speech. The chief executive had also promised that the written warning would never be used against the complainant. The director of educational services, on the other hand, had acknowledged at this event that the complainant had not been motivated by self-interest.

Right to work

Compensation paid for loss of earnings resulting from errors in a process related to employment provided as a municipal obligation

The Employment and Economic *Development Office (TE Office) of Central Finland had neglected to inform the complainant of the right to employment organised as a municipal obligation. The TE Office had also failed to inform the municipality about its obligation to provide employment.

The error only came to light nine months later. As a result, the reinstatement of the complainant's entitlement to earnings-related unemployment allowance had been delayed. In the accounts given of the case, different estimates of the complainant's financial losses were suggested. In this respect, the Deputy-Ombudsman referred the matter to the State Treasury to be resolved as a case of damages under the act on state indemnity operations (1471/4/14).

The State Treasury paid out a total of EUR 8,050.23 as compensation for the complainant's loss of earnings.

In another case, the TE Office of Pirkanmaa had calculated that the complainant had reached the maximum period for earnings-related unemployment allowance of 500 days and arranged work as a municipal obligation for the complainant. At the end of the employment period, however, it turned out that the maximum period had been one day short. The complainant's daily allowance was now EUR 58.74, whereas before participating in employment provided as a municipal obligation, it had been EUR 73.42. The complainant had demanded that the error be corrected.

The Deputy-Ombudsman considered that the TE Office should have checked the fulfilment of the 500-day period with the complainant's unemployment fund rather than one-sidedly assess the matter itself. The Deputy-Ombudsman referred

the claim for damages made by the complainant to the State Treasury (2300/4/14).

The State Treasury paid out a total of EUR 13,993.41 as compensation for the complainant's loss of earnings.

Right to social security

Incorrect definition of a family applied in granting subsistence subsidy

The complainant claimed that as their daughter turned 18, the social welfare office had told them they could in the future apply for subsistence subsidy either together or separately, as this would not have an impact on the amount of subsidy granted to them. As the holiday earnings of the child, who was of age, were taken into account, the family was granted no subsidy for one month.

The Deputy-Ombudsman found that the social welfare service had acted unlawfully when providing advice and making decisions as, rather than producing a separate subsistence subsidy calculation for the daughter who was of age, it had treated the applicants as a single family referred to in the law (337/4/15).

On the Deputy-Ombudsman's proposal, the social welfare office paid the complainant the subsistence subsidy that they had been refused.

Purchases of assistive devices and care supplies for the elderly

A joint municipal authority's instructions concerning the distribution of care supplies stated that if a customer's need for care supplies exceeds the specified maximum requirement, the customer will pay for these products themselves. A complainant reported that their aged mother, who suffered from a memory disorder, had incurred a cost of EUR 536 for purchases of additional incontinence products by the time the complaint was lodged.

The Ombudsman referred to the Health Care Act and the Act on Client Fees in Social and Health Care (*asiakasmaksulaki*, 734/1992) and stated that a municipality or a joint municipal authority must provide free of charge the care supplies listed in a care plan that are needed to care for a customer with a long-term illness. The Ombudsman noted that the complainant's mother's needs for care supplies should have been checked at sufficiently frequent intervals, taking into consideration her memory disorder and deteriorating incontinence, and offer her the required number of additional incontinence products that were suitable for her. The joint municipal authority should also have informed the mother suffering from a memory disorder and the family member assisting her about the municipality's statutory obligation.

According to the instructions on the distribution of care supplies, the joint municipal authority only used products subjected to competitive tendering. The instructions did not comment on what should be done if the products listed in the procurement contract were not suitable for a patient, or did not meet a patient's needs. The Ombudsman stressed that, regardless of competitive tendering, a patient's individual needs should be taken into account in the distribution of care supplies.

The board of the joint municipal authority later reported that it had updated the instructions concerning the distribution of care supplies. The fees charged for additional products were removed from the instructions, and a description of discretion exercised in case of individual customers regarding products that had not been selected as primary choices based on competitive tendering was added to them.

The Ombudsman felt it was appropriate that the joint municipal authority had revised their instructions to be compliant with the law. The Ombudsman proposed that the joint municipal authority compensate the complainant's mother for the financial losses incurred as a result of unlaw-

ful negligence in providing adequate health services safeguarded in the Constitution (753/4/14).

The nursing and care director of the joint municipal authority reported having made a decision to compensate the complainant's mother for the costs of hygiene products she had paid for herself in 2012–2014, the total amount of which was EUR 972.

During an inspection, it turned out that a resident in a home for elderly dementia sufferers had to purchase an assistive device needed by them, a three-point belt as an accessory installed in a wheelchair, at their own expense. The need for the three-point belt had been assessed specifically, and a decision had also been made to purchase the belt. In this case, the responsibility for providing the device rested with the social welfare and health care services, which was also acknowledged by the services in their report. A family member of the elderly person had wished to speed up the purchase of the assistive device and thus purchased it personally.

An assistive device that is part of medical rehabilitation is free of charge for the user. A municipality cannot be released from its responsibility to provide an assistive device and pay for it because a certain period of time has elapsed, or transfer its primary responsibility for providing a device to a customer it cares for or their family members.

The Deputy-Ombudsman proposed that the social welfare and health services consider reimbursing the costs of purchasing the belt to the family member of the elderly person (4361/2/15).

The social welfare and health care services reported that a letter had been sent to the customer's administrator, informing them of the customer's right to compensation for the three-point belt purchased by the customer's family member. A form used for applying for compensation and a return envelope were attached to the letter.

Violations of legal protection and good governance

Neglect of appropriate procedure

In a city's transport services provided under the Act on Services and Assistance for the Disabled (*vammaispalvelulaki*, 380/1987), a penalty fee of EUR 15.10 was charged if a transport service had been booked but not used. In addition, the report of the city's wellbeing services showed that the fee was invoiced and transmitted directly to the taxi driver as requested by the travel services centre with no decision being made on the matter.

According to the Ombudsman, there is no basis for invoicing a fee of this type and collecting if from the customer in the act on client fees in social welfare and health care or the decree issued by virtue of it, nor in the provisions of any other act. The practice was thus unlawful.

As a result of the conduct of the social welfare services, it was ultimately impossible for the social welfare customer to subject the practice of charging fees to a court hearing. Thus, the practice was incorrect in this respect as well.

The Ombudsman asked the city to report on the measures that it had taken to correct the unlawful practice and to make recompense for the losses incurred by the complainant and other transport service customers having incurred similar losses as a result of the practice (3967/4/14).

The wellbeing services of the city reported that fees are no longer charged to the customer for transport services booked but not used. Any outstanding fees charged to customers will be cancelled, and the customers will be informed of this. The fee charged for an unused journey will be reimbursed to the complainant.

Refunding fees for journeys charged to and paid by the customers earlier will not be possible, as no records are kept in the customer information system of the charges once they have been paid. Earlier fees can only be refunded insofar as a customer submits a detailed claim for it.

Unlawful delays in implementing an Administrative Court decision by the Tax Administration

Tax reassessments that the Administrative Court returned to the Tax Administration for re-processing were pending for some 16 months with no active measures taken on them. Once the processing of the matter was re-initiated, the reassessments were completed and the tax refund was paid to the company within approximately one month.

The tax refund amounted to over EUR 700,000. According to the company, this considerable sum had clear financial significance to it in view of the low rate of interest paid on it.

According to the Deputy-Ombudsman's assessment, the implementation of the Administrative Court decision was not a major issue considering its scope and nature. Once the reprocessing started, it only took about a month to implement the decision. However, the case was pending at the Large Taxpayers' Office for approximately 16 months with no active measures taken. The significant tax amount refunded had financial significance to the company. The case also concerned tax-related court proceedings that had been initiated as early as in 2007.

In the Deputy-Ombudsman's view, the fact that it took the Tax Administration 17 months to implement the Administrative Court decision must be considered unreasonable. On these grounds, the Deputy-Ombudsman found this case a violation of the fundamental rights to a fair trial and effective remedy safeguarded in Articles 6 and 13 of the European Human Rights Convention and Section 21 of the Constitution of Finland.

In the Deputy-Ombudsman's opinion, in order to fulfil the requirement of effective implementation of fundamental and human rights in a situation where the Tax Administration has unlawfully delayed the implementation of a non-appealable judgement, the interested party is also entitled to compensation for the worry, uncertainty and other similar nuisances caused by the delay. The Deputy-Ombudsman informed the Tax Administration about her proposal on paying compensation for this violation of the company's right to a fair trial and effective remedy (976/4/15).

The State Treasury reported that following a statement issued by the Tax Administration on the case, it had decided to pay the company EUR 1,500 as compensation for the violation of a fundamental right.

Collection procedures in breach of good governance

A municipality and a debt collection agency to which the municipality had contracted its debt enforcement had agreed that the debts of customers subject to a ban on disclosing personal data for security reasons are immediately transferred to legal enforcement if the debtor's address has not been communicated to the company.

The municipality should have known that the debt had not yet been transferred to the debt collection agency when the complainant made the payment directly into the municipality's bank account some two months after the due date. Additionally, the municipality could not make appeal to its agreement with the service provider or the possibility that the service provider may have neglected their contractual obligations to the municipality as regards debts that had been transferred to enforcement.

In compliance with the service principle of good governance, the municipality should also have ensured that all credit information providers were informed of the payment, as the municipality had undertaken to let credit information providers know that the record of a bad debt was groundless. This information had only been communicated to one of the two companies engaged in credit information activities.

The Deputy-Ombudsman proposed that the municipality consider how it can compensate for the damages its action in breach of good governance had caused to the complainant. The Deputy-Ombudsman further noted that a public organisation should create a system that allows customers with a ban on disclosing personal data to

pay their bills within the regular payment period (1357/4/14).

The municipality reported that it had apologised to the complainant for its action and agreed to pay the complainant EUR 600 as compensation.

A complaint concerned the collection of a groundless health centre customer fee. The customer could not have known in advance when an appointment for an examination would be sent out. As this case was not about a fee collected from a customer who makes an appointment but does not turn up referred to in the Act on Client Fees in Social and Health Care, the joint municipal authority was in breach of law (1516/4/14).

On the Deputy-Ombudsman's proposal, the joint municipal authority refunded the fee.

Unlawful enforcement

In an enforcement process, the District Enforcement Officer had given a third party permission to collect property belonging to a company represented by them from the premises that the enforcement action concerned, and also to take possession of a piano found on the premises.

According to the Deputy-Ombudsman, there was no legal justification for this, and neither was it claimed that the debtor had given the Enforcement Officer permission to hand over to a third party this party's property found on the premises. The District Enforcement Officer thus had no competence to return or hand over property found on the premises to third parties.

The right to be heard is an essential part of the guarantees of a fair trial and good governance enshrined in the Constitution. The debtor had not known in advance that the Enforcement Officer may make decisions concerning the property found on the premises as part of the enforcement process.

The Deputy-Ombudsman found that these decisions to return or hand over property to a third party were not based on law. The debtor was not even given an opportunity of being heard. According to the Deputy-Ombudsman, a mere request to move out the property found on the premises could not be regarded as hearing the debtor.

The Deputy-Ombudsman proposed that the Enforcement Office consider how recompense could be made for the violation of rights and damages caused by this action (5106/4/14).

Incorrect action by Kela in the collection of child maintenance debts

As the entitlement to collect child maintenance debts was transferred to the Social Insurance Institution (Kela), Kela did not request that the debt be registered as a passive receivable. Kela had also not ascertained whether the case had been registered as a passive receivable before being contacted by the complainant. Regardless of this, passive enforcement had been entered in Kela's information system as the enforcement type.

The failure to register a child maintenance debt that had been returned with a certificate of lack of funds as a passive receivable had factually led into the child maintenance debt not being paid out of funds that the debtor had received at a later date. As a result, the enforcement of child maintenance debts had been groundlessly delayed.

The Deputy-Ombudsman found that the enforcement had not been carried out in keeping with the best interest of the child or promoted the implementation of the rights of the debtor's children. The Deputy-Ombudsman proposed that Kela consider how it can compensate the children for the delay in receiving maintenance caused by Kela's actions (3276/4/14).

Kela reported that a decision had been made to compensate the children for the legal costs amounting to EUR 474.30. The Deputy-Ombudsman launched an own-initiative investigation on the assessment of the compensation proposal by Kela (4776/2/15). Kela reported that it will pay EUR 150 separately to both children as compensation for its error and send them a letter of apology.

Delays in processing applications for benefits in Kela

Delays in processing applications were discovered at Kela's Centre for International Affairs. According to information provided by Kela, there was a backlog in the processing of applications for benefits at the Centre for International Affairs that had started operating on 1 January 2014. Technological problems had also been caused by the reorganisation.

The Deputy-Ombudsman found that no acceptable reason had been given for the delays. She thus proposed that the complainants contact Kela and file any claims they may have, and that Kela make some recompense on this basis to the complainants for the damages, nuisance and inconvenience caused (1055 and 1578/4/14).

Kela paid one of the complainants EUR 100 as compensation for the nuisance and inconvenience caused by the interruption of pension payments, and the other complainant EUR 50 as compensation for delays in processing an application for child benefit.

3.5.2 CASES RESULTING IN AN AMICABLE SETTLEMENT

The following section describes certain cases where, during the handling of complaints, communication from the office to the authority led to the rectification of the error or insufficient action and, therefore, an amicable settlement was reached.

Police

In a few cases, a police department decided to start a pre-trial investigation or continue a pre-trial investigation that had been dropped.

According to a report of an offence filed by a complainant, the complainant had rented a sub-let room to, among other purposes, store property in it. The main leaseholder was suspected of breaking into the room rented by the complainant and misappropriating some of the complainant's property.

The head of investigation had decided that the case did not involve an offence. The decision was justified by stating that this was a civil law dispute. The decision noted that the main leaseholder was entitled to take possession of the room, which was kept locked, and to tidy it up.

The Deputy-Ombudsman referred to the provisions on unlawful self-help in the Criminal Code. As according to the head of investigation's assessment this was a civil law dispute, and as no pre-trial investigation was conducted in the case, in the Deputy-Ombudsman's opinion the head of investigation could not, on the grounds stated in the decision, conclude in a legally sustainable manner that the main leaseholder had the right to clear out the room, take the complainant's property and sell it.

The Deputy-Ombudsman found that the head of investigation should have taken into consideration the fact that a possible eviction would be carried out by the enforcement authorities. For this part, the justifications of the head of investigation's decision were not legally sustainable. However, due to details that had come up in the case, the police department had ordered that a pre-trial investigation be carried out in the complainant's case. The Deputy-Ombudsman thus considered it adequate to draw the head of investigation's attention to his assessments for future reference (3885/4/14).

Criminal Sanctions

A complainant claimed that the prisoners in Riihimäki Prison had no access to the text of the Imprisonment Act (*vankeuslaki*, 767/205). The authorities justified their decisions by making appeal to provisions of whose contents the prisoners had no knowledge. The information obtained indicated that while the claims made in the complaint letter were true, the problem had been resolved.

The Substitute for the Deputy-Ombudsman welcomed the action of the assistant governor, who had personally gone to check the availability of the provisions, in this case the Imprisonment Act. However, the Substitute for the Deputy-Ombudsman felt it was important that the criminal sanctions supervisors and warders of the ward assimilate the requirements of the Imprisonment Act and take action on their own initiative when they observe that information about the prison intended for the prisoners or provisions intended for their use are not available in the common facilities of the ward.

In the opinion of the Substitute for the Deputy-Ombudsman, several copies of such statutes as the Imprisonment Act should be kept in closed wards, as due to the limited opening times of the cells, the prisoners usually have to bring the statutes into their cells in order to acquaint themselves with the provisions (4369/4/14).

Social welfare

The Deputy-Ombudsman launched an own-initiative investigation of how contacts or demands made by customers or their family members that can be interpreted as applications for home services are recorded in the customer information system.

After receiving a request for information from the Deputy-Ombudsman, the social welfare and health care services took action to ensure that the principles of good governance related to decision-making will be implemented. According to the information provided by the services, no separate application form is used in home care. A form of this type could help to clarify for the customers and their family members the different service options the social welfare services provide.

The Deputy-Ombudsman welcomed the fact that the social welfare and health care services had paid attention to receiving and identifying oral applications (1788/2/15).

In connection with a complaint, the Deputy-Ombudsman noted that a decision on service and customer fees issued to the complainant's aged mother was unclear and ambiguous in its content and expressions used. It was not possible to find out from this decision, at least not directly, what the care and support services provided for the complainant's mother included, whether fees would be charged for unused services, and how the rent to be collected was taken into account when calculating the customer fee share.

According to information obtained from the city's services for the elderly, "the services had recognised that changes were needed in the decision texts", and particular attention has been paid to the correctness, comprehensibility and clarity of customer decisions in the social welfare services. The city decided to update the decision models and templates used by it (2345/2/15).

The city, including its social welfare services, was also using instructions for appealing according to which "under the Act on Fees Collected for the Performances of Courts and certain judicial administration authorities, a court fee of EUR 97 may be charged to the appellant in the Administrative Court." These instructions were incorrect. Under the cited act, appeals related to the social welfare sector are processed free of charge at the Supreme Administrative Court and the Administrative Court.

The Ombudsman found the error in the instructions for appealing serious. The reference to the court fee may have influenced a social welfare customer who, when assessing whether or not a decision made by an authority was correct, may have given up on their right to appeal the decision of an authority because of the fee. The city reported that it had corrected the error and introduced appropriate instructions for appealing in social welfare services (4413/4/14).

In their complaint, the parents of children who had been taken into care expressed their dissatisfaction because despite the parents' opposition, contacts between the children and the parents had been restricted. When the customer plan was drawn up in January 2015, the children's father was consulted, and he would have preferred to have as much contact with the children

as before. This preference had been recorded in the customer plans.

The Deputy-Ombudsman finds that, as the child welfare services had not at that time made a decision to restrict contacts and given the parents instructions for appealing, the services had violated the Child Welfare Act. As the child welfare services in the joint municipal authority reported that they would make a decision on restricting contacts between the parents and the children, the Deputy-Ombudsman was contented to draw their attention to the matter (3017/4/15).

Health care

An elderly patient with severe hearing impairment was directed from the Hearing Centre at Tampere University Hospital (TaUH) to Kuulotekniikka for the fitting of a hearing aid. Kuulotekniikka is a private supplier providing outsourced services. The supplier sold the patient a hearing aid for the price of EUR 2,666. Kuulotekniikka led the patient to believe that the results obtained with TaUH's hearing aids would not be as good. The patient reported hearing very well with the aid and being able to make out what people said.

The Hearing Centre of TaUH recommended that the patient return the hearing aid to Kuulotekniikka and ask for a refund.

The Ombudsman proposed that the hospital district consider whether the matter could be settled without further action by the Ombudsman. In the settlement proposal, the hospital district was requested to contact the patient and report to the Ombudsman on whether a satisfactory and amicable settlement could be reached in the matter without delay. When assessing the case, the fact that the municipalities have a statutory obligation to provide medical rehabilitation aids and that the aids are free of charge to the patient had to be taken into consideration. The municipality or the joint municipal authority is also responsible for the implementation and quality of treatment procured as an outsourced service, and it cannot shift its obligation to organise services to another service provider.

For these reasons the Ombudsman did not, in his initial assessment of the case, find appropriate the solution recommended by the Hearing Centre, which advised the patient to return the hearing aid to Kuulotekniikka and ask for a refund.

According to the chief physician of the hospital district, whose area of responsibility include the treatment of ear and mouth diseases, directing the patient to a fitting of the hearing aid provided as an outsourced service was injudicious.

As a proposal for settlement, the chief physician suggested that the hospital district and Kuulotekniikka together compensate the complainant's father for the price of the hearing aid, or EUR 2,666. The medical director regretted the incident and indicated that more attention would be paid to transfers to outsourced services in the future. The medical director found the chief physician's proposal of compensating the price of the hearing aid to the patient jointly with Kuulotekniikka acceptable.

The Ombudsman welcomed the hospital district's positive attitude to his proposal for a settlement. As the hospital district reported that a settlement could be achieved in the case, there was no cause for the Ombudsman to take further action (2333/4/15).

Rights of persons with disabilities

According to a complaint, a person with a serious disability who needed an assistant could only purchase a ticket to Oulu City Theatre at the theatre building.

In the information it provided, the City Theatre noted that it wishes to serve all of its customers as well as possible. In the future, a free ticket for a disabled person's companion or assistant can be purchased not only at the ticket service of the City Theatre but also at the Oulu10 service point (no service fee), online and at all sales points

of Lippupalvelu Oy, where a service fee will be charged. According to the information provided, these changes will enter into force as soon as possible (1027/4/15).

Guardianship

In a response sent to the Ombudsman by a complainant, additional information was provided on both their application for benefits and other financial affairs that had not been brought up in the complaint. The Ombudsman sent the response together with his decision to the guardianship services office for information and requested that the office discuss the aspects brought up in the response with the complainant and, if possible, in the manner preferred by the complainant (3050/4/15).

Transport and communications

As a result of a complaint, the Finnish Transport Safety Agency had examined the processing practices of exemptions from age requirements laid down in the Driving Licence Act (*ajokorttilaki*, 386/2011) and reported that the current practice and the Agency's instructions on granting exemptions from the age requirements may be revised.

According to the Agency's views, the processing of exemptions from age requirements could already start when the customer is 16, or at the age when a person has the right to apply for a driving licence permit under the Driving Licence Act. Even in this situation, the applicant can only start taking driving lessons when he or she has turned 17 as stated in the driving licence act, but the actual application for exemption from age requirements could be processed earlier. The Agency also reported that it will provide more information and instructions on applying for exemptions from age requirements on its website (4147/4/15).

Education

According to a complainant, Helsinki City Library's policy of allowing dogs into the library restricts the possibilities of allergic customers of using the services. As a result of a request for information, Helsinki City Library reported on 30 November 2015 that it will take action to resolve this issue at the latest from the beginning of 2016. The City Library will make sure that in order to guarantee equal access to library service, libraries (general services, working facilities and reading rooms) where dogs are not allowed will be found around the city.

The library will also investigate if it were possible, with reasonable work inputs and costs, to provide more visible information on the HelMet.fi website on the libraries in which dogs are not allowed. It will also ensure that appropriate signs that either forbid dogs or welcome them to the library are in place on library doors.

According to the Deputy-Ombudsman, Helsinki City Library is a municipal service intended to reach several customer groups. By the actions described above, Helsinki City Library strives to reach different user groups equally while also providing information on its services as required by the criteria of good governance. The intention is not to impede visits to the library by any customer group.

The Deputy-Ombudsman found the corrective and adjustment measures of Helsinki City Library adequate and proportionate in terms of the rights of allergic customers on one hand and the possibility of bringing dogs into the library on the other (4595/4/15).

3.6 Special theme for 2015: The rights of persons with disabilities

3.6.1 INTRODUCTION

As with the previous year, the rights of persons with disabilities was a special theme chosen for 2015. The annual theme was included in all inspections and familiarisation visits as well as given attention in other activities, such as when considering investigations on Ombudsman's own initiative.

The theme of the rights of the disabled relates to the broader issue of equality. Equal treatment of people is one of the cornerstones of our legal system. The annual theme was also used to make preparations for the oversight task to be performed with ratification of the UN Convention on the Rights of Persons with Disabilities (hereinafter referred to as the Convention) and its Optional Protocol.

The purpose of the Convention is to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability as well as to promote respect for human dignity. In its new special task, the Parliamentary Ombudsman, Human Rights Centre and its Human Rights Delegation together constitute a National Human Rights Institution (Article 33(2) of the Convention), which promotes, protects and monitors implementation of the Convention.

3.6.2 THE RIGHTS OF PERSONS WITH DISABILITIES AS A SPECIAL THEME

One of the key cross-cutting themes of the Convention is accessibility, whose examination is also emphasised in the annual theme. The starting points for the theme were Article 9 of the Convention on the Rights of Persons with Disabilities, which provides for accessibility, full participation in aspects of life, and equal access to the physical environment, for example, and Article 19 of the Convention, which deals with inclusion in the community and the notion that community services and facilities for the general population should be available on an equal basis to persons with disabilities and be responsive to their needs.

On the Ombudsman's inspections, this meant giving attention to access to premises and facilities and the general surroundings and accessibility to information and private transactions from the perspective of different actors. A key idea was to investigate, in the spirit of the Convention, whether the environment restricted the participation, and activities of persons with disabilities.

In the oversight of legality by the Ombudsman, it has been found that the opportunities that persons with disabilities have to participate and deal with others on an equal basis are not always addressed satisfactorily by the various authorities and other agencies and parties. Particular problems may well have been in such areas as free movement and accessibility and the accessibility and delivery of services.

The theme form contained general questions aimed at all inspection sites, charting, among others, the accessibility of facilities, environment and the ICT environment as well as any reasonable accommodation made. The form could be used either so that it would be sent to the inspection site in advance or the matters specified on the form would be addressed in the inspection, wherever applicable.

A general observation made during inspections was that the knowledge possessed by different authorities and other agencies and parties within the purview of the Parliamentary Ombudsman's authority regarding obstacles to realising the rights of persons with disabilities varied. Some authorities made provisions for sign language, visually-impaired persons and the need for plain-language presentations for mentally disabled persons in their online services. Conversely, there were also authorities which were not accessible to persons with physical disabilities or whose online services did not take accessibility into consideration.

The reason that some services and facilities were inaccessible might have been that the charting of accessibility was still in its planning phase or that realisation of the rights of persons with disabilities had not been directly recognised. Some cases involved facilities where administrative matters requiring personal transactions were not carried out, which is the reason the facilities in question did not have any customer service areas. The theme raises general awareness about the issue and provides authorities and other agencies and parties incentive to consider ways to better meet the needs of persons with disabilities in a variety of ways.

Below is a summary of individual inspection findings, which are related to the theme from an accessibility and participation standpoint. These findings are categorised by administrative sector. The rights of persons with disabilities was also discussed during other inspections, particularly with regard to personal mobility and the availability of information. The report in section 3.3 deals with inspection findings made by the Parliamentary Ombudsman as a national oversight body which may also involve persons with disabilities.

3.6.3 ACCESSIBILITY IN ALL ITS FORMS

Accessibility refers to a living and working environment that can be used by all people. Where persons with disabilities are concerned, accessibility is a broad concept, including the needs of physically disabled people as well as those with visual, hearing and intellectual disabilities. Accessibility means different things to, for example, the physically disabled, sensory-impaired and intellectually disabled. The obstacles imposed by the built environment and barriers to movement result in unequal status among people.

People with disabilities can only use some of the services on offer in society and only take part in some of the activities that society provides due to inaccessibility in buildings and their surroundings. An accessible, unimpeded environment for people with disabilities is an absolute requirement if they are to lead an independent life and enjoy equal status. Accessibility involves the creation of a physical, mental, social, cultural and economic environment that can be fully and equally enjoyed by each and every person, regardless of their functional capacity.

Physically disabled people need ramps to bypass stairs and enough space to move about and turn when using a wheelchair.

For example, the mobility of visually-impaired people can be enhanced by floor markings that indicate passageways.

Environmental accessibility partly depends on the elimination of problems to do with communications and access to information. Interpreting services, communication aids and easy access to information (for example, using plain language) are vital factors for equality of persons with disabilities. The hearing-impaired can be assisted by means of hearing loops (induction loops), which

amplify sound and eliminate unwanted background noise. Easy to read Plain-language can be used to help in providing information to people with intellectual disability.

The Convention on the Rights of Persons with Disabilities is based on the notion that all activity must take account of the demands of accessibility across society, because this is often a prerequirement for the implementation of other rights. The Convention and the Non-Discrimination Act, which entered into effect in 2015, expand the obligations to make reasonable accommodations toward ensuring and protecting the equal treatment of disabled persons in individual cases. An adjustment might be, for example, installing a temporary wheelchair ramp at stairs or providing the visually-impaired with assistance in certain cases.

The following sections present some of the findings and solutions made during inspections of various administrative branches.

Social welfare

Inspections of institutions for the care of the elderly, other forms of social welfare, and residential units focused on the size of the rooms, accessibility and the mobility and communication aids that residents used. Accessibility to the entrances to, and the grounds surrounding, the residential units was also inspected. With regard to social welfare units, the issue was also raised as to whether rooms were satisfactorily equipped and had their own toilet facilities.

A special foster care unit for child welfare did not have any people using mobility aids, but, according to the staff, the use of such aids would not present a problem for placement in the unit. However, the facilities were considered to be cramped, such as for a person using an electric wheelchair (1020/3/15).

In children's home inspection, it was found that the outdoor areas of the home were not accessible and there was no way to enter the facility by, for example, wheelchair. In addition, the indoor facilities were on three floors. There were no lifts in the building, thus making it impossible to move between floors when using a wheelchair. The children's home did not have accessible toilet facilities (disabled WC) (1888/3/15).

It was not possible to enter the child welfare institution by, for example, wheelchair. The living quarters were located on the second floor and there was no lift access to it. There were no accessible toilet facilities (4985/3/15).

The child welfare institution entrance was not equipped with a wheelchair ramp. Physically disabled persons could not gain access to the family room directly through the entrance, nor were the family room toilet facilities accessible. Although the institution's hallways were cramped, moving about in a wheelchair was possible, if necessary. The institution did have toilet facilities which could be used by physically disabled persons. However, these facilities lacked accessibility aids (4986/3/15).

Inspections in institutions for intellectual disabled persons as well as rehabilitation and residence units revealed that the facilities made adequate provisions with regard to accessibility as well as in various ways for persons with sensory impairments. Conversely, in some of the inspected residence units for intellectually disabled persons, it was found that only people who did not have mobility aids at their disposal lived there (3806/3/15, 4632/3/15, 5154/3/15 and 5270/3/15).

One residence unit for people with different types of disabilities, and the building and grounds were primarily accessible. However, there was no specific disabled parking place (275/3/15).

The Parliamentary Ombudsman considered it important that meaningful and individual stimulating activities be organised for the residents and that possibilities for sufficient outdoor recreation be secured for them.

In many elderly care facilities, the indoor spaces and service centre entrance were found to be accessible (1907/3/15, 3152/3/15, 3153/3/15 and

4177/3/15). Other facilities, such as the operating unit washroom and sauna, were also found to be accessible; the washroom could also be accessed by bed patients (3152/3/15 and 3153/3/15). The hallways in a private hospice were amply fitted with handrails, thus enhancing the ability of the elderly residents to move about safely. On the other hand, the indoor facilities were considered inaccessible, because the unit had stairs, thresholds and area rugs. In addition, the facilities were poorly lit at the time of the inspection (3152/3/15).

In an inspection of an elderly service home, the ward nurse explained that the doors of the residents' room were so narrow that beds could only be taken out of the room by tilting them (4530/3/15). Another elderly service centre was, for the most part, accessible, but the toilets connected to the rooms in the demanding institutional care ward were not accessible with all mobility aids (4177/3/15).

The inspection also covered the surrounding environment and yard areas. A walking path with handrails to assist with mobility had been made around two elderly service centres (529/3/15 and 1907/3/15). During one inspection, it was found that the yard area was untended, making moving about unsafe. As a result, the yard area was deemed inaccessible (3152/3/15).

The front yard of the elderly service centre was flat and a disabled parking place was found in close proximity to the entrance door. In addition to this, there was a service bus line stop situated in front of the building (1907/3/15 and 4177/3/15).

The fenced terrace for the elderly residence unit was inaccessible to beds (door opening too small) and the threshold also posed problems for rollators (3153/3/15).

In the city child welfare inspection, children with disabilities and special needs as child welfare clients were discussed. According to the city, co-operation between child welfare and disabled services functions well and matters were addressed by a client steering group. The problem in this case was that there were no psychiatry services for persons with intellectual disabilities available in the area. Another problem was finding a suitable service living arrangement for persons with both a diagnosed intellectual disability and mental health and substance abuse problems. It is more difficult to find placement for disabled children that meets their needs.

The discussion also revealed that ensuring children's education and schooling requires a discussion on schooling prerequisites and places of study as well as co-operation between the placement and recipient municipalities (738/3/15).

Courts, the prosecution service and the police

In connection with a prison inspection, attention was given to the fact that personal accessibility was not possible in all cases. The prison had one lift and two accessible cells at the time of the inspection. Neither accessibility nor equal opportunities for participation were provided for disabled inmates, their relatives or any disabled staff members. According to a report, upon completion of its renovation at the end of 2016, the cell block would have a second lift and a disabled parking place would be reserved directly in front of the main entrance gate (862/3/15).

The responses given by the warden on the theme form indicated that, in the placement of inmates, attention was given to the fact that the inspected prison did not have any cells specifically intended for disabled inmates nor were any of the facilities otherwise accessible The prison was renovated in the 1990s, at which time accessibility had not been taken into consideration. The visiting area was, however, accessible by wheelchair. Accessibility issues related to sensory impairments had not been considered. The prison did not have an induction loop system, plain-language material or accessible website. There was an adequate number of disable parking spaces and the yard area was flat and paved. Renovation of the prison administration building was being

planned, in which the equal treatment of persons with disabilities was being taken into consideration (4337/3/15).

The prison family room (single room) was accessible to the extent that a physically disabled person could also be placed there (4475/3/15).

In the women's prison ward, there was a designated cell for persons with disabilities, which also had a more spacious toilet and shower room. The inspected disabled cell was spacious, but the lack of a hand shower made it much more difficult for the inmate with disability to maintain personal hygiene. It was explained to the inspectors that this shortcoming was also the case in all showers of the women's ward. As stated in Chapter 7(1) of the Imprisonment Act: "The prisoners shall have appropriate accommodation premises and washing facilities at their disposal" (4988/3/15).

The Deputy Parliamentary Ombudsman recommends that the prison re-introduce the subject together with Senate Properties.

In the police prison inspection, it was found that parking arrangements were difficult for persons with disabilities, because there were no guidelines set or mention made (*e.g.* on the police department website) concerning special parking arrangements. The outdoor exercise area on the roof of the police prison was inaccessible due to its difference in level, and there were no other special arrangements made to allow persons with disabilities access to outdoor activities. In addition, there was no induction loop installed in the police prison for hearing-impaired prisoners.

The inspection also revealed that there was not enough room left next to the bed in the cell for persons with disabilities, nor would an electric wheelchair have fit next to the bed. In the separate toilet/shower room of the disabled cell, a shower head was installed in the ceiling, but there was no shower chair or similar seat provided (584/3/15).

In response to the deficiencies found, the Deputy-Ombudsman decided to send the police department command an inspection report for the purpose of taking the necessary measures.

Accessibility was provided for in the facilities of the Finnish Prosecution Service Office local prosecution offices. The facilities of one local prosecution office were located on the second floor of the police department and courthouse building. The facilities were accessible by lift. In other local prosecution office, the facilities were located on the first floor of the police department and courthouse building (2144/3/15 and 4630/3/15).

The facilities of the National Police Board were not built or renovated in accordance with the concept concerning new facilities. Administrative matters requiring personal transactions were not carried out in the facilities, which did not have any client service areas. Individual complaints can be submitted in the lower entrance hall (5030/3/15).

Education

In the discussion concerning the consideration of students with disabilities, the differences between upper secondary school and comprehensive school as operating environments were brought up. There was a wide range of adjustments and support measures. The number of special arrangements to be made in matriculation examinations had increased, which might be attributable to the fact that problems are identified more effectively than before. Conversely, electronic matriculation examinations can also be seen as an opportunity to reduce the number of special arrangements (1820/3/15).

In the inspection of a school for students with special needs, it was found that the building was relatively new (built in 2005) and special attention had been given to the instruction of physically disabled and special needs groups. The school had spacious disabled toilet facilities. At the time of the inspection, the school did not have students requiring mobility aids, but communication aids were used a great deal. Documents received during the inspection revealed that situations requiring the physical restraint of

children arose frequently, the restraint was performed by faculty members in charge of the children's schooling, and weighted blankets were used to calm the children (1083/3/15).

During the Matriculation Examination Board inspection, the fact that there would be a need for different types of special arrangements for electronic matriculation examinations than are currently used was discussed. A stand was taken regarding accessibility in examination arrangements, and matriculants with disabilities could, for example, use their own personal aids when taking the examination. An information technology environment also created new types of problems for matriculants with disabilities, but it also created opportunities for eliminating the difficulties posed by disabilities (3990/3/15).

The upper secondary school did not have any aids or induction loops for hearing-impaired persons (3791/3/15).

Other authorities

In the inspection of the Consumer Disputes Board, attention was given to the fact that the entrance door was not accessible. In order to gain entry to the facilities, the visitor was required to ring a buzzer to open the entrance door. This buzzer was inaccessible to persons using wheelchairs. Representatives of the Consumer Disputes Board promised to address the shortcomings found. Plain-language gave cause for consideration, such as where the Consumer Disputes Board press releases and guidelines were concerned (941/3/15).

The Parliamentary Ombudsman confirmed that the authority had an obligation to promote accessibility in the built environment (see, for example, section 117 of the Land Use and Building Act, section 53 of the Land Use and Building Decree and the Decree of the Ministry of the Environment on Accessible Buildings - Finnish Building Regulations F1).

In the Jaeger Regiment (Guard) inspection, it was found that accessibility issues in the Finnish Defence Forces could, in most cases, apply to persons with hearing or mobility impairments. The garrison building stock was so old that accessibility could not be provided for without making special arrangements. Regiment command was unaware of any issues or problems related to accessibility (966/3/15).

In the Centre for Economic Development, Transport and the Environment (ELY Centre) inspection, it was found that accessibility had been addressed by making special arrangements, such as for parking facilities (1578/3/15).

In the inspection of an Evangelical Lutheran Church of Finland diocesan chapter, it was found that an induction loop had just been installed in the building. Movement from the chapter building's street level to its upper levels was not accessible, nor were the facilities accessible by, for example, wheelchair. If necessary, meetings and conferences could be arranged in the accessible chapel, which is located on the chapter grounds. The Central Administration of the Church was, at the time of the inspection, charting the parish building stock throughout the Church region, during which it would also be possible to give consideration to accessibility issues (3930/3/15).

According to a representative of the Synodal Office of the Orthodox Church in Finland, the accessibility of facilities can also be taken into consideration in renovation of the Church's properties (2001/3/15).

One of the parking spaces in front of the State Treasury was reserved for persons with physical disabilities. Extra handrails had been installed on the entrance stairs to assist persons with physical and functional disabilities. The entrance doors of the State Treasury were found to be so heavy, that persons using a wheelchair might have difficulty opening them on their own. In practice, it would also be difficult for persons using a wheelchair to pass through access control doors without assistance.

A representative of the State Treasury stated that the door opening mechanism must be changed, making them easier to use by persons using a wheelchair. With the exception of the second floor, all floors in the State Treasury had disabled toilet facilities. In addition, persons with visual impairments were assisted by the placement of a high-visibility warning strip on the top step of the stairs in the entrance hall. However, no special arrangements had been made for the visually-impaired, such as with lighting or the marking of passageways. The State Treasury had ensured the accessibility of online transactions for the visually-impaired with a screen reader program. The State Treasury did not have a separate operating policy with regard to direct sign language customer service situations, nor did its website offer any sign language materials. There was an induction loop in the reception area.

The work assignments for a severely hearing-impaired State Treasury employee were tailored to allow the employee to most duties using a computer. Sign language interpreters were on hand at meetings and training sessions, and special arrangements were made in extraordinary situations. The State Treasury intended to move to a new facility in the near future, at which time its accessibility could be re-evaluated (2119/3/15).

In the Airport Customs inspection, it was found that Finavia plc had drafted a training video for taking accessibility into consideration at the airport (2293/3/15).

The facilities of the Center for Interpreting Services for the Disabled offered complete accessibility. In addition, the functionality of colour and soundscapes was taken into consideration in co-ordination centre offices and remote interpreting rooms. An induction loop was used in the service team corridor. Accessibility was also taken into consideration in various customer service channels (*e.g.* remote service). The communication languages of Center for Interpreting Services for the Disabled clients were taken into consideration on the website (3701/3/15).

According to the city Head of Communications Unit, the city's website was the first in Finland to undergo an accessibility evaluation. The updated responsive web pages were launched in October 2015. The web pages are suitable for use with aids used by persons with disabilities, and special attention was given to visually-impaired persons in their design. At the time of the inspection, there were no plain-language materials available, but, for example, texts will be translated from plain-language texts into English. In social services for the disabled, the service plan had already been translated into plain-language and fully electronic applications were in use (4679/3/15).

The current Finnish Motor Insurers' Centre facilities were inaccessible and require the installation of an access ramp. The Finnish Motor Insurers' Centre is moving to a new facility in June 2016, where accessibility has been taken into consideration (4802/3/15).

The Traffic Accident Board inspection revealed that statements are processed in written form. A majority of the documents are sent by mail or email. There are plans to make online transactions easier. The Traffic Accident Board office building was completed at the turn of the millennium. The building entrance door was heavy. Offices could also be accessed by wheelchair, because the building had a spacious lift. Clients rarely conducted their business at the Traffic Accident Board in person. Clients using wheelchairs have visited the Traffic Accident Board building only two times over the past 13 years. Disabled parking was available in close proximity to the building entrance door. The Traffic Accident Board stated that it would monitor any future needs for improvement and take the necessary measures (4803/3/15).

Since 2008, the Administrative Court of Eastern Finland had been operating out of a temporary facility, which was lacking in terms of accessibility. Although the street-level entrance was accessible, the entrance door was not equipped with an opening or call button, or any other, equivalent

system. The second floor was accessible by lift, but many of the Administrative Court's rooms had thresholds.

Wheelchair users usually needed assistance to enter rooms. The facilities were not equipped with an induction loop. One Administrative Court employee used a wheelchair. This employee was given a private parking space and was able to move about freely, such as using the lift. The Administrative Court will be moving into its new facilities in 2016, which are based on the most recent facility concept. The facilities will offer the appropriate accessibility (4554/3/15).

In the inspection, the Parliamentary Ombudsman used the Turku Court of Appeal as an example of good practices in two aspects. The Turku Court of Appeal had specifically appointed a person to oversee accessibility matters, in addition to which the Court website described its physical facilities and accessibility arrangements.

3.6.4 INCLUSION AND PARTICIPATION

A general principle according to Article 3 of the Convention on the Rights of Persons with Disabilities is full and effective participation and inclusion in society. The Convention emphasises the importance of the insistence on equality and the prohibition of discrimination in society, where persons with disabilities are able to live among the rest of the population.

The Convention makes it very clear that the participation of persons with disabilities in all policy-making (Article 4, paragraph 3) that concerns them and the monitoring process that relates to them is an absolute requirement (Article 33, paragraph 3). The new emphasis on the importance of self-determination and inclusion is what sets this Convention apart from previous human rights agreements.

An inspection of the city's basic education services revealed that an effort was made to include children with learning difficulties in mainstream classes, while providing addition instructional support (3792/3/15).

Article 29 of the Convention guarantees that: "...persons with disabilities can effectively and fully participate in political and public life on an equal basis with others." In practice, this means ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use. In addition, the right of persons with disabilities to vote using a secret ballot must be protected.

Detailed instructions issued to the Election Unit of the Ministry of Justice for the holding of parliamentary elections in 2015 contained detailed guidelines for central election committees to ensure accessibility in voting procedures.

The purpose of the unannounced inspection ordered by the Parliamentary Ombudsman was to determine the accessibility of randomly selected advance polling stations as well as the general station arrangements and smoothness of voting. In unannounced inspections carried out by the Office of the Parliamentary Ombudsman, a number of shortcomings related to accessibility and the secrecy of ballots were discovered at advance polling stations in Helsinki, Espoo and Vantaa.

One advance polling station could only be accessed by two high steps, thus making it impossible for a wheelchair user to enter the polling station to vote without assistance. In practice, the steps and narrow door prevented or at least made it considerably difficult for other persons using mobility aids or prams to gain entry to the polling station. Some other advance polling stations had high thresholds (or steep ramps), which impeded access to the polling station. In addition, the signage in some of the advance polling stations was also lacking.

Some of the advance polling stations offered voters in wheelchairs a lap-mounted writing platform fitted with a privacy screen. However, the privacy screen was so low that a person standing next to the voter could easily view their ballot. A separate table had been reserved for voters in wheelchairs, however with no arrangements to

protect their privacy. According to a polling clerk at one polling station, persons with disabilities could vote on the corner of the polling clerk's table. According to another polling clerk, a voting booth had been moved to provide privacy, and sometimes during busy periods this voting arrangement was also offered to others. The fact that polling clerks assisted voters requiring assistance in casting their ballots was a positive (1802/3/15*).

Because every advance polling station in the city seems to have had shortcomings in both accessibility and ballot secrecy, the Parliamentary Ombudsman, on his own initiative, decided to investigate the election arrangements in Helsinki, Espoo and Vantaa.

The Parliamentary Ombudsman inspected seven advance voting stations in Helsinki, Espoo and Vantaa. The photo shows the entrance to Rauhankatu Post Office in Helsinki.

3.7
Statements on fundamental rights

3.7.1
FUNDAMENTAL AND HUMAN RIGHTS IN OVERSIGHT OF LEGALITY

The following text contains a report of the observations concerning implementation of fundamental and human rights that the Ombudsman made in the course of oversight of legality. This section provides a summary of examples concerning decisions made by the Ombudsman in cases involving rights which are safeguarded by Sections 6–22 of the Constitution. The observations are primarily based on complaints and own-initiative investigations on which decisions were issued during the year under review as well as on information that came to light in the course of inspection visits. The statements presented in this section are mainly those specifically justified on the basis of fundamental rights norms.

The contents of each fundamental right are explained in annual reports from previous years (see *e.g.* section 3.7 in the Annual Report 2014).

3.7.2
EQUALITY, SECTION 6

The Faculty of Medicine at the University of Helsinki favoured students who had completed the advanced syllabus in Swedish by granting them three additional points in the annual intake quota for students who have completed the upper secondary school matriculation examination. Linguistic group only allows for a limited departure from the admission criteria that must be consistent with regard to all applicants. The scope of the deviation cannot be extensive, and it has to be proportionate to the special needs of the linguistic group in question and the feasibility of meeting them. The act of granting additional admission points for prospective medical students who have completed the advanced syllabus in Swedish in upper secondary school was considered double positive discrimination of Swedish-speaking students because the university also had a separate language quota for Swedish-speaking students (1071/4/15*).

Prohibition on discrimination

Efforts had been made to make it easier for persons with physical disabilities to access the legal aid office by instructing customers using a wheelchair to call the legal aid office switchboard to have someone come downstairs to put in place an aluminium wheelchair ramp. After that, the lift and customer service areas are accessible by a wheelchair. For the call, the caller will be charged the local network fee or mobile call fee determined by his or her operator.

Because people using a wheelchair are required to make a phone call to access the customer service area, they are effectively not treated equally with those who can enter through the door without assistance. Making a phone call also requires a person in a wheelchair to have a mobile phone or access to some other means of calling the indicated number, which also involves costs (3181/4/14).

The right of children to equal treatment

Even though the parents of a child enjoy the right have their conviction respected, at the same time the question also concerns the rights of the child. Fundamental rights apply equally to children. The Convention on the Rights of the Child particularly emphasises the right of the child to freedom

of religion, adding that parents can provide direction to the child in the exercise of the right in a manner consistent with the evolving capacities of the child. However, the views of the child must be taken seriously: Article 12 of the Convention safeguards the right of a child who is capable of forming his or her own views to express those views freely in all matters affecting the child. The right also applies to matters concerning religion (2469/4/14*).

3.7.3 THE RIGHT TO LIFE, PERSONAL LIBERTY AND INTEGRITY, SECTION 7

Personal integrity and security

Tying down a patient in psychiatric hospital care is a more serious violation of his or her personal integrity than forcible holding or isolation. Using restraints may also involve health risks for the patient. Therefore, tying down is only allowed in the most severe situations. Psychiatric hospitals must also have facilities for isolating a patient in a separate room (160/4/14).

The social services and health care department of a city neglected its responsibility for organising and supervising services, which resulted in a violation of a child's right to personal integrity, as safeguarded by the Constitution. A child in substitute care had been repeatedly and cruelly abused by other children. The child had been forced to eat slugs and drink urine and he had been spat in the mouth, burned with cigarettes and beaten with an electric cable (2686/4/14).

Prohibition on treatment violating human dignity

The human dignity and personal liberty of a patient locked in a hospital secure room had been violated because she had to relieve herself on the floor and because it was apparent that the isolation had lasted longer than necessitated by the state of emergency and had for that part not had any legal basis (3721/4/14*).

Placing a prisoner in a cell for temporary occupation only three hours after she gave birth was inhuman, put her health at risk and violated her human dignity. The cell had no sanitary facilities, and the prisoner had no possibility of looking after her personal hygiene (2465/4/14).

In end-of-life situations, medical treatment should be based on respecting human dignity. A prisoner in terminal care should not be kept in prison. Instead, he or she should be placed in a health care unit, including Prison hospital, or in home care. If for some reason, the prisoner stays in prison, the prison must ensure that the family and friends of the dying prisoner are given the opportunity and enough time to say their goodbyes (if the prisoner so wishes). Such measures are also part of good end-of-life care (625/2/12).

3.7.4 THE PRINCIPLE OF LEGALITY UNDER CRIMINAL LAW, SECTION 8

During the year under review, no significant decisions were issued regarding the principle of legality under criminal law.

3.7.5 FREEDOM OF MOVEMENT, SECTION 9

Restricting the freedom of movement of a patient in voluntary care is a restrictive measure that can be taken on the basis of the individual's consent. In such instances, however, the patient must be capable of giving his or her consent. Moreover, the consent must be based on sufficient information, and it must be voluntary and given in advance. The content of the consent must also be sufficiently precise. The person giving his or her consent should also understand the meaning and content of the consent. The person must also have the right to withdraw his or her consent at any time (4215/4/14).

3.7.6 PROTECTION OF PRIVACY, SECTION 10

Respect for the privacy of home, protection of family life and confidentiality of communications

A special search of a domicile, as laid down in the Coercive Measures Act, means a search conducted in premises where the object of the search may reveal for example information that is subject to a prohibition from giving evidence. In a special search, the object of protection is not the premises but the obligation of or right to secrecy (2657/4/14).

Protection of privacy

Immediate guarding by two warders while a prisoner gave birth was considered excessive. Moreover, there were no conclusive justifications for why one of the warders had to be male. At the very least, he should not have been present during childbirth even though efforts had been made to improve the protection of the prisoner's privacy with screens and the location of the guards. All in all, the childbirth arrangements violated the prisoner's private life (2465/4/14).

3.7.7 FREEDOM OF RELIGION AND CONSCIENCE, SECTION 11

Everyone has freedom of religion, including prisoners and other persons deprived of their liberty. In prison settings, the right to practise religion is emphasised as one of the rights of a prisoner. As a rule, prisoners are not able to participate in practising a religion outside the prison walls. Thus, the positive actions taken by prison authorities to ensure the implementation of freedom of religion are emphasised from a prisoner's viewpoint, both in terms of positive and negative aspects. Under the Imprisonment Act, a prisoner's right to participate in religious gatherings can only be restricted by certain individual reasons concerning supervision and security.

In certain closed wards, participating in a religious service prevented a weekend visit. A prisoner is entitled to have visitors as well as practise his or her religion. The fact that these two were mutually exclusive or competing activities lead to the unequal treatment of prisoners in different wards: in some wards, prisoners had to sacrifice either their right to practice religion or the right to have visitors (570/4/15).

3.7.8 FREEDOM OF SPEECH AND PUBLICITY, SECTION 12

Freedom of speech

The freedom of speech enshrined in the Constitution includes the right to express, publish and receive information, opinions and messages. An individual's ability to express and receive messages and information without ambiguity is a precondition for the proper realisation of the freedom of speech. On the other hand, the right to have one's case dealt with appropriately is part of legal protection.

In the Parliamentary Ombudsman's view, these rights may have been at risk due to the confusion caused by the handwriting letterforms approved by the National Board of Education in 2004. Because some of the numbers and letters are open to various interpretations, students may be misunderstood and their messages and school assignments may therefore not be evaluated in the meaning intended by the students. This possibility of confusion when writing by hand may lead to students' legal protection being compromised, for example, in the matriculation examination and other similar exams or in entrance examinations to various educational insitutions (2463/2/11*).

In the case of public servants, the main rule emphasising freedom of speech, as laid down in

Section 12 of the Constitution, must be reconciled with general official duties. The general official duties laid down in the Public Servants Act, particularly the non-disclosure obligation, the obligation guiding the behaviour of public servants and the obligation to perform public service duties, have been considered to restrict the freedom of speech of public servants. The limitations imposed by the first two obligations also extend to activities outside the public servant's official duties. When determining the limits of a public servant's freedom of speech, his or her position and the role in which he or she has expressed an opinion are also taken into account. If an opinion has been expressed as a private person, limitations on the freedom of speech should be least restrictive (59/4/14).

Publicity

A shareholder in a company subject to restructuring measures had requested documents that a court had already ruled to be secret. The shareholder was informed that he does not have a right of access to information as a party in the matter. This was not a response to the actual grounds for secrecy. The district court judge had been informed of the complainant's repeated requests to receive a specific ruling on his request for documents. However, the judge never provided the complainant with the district court's response. The conduct violated the principle of public access to official documents and the Act on the Publicity of Court Proceedings in General Courts, which gives the principle a concrete form (2710/4/15).

Even though the Deputy-Ombudsman considered it was justified to publish information about a snowmobile accident with three casualties, specific details of the accident should not have been disclosed. As the investigation had only started, the police could not have had definite knowledge of the place and manner of collision. Announcing the manner of collision immediately after the event was unnecessary for advancing the investigation, and it did not promote the principle of public access to information or the openness and transparency of police activities. As the information was later proven incorrect, it had caused suffering to the family of the deceased. It would have sufficed to inform the public of the fact that an accident had taken place and of the consequences that were known and disclose further details only after facts had been confirmed in the investigation (1046/4/14).

3.7.9 FREEDOM OF ASSEMBLY AND ASSOCIATION, SECTION 13

During the year under review, no significant decisions were issued regarding the freedom of assembly and association.

3.7.10 ELECTORAL AND PARTICIPATORY RIGHTS, SECTION 14

The procedures followed in providing conscripts with an opportunity to vote should be such that there is afterwards no uncertainty as to whether all individual conscripts or groups of conscripts had the opportunity to use the fundamental right (3068/4/14).

3.7.11 PROTECTION OF PROPERTY, SECTION 15

A guardian had commissioned a thorough cleaning of the home of a principal under guardianship without visiting the apartment. In practice, a lot of property found in the apartment had been disposed of in the cleaning operation. In such situations, guardians should make personal observations about the apartment and property involved in individual measures. Particular attention should also be given to the documentation of the measures (605/2/14).

3.7.12 EDUCATIONAL RIGHTS, SECTION 16

According to the Constitution and international human rights conventions, each person has the right to basic education free of charge. Public authorities, including municipalities, have a duty to guarantee that all children within Finland's jurisdiction have the subjective right to basic education. For example, economic and financial reasons do not limit the responsibility of public authorities, and expediency cannot be prioritised over the child's interests.

To ensure the full implementation of the right to free basic education, enshrined as a fundamental freedom, education must be organised in a manner that ensures that all pupils have an equal right to education in accordance with their age and abilities and to receive support for learning and schoolgoing in accordance with the Basic Education Act. Under the Basic Education Act the provision of instruction that prepares for basic education and is organised in conjuntion with basic education is at the discretion of municipalities. Nonetheless, practical arrangements and the related decisions concerning an individual child must always be primarily based on the child's best interests, information concerning the child in question and case-by-case consideration. The principles of equality and non-discrimination also guide and limit the discretion of the education provider in decisions concerning partical educational arrangements.

A municipality has an obligation to provide basic education to children residing in its area regadless of their legal status or whether they have the required residence documents. As an education provider, a municipality also has an obligation to interpret all provisions in a manner that promotes the implementation of fundamental and human rights. Moreover, it should in all its decisions opt for the solution that in the specific case best supports the implementation of the child's and the pupil's human rights. These interpretation principles are even more important in the case of children who travel from country to country with their parents and are often in a particularly vulnerable position and at risk of discrimination (1633/4/14).

The education department of a city refused to issue a promissory note as a commitment to pay for education organised for a young person who was in hospital in another municipality. The pupil was over the compulsory school age.

Guaranteeing the rights enshrined in Section 16(1) of the Constitution is not exhaustively regulated by the Basic Education Act. One of the basic principles of the UN Convention on the Rights of the Child is that the best interests of the child shall be a primary consideration. This principle must always be taken into account when implementing other rights guaranteed by the Convention. In Finland, the Convention applies to all children under the age of 18. The equal right to education is a basic fundamental and human right, and its full implementation is important also to ensure that other fundamental and human rights are implemented.

In this particular case, the child's municipality of residence had ensured that the child can complete basic education by agreeing to retroactively pay for the child's education. The commitment covered the costs incurred by the other municipality from providing education to the child until he turned 18 (5002/4/14).

3.7.13 THE RIGHT TO ONE'S OWN LANGUAGE AND CULTURE, SECTION 17

The safety of patients is connected to the right to life, security and adequate health and medical services enshrined in the Constitution. Public authorities must guarantee the implementation of these fundamental rights. Thus, the information required by safe prescription practises should be made available in both national languages (5498/4/14).

3.7.14 THE RIGHT TO WORK AND THE FREEDOM TO ENGAGE IN COMMERCIAL ACTIVITY, SECTION 18

Under the Act on Public Employment and Business Service, employment and economic development offices must arrange the first interview for a jobseeker within two weeks of the beginning of jobseeking, unless this is obviously unnecessary with regard to his or her circumstances. Moreover, an employment plan must be drawn up for the jobseeker within the same period of time. The Deputy-Ombudsman criticised the offices for not being able to meet the deadlines due to backlogs. Complying with the statutory deadlines helps to promote the implementation of everyone's right to work (3074 and 4395/4/14).

3.7.15 THE RIGHT TO SOCIAL SECURITY, SECTION 19

The right to indispensable subsistence and care

Special attention must be paid to organising and guaranteeing the services and support measures needed by persons with severe disabilities and persons with intellectual disabilities, who are in a vulnerable position, and to providing information on any changes in the services. This also applies when municipalities combine, close down or reorganise their services for savings-related or other reasons. Under the Constitution, everyone has the right to receive indispensable subsistence and care. Public authorities must ensure that fundamental and human rights are also implemented in practice (5485/4/14).

The service needs of vulnerable persons (*e.g.* persons with severe disabilities or elderly persons) must be assessed and the availability of those services must also be ensured during an appeal process. This may entail, for example, providing services at home (*e.g.* home help and home care) to guarantee the implementation of the right to indispensable care (3262/4/14).

The right to adequate social welfare and health services

A practice in which a municipal health centre categorically refuses to refer a patient to laboratory test to determine whether or not she is pregnant does not constitute the provision of adequate health services as referred to in the Constitution (2970/4/14).

The substitute care of a child placed in a children's home must be organised in an individual manner taking into account the child's best interests and rights. Whether the substitute care is provided as special care or some other form of care does not influence the municipality's obligation to arrange substitute care in accordance with the child's individual needs and to organise the related supervision and care (2696/4/14).

3.7.16 RESPONSIBILITY FOR THE ENVIRONMENT, SECTION 20

In a matter concerning the environmental permit of a motocross track, the consultation process and the publication of the decision had been carried out during winter in accordance with the minimum requirements laid down by law. However, information about the pending application and the decision issued did not reach the summer residents of the area. The Deputy-Ombudsman cited, for example, Section 20(2) of the Constitution, which states that the public authorities shall endeavour to guarantee for everyone the right to a healthy environment and the possibility to influence the decisions that concern their own living environment. As the complaint concerned an old case and the parties concerned had already used all modes of extraordinary appeal available, the Deputy-Ombudsman could not help in the

matter. The Deputy-Ombudsman provided guidance on how to lodge a monitoring matter with the municipal environmental authorities if the terms and conditions of the permit are violated (5406/4/14).

3.7.17 PROTECTION UNDER THE LAW, SECTION 21

The protection under the law associated with an official procedure has traditionally been a core area of oversight of legality. Questions concerning good administration and fair trial have been the focus of the Ombudsman's attention in various categories of cases most frequently of all.

The right to have a matter dealt with and the right to effective legal remedies

All protective and restrective measures taken under the act on intellectual disabilities (*laki kehitysvammaisten erityishuollosta, 519/1977*) should be based on a formal decision that can be refered to a court of law. To enable effective access to legal remedies, the parties concerned must be immediately notified of the decision (3001/4/14 and 3851/4/14).

The Finnish Transport Safety Agency (Trafi) acted incorrectly when it did not issue a written decision on an application for an exemption from the age requirements of a driving licence and did not provide instructions on lodging an appeal. The complainant had received a letter stating that the application could not yet be filed due to the internal practices of the agency. A decision should have been issued at the latest when the complainant had – after receiving the letter – requested in writing that the matter be reprocessed (4147/4/15).

In a decision concerning a complaint, a regional state administrative agency had intervened in a case in which a health care authority had neglected to reply to an objection. However, the agency had not sufficiently monitored the implementation of its guidelines requiring a response to an objection (1729/4/14).

In one case, it remained unclear whether the injured party had been informed of the decision to discontinue a pre-trial investigation. The attention of the head of the investigation was drawn to the fact that all decisions sent must be recorded (1407/4/14). A pre-trial investigation concerning the theft of property worth approximately EUR 500 was terminated without any investigative actions, even though the matter could have been investigated on the basis of the information included in the report. The decision did not mention the fact that the pre-trial investigation had been discontinued, and the decision had not been sent to the injured party (2310/4/15).

Expeditiousness of dealing with a matter

In one case, the pre-trial investigation of a series of assaults in which the victim was a child had been delayed by more than three years. The pre-trial investigation unit of the police station in question had a backlog of cases. The police department was asked to report measures taken to ensure the expeditiousness of pre-trial investigations in cases in which the victim is a child (2263/4/15).

Recompense for delays in legal proceedings is also possible in administrative courts in new cases initiated after June 2013. In its decision KHO 2015:139, the Supreme Administrative Court disregarded the restriction concerning the entry into force of the new rule and dealt with a recompense claim concerning a case iniated already in 2012.

The Deputy-Ombudsman proposed that the Tax Administration and State Treasury pay compensation for a violation of the right to an effective remedy because the implementation of a final decision of the Administrative Court had taken 17 months (976/4/15).

A complainant had unsuccessfully tried to contact the data protection officer of a city's department for social services and health care to

enquire about the current stage of processing of his log data request. In the Deputy-Ombudsman's view, it would have been reasonable to provide information about the processing time already when the department received the request (221/4/14).

It took 19 months for the Gambling Administration Department of the National Police Board to issue a recommended decision in accordance with the Lotteries Act. Considering the purpose of the process, the processing time was far too long (462/4/15).

During the year under review, there were once again instances of a forensic pathologist failing to draw up documents concerning the determination of cause of death by the statutory deadline due to an excessive work load (164/4/15 and 3009/4/14). The Parliamentary Ombudsman has decided to investigate on his own initiative the state of the process of determining the cause of a person's death.

There were several complaints concerning long processing times at the Consumer Disputes Board. Processing times have become longer despite the Board's aim to reduce them. The main reasons for the long processing times are the Board's work load and its resources, which are insufficient for the current procedure (4826/4/14).

Publicity of proceedings

Questions relating to publicity of proceedings arise mainly in the context of oral hearings in courts of law. Another basic situation, relating to the implementation of requests for documents and information, is dealt with under the heading of Section 12 of the Constitution.

Hearing an interested party

Receiving or having a guide dog is not a subjective right. A guide dog can be removed from a person due to a breach of terms and conditions and for animal welfare reasons. Before the dog is removed, however, the person must be given information about the situation in writing in accordance with the Act on the Status and Rights of Patients and he or she must be given an opportunity to be heard in accordance with the Administrative Procedure Act (350/4/14). The Finnish Transport Safety Agency consulted its stakeholders in a major matter concerning the reorganisation of Finnish air space only 2,5 months before the relevant acts and decisions were due to enter into force (49/4/14).

Providing reasons for decisions

The right to receive a reasoned decision is safeguarded as one component of good administration and a fair trial in Section 21(2) of the Constitution. It is not enough to announce the final decision; instead, the interested parties also have the right to know how and on what grounds the decision has been arrived at. The reasons given for a decision must express the main facts underlying it as well as the regulations and orders. The language in which the decision is written must also be as understandable as possible. Reasoning is important from the perspective of both implementation of the interested parties' protection under the law and general trust in the authorities as well as in terms of oversight of official actions.

Appropriate handling of matters

In a case concerning indoor air problems at a school, the Deputy-Ombudsman emphasised that the competent authorities must inform the public of what they know about the adverse health effects and causes of moisture and mould damages at a given time. It is equally important to tell what is still unclear and unknown when the matter is being investigated. The confusion and uncertainty associated with the theme are a sign of poor administration and a lack of control over the situation (5088/4/14).

From the informal feedback it receives from patients, a hospital should be able to identify issues that are significant enough to be dealt with as objections in accordance with the Act on the Status and Rights of Patients and therefore be forwarded to the managerial level (216/4/14).

An investigator at a police department was considered to have been negligent because it took him several months to inform the licence supervision unit of the fact that a person holding a firearm permit was suspected of an aggravated assault (1207/4/15).

The Deputy-Ombudsman conducted an own-initiative investigation into a project concerning the VITJA information system of the police, which failed to meet the original deadline set by Parliament. The VITJA project was launched on 1 April 2009 and it was originally due to be completed by 31 December 2013. According to the Deputy-Ombudsman, many issues that play an essential role for legal protection and information security received little attention in the preparation of the major ICT reform. For example, the log system that incurred major costs was apparently not originally ordered from the supplier. Moreover, it remained unclear how the management of user rights was to be implemented in the vast mass of data that would have included all the different information systems used by the police. It was also unclear how issues related to the life span of data were to be solved, including archiving and the deletion of outdated data (4765/2/13*).

Other prerequisites for good administration

Under a legal provision on competence, the Tax Administration had issued a decision that limited the implementation of the obligation to report information related to construction projects only to electronic format. The act imposed a significant penalty charge on those who failed to submit their reports in the manner required by the Tax Administration. According to the Deputy-Ombudsman, the provision on competence in the relevant act should be interpreted in a narrow sense because public power exercised by an authority must remain within the limits Parliament has specified in an act, and this power may only be exercised by virtue of an act adopted by Parliament. Thus, the Tax Administration had exceeded its powers (4653/4/14*).

Guarantees of protection under the law in criminal trials

According to the Deputy-Ombudsman, the opportunity to lodge an appeal with a court concerning a prohibition against revealing information as laid down in the Criminal Investigations Act would be justified. As the freedom of the suspect and his or her counsel to organise the defence in the manner they see fit can be restricted by imposing a prohibition against revealing information, the right of appeal would be an appropriate counterbalance. Prohibitions have been imposed without specifying the matters that are subject to the prohibition, and they may prevent the defence side from contacting witnesses (2379/2/14).

A press release issued (175/4/14) and an interview statement given by the police (5019/2/14) violated the presumption of innocence.

Impartiality and general credibility of official actions

In compliance with a rule crystallised by the European Court of Human Rights, it is not enough for justice to be done; it must also be seen to be done. What is involved in the final analysis is that in a democratic society all exercise of public power must enjoy the trust of citizens.

A provision concerning the qualifications of teachers has been subject to a relatively narrow interpretation in the oversight of legality to ensure the legal protection of pupils. In one case, a person without the required qualifications had been appointed as principal of a comprehensive school. The appointment was against the law, and

the actions of the municipality did not appear to be objective in the eyes of an external review (2698/4/14).

A counsellor of education at the Ministry of Education and Culture, who is also a member of the Board of the Finnish Evangelical Lutheran Parishes' Centre for Child Work, promoted the Centre's Hymn Quiz project by sending a related information notice to schools. The counsellor of education should have understood that he was subject to disqualification in the matter. Disqualification on the grounds of a position in an organisation prohibits situations in which the organisation that the public servant represents is due to gain specific benefits because of his or her actions. The existence of grounds for disqualification should also have been evaluated with a subjective impartiality test. Moreover, it should have been taken into account that the notice also included operational recommendations that could be considered as practising a specific religion and thereby partially violating the fundamental right of freedom of religion (3657/4/14).

The Sibelius Academy employed as a professor with a contractual employment relationship a person who had not completed a doctoral degree, as required in the job announcement, by the end of the application period. The applicant was the only one to be granted a grace period. The procedure was against the law in terms of the good governance required in the Universities Act and the principle of equal treatment enshrined in the Constitution. The Deputy-Ombudsman proposed to the Ministry of Education and Culture that the Universities Act be amended to specify the procedure for filling the posts of professors (3177/4/14).

Behaviour of officials

The public guardianship services of a legal aid office had drawn up for internal use a list of principals including information on their matters that were being seen to as well as characterisations of their personalities and features. Some of the expressions used were very negative and did not comply with the requirement of proper language included in the principles of good governance (726/4/14).

An assistant enforcement officer had sent an e-mail to a person under an obligation to provide information. The message gave the impression that the authorities could immediately implement coersive measures if the person in question did not come to the enforcement inquiry. The message conveyed a false idea of the use of coercive measures, and it did not meet the requirement of proper language included in the principles of good governance (2422/4/14).

3.7.18 SAFEGUARDING FUNDAMENTAL RIGHTS, SECTION 22

Section 22 of the Constitution enshrines an obligation on all public authorities to guarantee the observance of basic rights and freedoms and human rights. The obligation to safeguard can also presuppose proactive measures. The general obligation to safeguard extends to all provisions with a bearing on fundamental and human rights.

The obligation to safeguard fundamental rights can also be considered to include the equivalent requirement of Article 13 of the European Convention of Human Rights on the right to an effective remedy in cases of violations of fundamental rights. These also include the availability of compensation in cases where the violation of fundamental rights can no longer be prevented or rectified. The Ombudsman's recommendations on compensation are detailed in section 3.5 of the report.

In a case concerning non-discrimination in car taxation, the Deputy-Ombudsman concluded that EU Member States should promote the Union's objectives and refrain from measures that may compromise them. Because of this duty of loyalty, the authorities responsible for drafting and implementing legislation have an obligation to carefully consider the impacts of their measures in relation to the effective implementation

of EU law. This also applies to evaluating the appropriateness of the grounds of appeal when an authority appeals a decision, if the appeal process may delay the implementation of EU law. The matter should also be considered in terms of implementing the fundamental rights of taxpayers. Not taking action without undue delay – for example by informing the party concerned of the legal remedies available – may jeopardise the implementation of taxpayers' rights and the principle of non-discrimination. This is particularly clear in cases in which the party concerned could have missed the opportunity to claim for adjustment because the prescribed period had expired (786/4/14*).

The administration of the orders of Finland was established in 1942 by a presidential decree. Parliament's Constitutional Law Committee is of the view that the rules (*kansliasääntö*) of the office of the orders should be adopted in the form of a decree (PeVL 9/1995 vp). This has not been feasible because the President of the Republic no longer has the power to issue decrees. With respect to Section 22 of the Constitution, the situation is unsatisfactory for the public servants or other staff. The Deputy-Ombudsman has proposed that the Prime Minister's Office draft the legislative amendment concerning the office of the Finnish orders (2175/4/15).

3.8 Complaints to the European Court of Human Rights against Finland in 2015

A total of 177 new applications were brought against Finland at the European Court of Human Rights (ECHR or the Court) in 2015 (185 in the previous year). A response from the Government was requested to 6 complaints (8). After the turn of the year, only 14 cases were still pending (146).

The ECHR's amended rules of procedure, which came into force from the beginning of 2014, impose more stringent preconditions for lodging applications. The applications must now be lodged using the form prepared by the ECHR Secretariat and the requested information must be provided, in addition to which the application must contain copies of all documents relevant to the case. The Court will not examine a complaint that does not contain the requisite information or documents.

Finland has approved the bringing into force of Protocol No. 15 to the European Convention on Human Rights. This Protocol shortens the time for lodging applications with the ECHR from six to four months following the date of the final domestic decision. Finland has also approved the bringing into force of Protocol No. 16 of the European Convention on Human Rights. This Protocol allows the highest courts and tribunals of a State Party to request the Court to give advisory opinions on questions relating to the interpretation and application of the European Human Rights Convention. Neither of these Protocols was in force internationally at the end of the reporting year.

The decision on the admissibility of an application is made by the ECHR in a single-judge formation, in a Committee formation or in a Chamber formation (7 judges). The Court's decision may also confirm a settlement, and the case is then struck out of the ECHR's list. Final judgments are given either by a Committee, a Chamber or the Grand Chamber (17 judges). In its judgment, the ECHR resolves an alleged case of a human rights violation or confirms a friendly settlement.

A very high share of the applications lodged with the ECHR, or some 95%, are declared inadmissible. In 2015, an application was declared inadmissible or struck out of the Court's list in 256 (272) cases that concerned Finland. In almost all of these cases, the judgment was given by a single judge. Since Finland's accession to the ECHR, a total of 4,802 applications against Finland have been declared inadmissible.

The number of decisions concerning Finland that the ECHR delivered in 2015 was typical. The Court delivered seven (12) judgments, of which five confirmed a violation of rights. In addition, the ECHR issued 16 (13) decisions.

One (1) of these decisions was concluded with a unilateral declaration made by the Government, acknowledging the unlawful deprivation of the applicant's liberty under the Mental Health Act. In addition, the ECHR delivered 33 (50) decisions on requests for the application of interim measures, of which 2 (2) were granted.

By the end of 2015, Finland had received a total of 185 judgments from the Court, and 103 applications had been decided following a friendly settlement or a unilateral declaration by the Government. The total number of ECHR judgments confirming a violation of rights by Finland since the country's accession is strikingly large, at 138.

Whereas Sweden, Norway, Denmark and Iceland have been State Parties to the ECHR for considerably longer than Finland, the Court has only ruled against them in a total of 109 cases. In 2015, the other Nordic countries received eight judgments, in six of which the Court found against the government. Finland continues to receive more judgments, and also judgments against the government, than the other Nordic countries.

3.8.1 MONITORING OF THE EXECUTION OF JUDGMENTS IN THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

The Committee of Ministers of the Council of Europe monitors the execution of ECHR judgments. The Committee's oversight focuses on three different aspects: the payment of compensation, individual measures, and general measures taken as a result of a judgment. The monitoring primarily takes place by diplomatic means. Where necessary, the Committee of Ministers can refer a question of execution to the ECHR for confirmation.

Within six months of the ECHR judgment becoming final, the states shall submit either an action report or an action plan comprising a report on any measures that have been taken and/or that are being planned. The reports are published on the Committee of Ministers' website.

In the year under review, four new monitoring cases became pending. Monitoring of execution remained pending in 42 judgments concerning Finland.

3.8.2 JUDGMENTS AND DECISIONS DURING THE YEAR UNDER REVIEW

Three judgments concerning freedom of speech

In the reporting year, the ECHR delivered one judgment concerning Finland in the Grand Chamber formation. In case *Pentikäinen* (20 October 2015) the Court found no violation of rights (votes 13–4). The case concerned the apprehension of the applicant, who works as a photographer and a journalist, in connection with a demonstration against the 2006 ASEM meeting and his conviction for disobeying the police (see the Parliamentary Ombudsman's summary of the annual report 2014, p. 110). According to the Grand Chamber, the media had not been prevented from covering the demonstration, and the applicant was not prevented from carrying out his work as a journalist either during or after the demonstration. The Court noted particularly that he had not been apprehended because of his work as a journalist but because he had refused to obey the orders of the police to leave the site of the demonstration.

In case *Satakunnan Markkinapörssi Oy and Satamedia Oy* (21 July 2015), The Court found no violation of the freedom of speech (votes 6–1). This case concerned the collection of taxation data and publishing it in a magazine and through an SMS service. On the other hand, the Court did find a violation of the right to a fair trial safeguarded in Article 6 in this case, as the duration of the proceedings had been some six years and six months.

A violation of the freedom of speech was confirmed in case *Niskasaari* (23 June 2015). In this case, a journalist and a media company had been found liable for defamation as they had published an article questioning the accuracy of the information presented by a journalist. The ECHR found that when sentencing the applicant for defamation, the Court of Appeal did not take the

applicant's right to freedom of expression enshrined in Article 10 adequately into consideration. According to the ECHR, journalists should be able to tolerate a greater amount of public criticism than private individuals.

Four judgments concerning the right not to be punished twice

A high number of applications from Finland concerning the right not to be punished twice (the *ne bis in idem* principle) have been received by the ECHR. Some of these applications were rejected or declared inadmissible (see below). Four judgments were given in the Chamber formation, and a violation of rights was found in three of these.

Case *Rinas* (27 January 2015) concerned a situation where tax surcharges had firstly been imposed on the applicant, after which he had been sentenced for tax fraud. The ECHR found that having the case pending in two processes simultaneously violated the ne bis in idem principle, as the administrative process had not been interrupted once the criminal process became final. Similar situations were also seen in cases *Kiiveri* and *Österlund* (both 10 February 2015). In these cases, too, the ECHR found that the prohibition of bringing charges and imposing a penalty twice for the same infringement had been violated.

In case *Boman*, the applicant had been charged with and sentenced for causing a serious traffic hazard and operating a vehicle without a licence. These acts were committed on 5 February 2010. The District Court imposed a driving ban on the applicant until 5 September 2010 in relation to causing a serious traffic hazard. After the sentencing by the District Court, an additional driving ban of two months starting on 5 September 2010 was imposed on the applicant by the police in relation to driving a vehicle without a licence. The ECHR found that the two processes in question, the criminal process and the process of imposing a driving ban, were in terms of substance and time part of the same issue, and thus did not constitute a violation of the *ne bis in idem* principle.

Applications declared inadmissible by a Chamber decision

A total of 16 (13) applications were rejected or declared inadmissible in a Chamber or a Committee formulation, either because no breach of rights had been established or on a variety of processual grounds.

Four of the cases concerned refusal of entry or removal from the country of foreigners. The application was declared to be unfounded in cases *F. Y.* and *Perez Lizaso*, and in two cases, the examination of the application was dropped as a residence permit was granted to the appellant (*V. K.* and *A. E.*).

Several applications concerned an alleged violation of the prohibition of imposing penalties twice for the same act (*Heinänen*, *VP-Kuljetus Oy and Others*, *Åkerlund* and *Alasippola* (two applications)). Some of the cases were relevant to the freedom of movement (*Valkeajärvi*) and the so-called prohibition of *reformatio in peius* (*Kuokkanen and Johannesdahl*). Case *Vazvan* was about informing interested parties of expert statements obtained by a court in a patent dispute. Case *Eklund*, in which claims of a judge's partiality and violations of protection against self-incrimination did not receive support from the Court, was also about court procedure. In one case, the ECHR investigated the withholding of a letter that was sent to a prisoner in prison, and did not find the procedure a violation of Article 8 (*Malinen*).

Case *B. K.* was the only one during the reporting year where the Finnish Government issued a unilateral declaration, *i.e.* acknowledged a violation of rights and offered recompense for it. The ECHR accepted the Government's acknowledgement that the deprivation of the applicant's liberty under the Mental Health Act was not consistent with Article 5(1)(e). The sum of EUR 13,500 was paid by the government to the applicant in compensation. No application was concluded with a friendly settlement during the reporting year.

Compensation amounts

As a result of cases where the Court found a violation, the Finnish government was ordered to pay compensation to the applicants amounting to a total of EUR 54,442 (EUR 21,443 in 2014). The case that was concluded with a unilateral declaration resulted in a payment obligation of EUR 13,500 (4,600). In total, complaints concerning breaches of human rights thus cost the Finnish government a total of EUR 67,942 (26,043).

Communicated new cases

A response from the Government was requested to six new applications (34). These applications concerned such issues as the right to private life and freedom of movement of a person with disabilities. The ECHR also requested the government's response to whether, in connection with the Kauhajoki school shooting (2008), the authorities had taken adequate measures to protect the right to life of the applicants' family members.

4 Covert intelligence gathering

4
Covert intelligence gathering

The oversight of covert intelligence gathering fell within the remit of Parliamentary Ombudsman *Petri Jääskeläinen*. The principal legal advisers responsible for the area were *Mikko Eteläpää* and *Juha Haapamäki*.

Covert intelligence gathering refers first of all to the covert coercive measures used in criminal investigations and to the corresponding covert methods of gathering intelligence that may be used to prevent or detect offences or avert danger. Such methods include, for example, telecommunications interception and traffic data monitoring, technical listening and surveillance as well as undercover operations and pseudo purchases. The use of these methods is kept secret from their targets and to some extent they may, based on a court decision, remain permanently undisclosed to the targets.

The police have the most extensive powers to use covert intelligence gathering, but the Finnish Customs also have access to a wide range of covert methods of gathering intelligence with respect to customs-related offences. The powers of the Finnish Border Guard and the Defence Forces are clearly more limited.

4.1 SPECIAL NATURE OF COVERT INTELLIGENCE GATHERING

Covert intelligence gathering involves secretly intervening in the core area of several fundamental rights, especially privacy, domestic peace, confidential communications and the protection of personal data. Its use may also affect the implementation of the right to a fair trial. For intelligence gathering to be effective, the target must remain unware of the measures, at least in the early stage of an investigation. Thus, the parties at whom these measures are targeted have more limited opportunities to react to the use of these coercive measures than is the case with "ordinary" coercive measures, which in practice become evident immediately or very soon.

Due to the special nature of covert intelligence gathering, questions of legal protection are of accentuated importance from the perspective of those against whom the measures are employed and more generally the legitimacy of the entire legal system. The secrecy that is inevitably associated with covert intelligence gathering exposes the activity to doubts about its legality, whether or not there are grounds for that. Indeed, an effort has been made to ensure legal protection through special arrangements both before and after intelligence gathering. The key components include the court warrant procedure, the authorities' internal oversight and the Ombudsman's oversight of legality.

4.2 OVERSIGHT OF COVERT INTELLIGENCE GATHERING

Courts

To ensure legal protection, it has been considered important that telecommunications interception and mainly also traffic data monitoring can only be carried out under a warrant issued by a court. These days, undecover operations during a criminal investigation also require authorisation from a court (Helsinki District Court). Depending on the target location, technical surveillance can in some cases also be carried out on the basis of the authority's own decision without court control. The same applies to the majority of other forms of covert intelligence gathering. The

decision-making criteria laid down by law are partly rather loose and leave the party making the decision great discretionary power. For example, the "reason to suspect an offence" threshold that is a basic precondition for issuing a warrant for telecommunications interception is fairly low.

Requests concerning coercive measures must be dealt with in the presence of the person who has requested the measure or by using a video conference – written procedures are only allowed under limited circumstances when renewing an authorisation. When considering the prerequisites for using a coercive measure, the court is dependent on the information it receives from the criminal investigation authority, and the "opposing party" is not present at the hearing. The only exception is on-site interception in domestic premises: in these cases, the interests of the target of the coercive measure are overseen (naturally without his or her knowing) by a public attorney, usually an advocate or public legal aide.

According to law, a complaint may be lodged with a Court of Appeal against a District Court's decision concerning covert intelligence gathering, with no time limit. Thus, a suspect may even years later submit the legality of a decision to a Court of Appeal for assessment, and some people have done so. In such cases, courts of higher instances establish case law on covert intelligence gathering. The importance of the courts' role in ensuring a suspect's legal protection and in examining the grounds for the requested coercive measure has been highlighted, for example, in the Supreme Court's decisions KKO:2007:7 and KKO:2009:54.

The courts also play a key role with respect to the parties' right of access to information concerning covert intelligence gathering. As a rule, the target of covert intelligence gathering must be notified of the use of the method no later than one year after the use has ceased. Based on the grounds laid down by law, a court may grant permission to postpone the notification or an exemption from the notification obligation. However, it is important to ensure that the total exemption, in particular, is only granted when it is absolutely necessary. In a state governed by the rule of law, measures that interfere with fundamental rights and are kept completely secret can only be allowed to a very limited extent. The Supreme Court has considered the issue of parties' right to obtain information on undercover operations in its decision KKO:2011:27 concerning the Ulvila homicide case, which was widely covered in the media.

Authorities' internal oversight

The oversight of the use of covert intelligence gathering involves first of all normal supervision by superior officials. Moreover, provisions separately emphasise the oversight of covert intelligence gathering.

Under the law, the use of covert intelligence gathering methods in the police is overseen by the National Police Board and the heads of the police units using the methods. However, at the beginning of 2016 the responsibility for overseeing the covert intelligence gathering methods used by the Finnish Security Intelligence Service was transferred to the Ministry of the Interior. At the Finnish Border Guard, the special oversight duties fall within the responsibility of the Border Guard Headquarters and the administrative units operating under it. At the Customs, covert intelligence gathering is overseen by the supervisory personnel of the Customs and the units employing the methods in their respective administrative branches. At the Finnish Defence Forces, records drawn up on the use of covert intelligence gathering must be sent to the Ministry of Defence.

In addition to various acts, a government decree has been adopted on criminal investigations, coercive measures and covert intelligence gathering (122/2014). The decree lays down provisions on, for example, drawing up records on the use of different methods and reports on covert intelligence gathering. The authorities have also issued internal orders on covert intelligence gathering.

The Ministry of the Interior, the Headquarters of the Finnish Border Guard (which is a department of the Ministry of the Interior), the Ministry of Finance (which governs the Finnish Customs) and the Ministry of Defence report annually by the end of February to the Parliamentary Ombudsman on the use and oversight of covert intelligence gathering in their respective administrative branches.

The authorities reporting to the Parliamentary Ombudsman receive a substantial part of their information on the use of covert intelligence gathering from the SALPA case management system. The only exception is the Finnish Defence Forces, which do not – at least yet – use the SALPA system. SALPA is a reliable source of statistical data. However, it does not cover all methods of covert intelligence gathering, such as undercover operations, pseudo purchases and the use of covert human intelligence sources. The superior agencies also receive information on the activities through their own inspections and contacts with the heads of investigation.

The police have centralised all intelligence gathering from telecommunications operators to be conducted through the SALPA system maintained by the National Bureau of Investigation (NBI). The NBI's telecommunications unit oversees the quality of activities and provides guidance to the heads of investigation when necessary. Centralising the activities under the NBI has improved the quality of the functions.

In the police administration, several officials have been granted supervisory rights in SALPA for the oversight of legality. These officials work mainly in the legal units of police departments. Their task is to oversee activities in accordance with the unit's legality inspection plan and by conducting spot checks.

In addition to internal oversight at police departments, the National Police Board also oversees the units operating under it through the SALPA system and by conducting separate inspections. For example, the Finnish Security Intelligence Service has each year undergone two comprehensive internal inspections on the use of covert intelligence gathering and two inspections by the National Police Board.

The National Police Board has established a working group to monitor the use of covert coercive measures and covert intelligence gathering. The members of the group may include representatives from the National Police Board, the National Bureau of Investigation, the Finnish Security Intelligence Service and police departments. Moreover, representatives of the Ministry of the Interior, the Border Guard, the Defence Forces and the Customs are also invited to participate as members of the group. The group is tasked with monitoring the authorities' activities, collaboration and training, discussing issues that have been identified in the activities and collaboration or that are important for the oversight of legality and reporting them to the National Police Board, proposing ways to improve activities, and coordinating the preparation of reports submitted to the Parliamentary Ombudsman.

Parliamentary Ombudsman's oversight of legality

Overseeing covert intelligence gathering has been one of the special tasks of the Parliamentary Ombudsman since 1995. At the time, it was provided that the Ministry of the Interior would give the Ombudsman an annual report on telecommunications interception, traffic data monitoring and technical listening by the police as well as on technical surveillance in penal institutions. The National Board of Customs submitted a report on the use of the methods by the Finnish Customs. The Ministry of Defence and the Finnish Border Guard prepared similar reports on the methods they had used. In 2001, the scope of the Ombudsman's special oversight was extended to also include undercover operations and in 2005 to cover pseudo purchases. Both measures were only available to the police.

It was not until the beginning of 2014 that the Ombudsman's special oversight duties were extended to cover all covert gathering of intelligence. In addition to the extended powers, the use of these methods has also significantly increased over the years.

The annual reports obtained from various authorities improve the Ombudsman's opportunities to follow the use of covert intelligence gathering on a general level. Where concrete individual cases are concerned, the Ombudsman's special oversight can, for limited reasons alone, be at best of a random check nature. At present and in the future, the Ombudsman's oversight mainly complements the authorities' own internal oversight of legality and can largely be characterised as "oversight of oversight".

Complaints concerning covert intelligence gathering have been few, with no more than approximately ten complaints received a year. This is most likely due, at least in part, to the secret nature of the activities. However, it should be noted that covert intelligence gathering operations remain completely unknown to the target only in very rare and exceptional cases. On inspection visits and in other own-initiative activities, the Ombudsman has striven to identify problematic issues concerning legislation and the practical application of the methods. Cases have been examined, for example, on the basis of the reports received or inspections conducted. However, opportunities for this kind of own-initiative examination are limited.

4.3 EVENTS DURING THE YEAR UNDER REVIEW

Major legal reforms

At the beginning of 2014, the Coercive Measures Act and the Police Act underwent a complete reform, including a significant expansion in the scope of regulation concerning covert intelligence gathering. In addition to the methods that were already regulated, *i.e.* telecommunications interception, traffic data monitoring, obtaining the location data of mobile stations, technical surveillance (listening, observation and tracking), undercover operations and pseudo purchases, under the new legislation covert intelligence gathering also includes, for example, the use of covert human intelligence sources and controlled deliveries as well as the new methods of obtaining location data to find a suspect or a convicted person, covert collection of intelligence and technical surveillance of a device. The provisions on the previously used methods were also complemented and specified in the reform.

For the Finnish Customs and the Finnish Defence Forces, separate acts were adopted on the prevention of crimes, regulating the use of covert intelligence gathering by the authorities in question.

With respect to the Defence Forces, the act on military discipline and crime prevention in the Defence Forces (*laki sotilaskurinpidosta ja rikostorjunnasta puolustusvoimissa 255/2014*) entered into force on 1 May 2014. Under the act, when the Defences Forces conduct a criminal investigation they may use certain, separately determined methods of covert intelligence gathering as referred to in the Coercive Measures Act, such as extended surveillance and technical observation and listening. In the prevention and detection of crimes, the Defence Forces similarly only have access to certain methods of covert intelligence gathering, although the range is wider than in criminal investigations. However, the Defence Forces cannot use, for example, telecommunications interception, traffic data monitoring, undercover operations or pseudo purchases. If these measures are needed, they are carried out by the police.

The act on the prevention of crime by the Finnish Customs (*laki rikostorjunnasta Tullissa 623/2015*) entered into force on 1 June 2015. In the act, the powers of the Customs were harmonised with those laid down in the new Criminal Investigation Act, Coercive Measures Act and Police Act. One significant change was that the Cus-

toms were given powers to conduct undercover operations and pseudo purchases, even though the measures are implemented by the police on the Customs' request. Moreover, the use of covert human intelligence sources in the prevention of customs-related offences was harmonised with the provisions of the Police Act and Coercive Measures Act.

A separate act on crime prevention by the Finnish Border Guard is also envisaged. The aim is to have the act enter into force at the beginning of 2018. The new act would include the crime prevention provisions currently included in the Border Guard Act. According to current knowledge, no major changes are planned to the powers of the Border Guard.

The future development of legislation on intelligence gathering by the security authorities is highly important for covert intelligence gathering. A working group established by the Ministry of Defence completed its report in January 2015, and the preparatory work has been continued by establishing three different legislative projects. This topic will be discussed in more detail later in this report.

Reports submitted to the Parliamentary Ombudsman

The following presents certain information on the use and oversight of covert intelligence gathering obtained from the reports submitted by the Ministry of the Interior, the Headquarters of the Finnish Border Guard, the Ministry of Finance and the Ministry of Defence. Exact figures are partly confidential. For example, the covert intelligence gathering activities of the Finnish Security Intelligence Service are not included in the figures presented below.

Use of covert intelligence gathering in 2015

Coercive telecommunications measures under the Coercive Measures Act

The police were granted 3,110 telecommunications interception and traffic data monitoring warrants for the purpose of investigating an offence (3,330 in 2014). However, in the statistical evaluation of covert coercive measures the most important indicator is perhaps the number of persons at whom coercive measures were targeted. In 2014, simultaneous telecommunications interception and traffic data monitoring activities carried out by the police under the Coercive Measures Act were targeted at 551 (711) suspects, of whom 50 were unidentified. The number of suspects whose indentity is unknown has significantly decreased over the past few years. The use of mere traffic data monitoring was targeted at 1,417 (1,322) suspects.

Simultaneous telecommunications interception and traffic data monitoring activities carried out by the Customs were targeted in 2015 at 91 (99) persons, and the number of warrants issued was 231 (411). The use of mere traffic data monitoring was targeted at 180 (256) persons, with 376 (507) warrants issued.

The most common grounds for simultaneous telecommunications interception and traffic data monitoring by the police were aggravated narcotics offences (76%) and offences against person (10%). Within the Customs' administrative branch, the most common grounds were aggravated tax frauds and aggravated narcotics offences.

The Finnish Border Guard used telecommunications interception and traffic data monitoring much less frequently than the police and the Customs. One simple reason for this is that under the law the Border Guard can only use coercive telecommunications measures in the investigation of a few specific types of offences (mainly aggravated arrangement of illegal immigration and the related offence of human trafficking). In the Finn-

ish Defence Forces, the use of covert intelligence gathering is even less frequent, and the activities have clearly focused on preventing and detecting offences or, in other words, the field of military intelligence instead of criminal investigations.

Telecommunications interception and traffic data monitoring under the Police Act

Traffic data monitoring under the Police Act was targeted at 87 (78) persons. The method was used most frequently to avert a danger to life or health and to investigate the cause of death.

Traffic data monitoring under the Act on the Prevention of Crime by the Finnish Customs

In total, 28 (72) traffic data monitoring warrants were issued to prevent and detect customs offences, most often on the grounds of an aggravated tax fraud.

Technical surveillance

In 2015, the police used technical observation under the Coercive Measures Act 25 times with respect to premises covered by domiciliary peace and once in prison. In addition, the police used on-site interception in a prison nine times, technical observation 188 times, on-site interception 117 times and technical tracking 359 times. There were no instances of on-site interception in domestic premises. Data for the identification of a network address or a terminal end device were obtained 53 times. The most common reason for using all these surveillance methods was an aggravated narcotics offence.

Under the Police Act, technical observation was used 32 times, on-site interception 11 times and technical tracking 32 times.

The Customs used technical tracking under the Coercive Measures Act in 24 instances. On-site interception was used two times and technical observation nine times.

Technical tracking under the act on the prevention of crime by the Finnish Customs was used 18 times. No decisions were issued on on-site interception, and technical observation was used 10 times.

Extended surveillance

Extende surveillance means other than short-term surveillance of a person who is suspected of an offence or who, with reasonable cause, might be assumed to commit an offence. The National Police Board has interpreted this to mean several individual and repeated instances of surveillance (approximately five times) or one continuous instance of surveillance lasting approximately 24 hours.

According to the report that the Parliamentary Ombudsman received from the Ministry of the Interior, the police made in 2014 some 400 decisions on the use of extended surveillance. The Customs took 45 similar decisions.

Special covert coercive measures

In 2015, the police registered a few new covert human intelligence sources. Their number now totals approximately 100.

In 2015, a few new decisions were taken to use undercover operations and to continue the validity of previously issued decisions on undercover operations. Undercover operations have been used to detect serious offences, in particular aggravated narcotics offences. Pseudo purchases were also mainly used to detect and investigate serious narcotics offences. In 2015, a few new decisions were made on pseudo purchases.

The police did not use controlled deliveries, mainly because their application has been considered problematic. The Customs reported using controlled deliveries six times in 2015.

Rejected requests

There was no significant change in the number of rejected requests for the use of coercive telecommunications measures. In 2015, courts rejected 11 requests for coercive telecommunications measures submitted by the police and one request made by the Border Guard. None of the requests made by the Customs were rejected.

Notification of the use of corecive measures

As a rule, the use of a covert intelligence gathering method must be notified to the target no later than one year after the gathering of intelligence has ceased. A court may under certain conditions authorise the notification to be postponed or decide that no notification needs to be given.

During the year under review, there were some cases in which the notification of the use of a covert intelligence gathering method was delayed. The reports submitted do not reveal exact numbers because a notification may have been issued but it has not been recorded in SALPA. The number of authorisations for postponing the notification or for not giving one at all was very low, the latter apparently being the case in only one instance.

Oversight of covert intelligence gathering

In 2015, the National Police Board conducted legality inspections in all police units (two inspections at the National Bureau of Investigation and the Finnish Security Intelligence Service). The themes covered in the inspections included measures taken in the SALPA system and their oversight as well as the use of covert human intelligence sources and the organisation of such activities. Moreover, remote inspections were also conducted. Their main focus was the use of covert coercive measures on which the police can decide without court control.

Based on the findings of the National Police Board, the quality of the operative processes of organising, using and overseeing covert intelligence gathering is good. The shortcomings identified were mainly technical or concerned the insufficient recording of the preconditions for the methods. According to the National Police Board, police units have mainly been successful in adapting to the changes in the preconditions for using covert intelligence methods brought about by the legislative reform at the beginning of 2014 and the use of new methods; however, there are still certain problems with interpreting the legislation.

During its legality inspections, the National Police Board has drawn the police units' attention to providing justifications for SALPA requests and decisions in terms of general and special preconditions so that the legality of measures can be examined afterwards. The National Police Board has observed that particularly in the case of methods that require a certain degree of seriousness of the suspected offence special attention must be given to justifying why the particular category of offence has been selected and what are the concrete facts that make the offence applicable to the case in question. Moreover, a justification must also be provided for the characterisation that an offence is "aggravated also when assessed as a whole", which is included in the essential elements of an aggravated offence.

According to the National Police Board, the number of internal inspections carried out by police units has significantly increased and their quality improved, even though the quantitative comprehensiveness of inspections varies.

The Enforcement Department of Finnish Customs and the heads of the Customs operating units using covert coercive and intelligence gathering measures have overseen the legality of the intelligence gathering methods used by the Customs in 2015. The regional supervisors (seven) of crime prevention in the Customs are responsible for monitoring the use of covert intelligence gathering methods during the year. They must

also draw up a report on the oversight activities conducted and the observations made. In addition, the Customs also oversees the use of covert coercive measures at national level. According to the Customs, no serious shortcomings were identified during the year under review.

In 2015, the Finnish Border Guard issued a new order on intelligence gathering in the prevention of crimes. Under the order, the administrative units must conduct regular and comprehensive inspections on the use of covert coercive measures. The person in charge of overseeing legality in the administrative units should not participate in or make decisions concerning operative activities, *i.e.* criminal investigations or criminal intelligence.

In the inspections and ex ante checks concerning traffic data monitoring warrants conducted in 2015, the Headquarters of the Finnish Border Guard have focused particularly on examining whether the justifications of requests have been recorded in the RajaSALPA system in sufficient detail. No significant shortcomings were identified in that area. Apart from a few notifications that were made too late, no deficiencies were detected regarding the notifications of using coercive measures.

According to the Ministry of Defence, the activities of the Intelligence Division and the Legal Division of the Defence Command of the Defence Forces have been lawful.

Parliamentary Ombudsman's oversight of legality

During the year under review, the Ombudsman received only a few complaints concerning coercive telecommunications measures. Of these, some were general suspicions of telecommunications interception or other monitoring. None of the complaints gave rise to further action. As noted above, the Ombudsman's own-initiative actions play a key role in the oversight of covert intelligence gathering.

In the past few years, coercive telecommunications measures have been one of the themes of the inspections concerning the police and the judiciary. During the year under review, the inspections concerning covert coercive measures conducted at the Southeastern Finland Police Department and the Eastern Uusimaa Police Department focused on requests for coercive telecommunications measures and decisions concerning technical surveillance. For this purpose, a sample of related request and decision documents was examined.

Based on the material reviewed, the activities have mainly been lawful. One of the topics discussed was that some of the requests addressed to courts and decisions made by the police used an expression other than the preconditions referred to in the law, *i.e.* their use may be assumed to produce information needed to clarify an offence or can be assumed to be of particularly important significance in the clarification of an offence. Even if the other expressions used have the same meaning as those used in the law, it was concluded that it would be clearer and less ambiguous to use the expressions laid down by law.

In some of the requests made to courts, it was somewhat unclear what were the concrete facts connecting the target of the coerecive measure to the suspected offence, and the issue was not clarified in the court decisions authorising the measures. In addition to making reference to the written application, the justifications of certain decisions only referred to the oral account given by the applicant in the hearing without providing details of the content of the oral account. Although the matter concerns the actions of courts, it was considered possible for the person making the request to ask the court to record the oral requests that are not mentioned in the application. Even in such cases, it would naturally still be at the court's discretion to decide what elements of the request to record. As a rule, however, the written request should include all the facts that are used as grounds for the request.

As a result of the inspection of the Southeastern Finland Police Department, Parliamentary

Ombudsman Jääskeläinen decided to investigate at his own initiative one of the decisions made by the police concerning the use of technical observation. The focus was on identifying the target, which seemed to be done in a very general manner in the decision chosen for examination.

As a result of the inspection of the Eastern Uusimaa Police Department, the Parliamentary Ombudsman decided to examine at his own iniative a request and court decision concerning traffic data monitoring because, based on the information available, there was reason to suspect that a warrant for traffic data monitoring had been requested and issued for the investigation of an offence that does not under the law allow for the use of traffic data monitoring. Another matter chosen for investigation concerned a case in which the court had issued a warrant for telecommunications interception and traffic data monitoring even though based on the documents the request only concerned traffic data monitoring.

At the time of writing, the above mentioned own-initiative investigations are still pending.

At the National Bureau of Investigation, Parliamentary Ombudsman Jääskeläinen was introduced to certain technical systems used in covert intelligence gathering.

The Ombudsman also visited the Finnish Communications Regulatory Authority (FICORA). The purpose of the visit was to discuss issues concerning the confidentiality of communications and the protection of privacy, to obtain information on how FICORA oversees how telecommunications operators process and store communication-related data, to discuss FICORA's role in the implementation of the covert intelligence gathering activities and covert coercive measures of criminal investigation authorities, and to discuss FICORA's role in supervising telecommunications operators as they implement measures that are related to the above-mentioned methods on the criminal investigation authorities' request.

During the visit, it came up that the scope FICORA's right of inspection, as laid down in section 325 of the Information Society Code, is interpreted in accordance with the preparatory documents to the act. This means that the right of inspection is interpreted to also cover matters concerning the confidentiality of communications.

The Ombudsman visited the National Police Board to learn about the Board's oversight of the legality of covert coercive measures and covert intelligence gathering.

At the National Police Board, the parties discussed, among other things, notifications given to the target of a measure when the aim is to contact a suspect or a convicted person (Chapter 10, section 8 of the Coercive Measures Act). The National Police Board's policy has been that no notification is necessary. The Ombudsman was of the opinion that the wording and system used in the Act require a notification. The Coercive Measures Act does not include section-specific provisions on the obligation to give a notification but only makes a more general reference for example to traffic data monitoring. The definition of traffic data monitoring in the Act unambiguously includes obtaining the location data of a terminal end device. In such circumstances, the question of notifying the target does not, as a rule, involve similar secrecy interests as is usually the case with notifications concerning the use of covert coercive measures.

4.4 EVALUATION

Potential problems with the new legislation

Notification obligation

As a rule, a written notification of the use of covert intelligence gathering methods must be given to the suspect without delay after the matter has been submitted to the consideration of the prosecutor or the criminal investigation has otherwise been terminated or interrupted, or at the latest within one year of the termination of

the use of the method. The manner of giving the notification depends partly on the method used. The provisions on the notification obligation are currently more detailed than before, and the scope of the obligation has been extended.

Under certain conditions, a court may decide on the request of an official with the power of arrest that the notice to the suspect may be postponed at the most by two years at a time. The court may decide that no notice is given at all, if this is necessary in order to ensure the security of the state or protect life or health.

Thus, it is possible that the target will never know of the method used even though under the law giving a notification is the rule and not giving a notification is an exeption to the rule. It is important to keep the number of cases that remain completely unknown to the target as few as possible.

When the amendments to the new Coercive Measures Act, Criminal Investigation Act and Police Act were discussed in 2013 and experts were heard during the committee reading, particularly the criminal investigation authorities expressed their concerns about the risk of an undercover officer or a covert human intelligence source being exposed and about their safety (LaVM 17/2013 vp – HE 14/2013 vp).

According to the National Police Board, the feedback received from heads of investigation indicates that the obligation to give a written notification has hampered the use of intelligence gathering methods. The availability of covert human intelligence sources was identified as a problem already in 2014, and the use of on-site interception at prisons significantly decreased in 2015 because the coercive measure is no longer considered as effective as before in preventing serious offences. According to the National Police Board, the notification obligation has become an obstacle to the use of covert human intelligence sources. As a result, Finnish authorities confine themselves to using "passive covert human intelligence sources", which reduces the effectiveness of the method. In udercover operations, notifying the target of intelligence gathering may, at worst, mean that the police officer in question will in the future no longer be able to work undercover. According to the National Police Board, the notification obligation also significantly reduces international collaboration.

The National Bureau of Investigation has proposed that the provision concerning the notification of the use of covert human intelligence sources be either completely removed because it is unnecessary or be amended in accordance with international examples to make it more functional. According to the National Bureau of Investigation, the grounds for not notifying the target should be extended particularly when the methods are used in cases that involve international collaboration and when protecting the technical and tactical methods used by the police.

One of the aims of notifying the target of the use of intelligence gathering methods is to ensure a fair trial. The new Criminal Investigation Act was amended in the previous year to emphasise the right of a party to obtain information. Under the Act, when considering the right of a party to obtain information or the restriction of this right, consideration shall be given in the assessment to the party's right to a proper defence or otherwise to appropriately secure his or her right in the court proceedings.

Together with the potential risks associated with notifying the use of covert intelligence gathering methods in investigating an offence, the requirements concerning the right to obtain information and the right to fair trial form a complex issue involving many difficulties in balancing the different aspects.

Recording covert coercive measures and covert intelligence gathering methods

In practice, it has been difficult to comply with the 30-day time limit for drawing up a record, as laid down in the government decree on criminal investigation, coercive measures and covert intelligence gathering. During the year under review, the Police Department of the Ministry of the

Interior began preparing a legislative amendment concerning the matter. One of the alternatives proposed was extending the time limit to 90 days.

In his statement on the matter, Parliamentary Ombudsman Jääskeläinen stated among other things that recording matters at the latest three months after they have taken place may reduce or compromise the accuracy and reliability of the records. Therefore, Jääskeläinen emphasised that the main rule in the decree should remain unchanged, meaning that the record must be prepared without undue delay, and that 90 days should not become the main rule.

At the time of writing, the amendment process was still pending.

Undercover operations

The problems identified in undercover operations before the new acts entered into force have been discussed in the Finnish version of the 2011 Annual Report, on pages 109–112. These problems are still relevant.

The point of departure of the law is that police officers performing undercover operations are not allowed to commit or instigate an offence. However, if a police officer commits a traffic violation, public order violation or other similar offence for which the punishment by law is a fixed penalty, he or she will be exempt from criminal liability if the action was necessary for achieving the purpose of the undercover activities or preventing the intelligence gathering from being revealed.

The law also includes provisions on a police officer participating in the activities of an organised criminal group while performing undercover operations. If, when participating in such activities, a police officer obtains premises, or transport or other such objects, transports persons, objects or substances, attends to financial matters or assists the criminal group in other comparable ways, he or she is not subject to criminal liability under the conditions laid down by law. The police officer is exempt from criminal liability in the above-mentioned situations if there are very good grounds to have assumed that the measure would have been performed also without his or her contribution, the action of the police officer does not endanger or harm the life, health or freedom of any person or a significant danger or damage to property, and the assistance significantly promotes the achievement of the purpose of the covert activity.

These provisions are open to interpretation and leave certain questions unanswered. Based on the provisions, a police officer performing undercover operations has very limited room to operate. Together with the ambiguity of the provisions, this has raised questions among the police, for example, about the legal protection of police officers. It is also unclear how the exemption from criminal liability, as referred to in the law, would be implemented in practice.

Courts play a very limited role in commencing undercover operations, as their powers are limited to deciding whether the formal preconditions for undercover operations are met. Courts cannot take a stand on the plans concerning undercover operations or their practical implementation.

General problems in oversight

Resources must be invested in internal oversight

The Ombudsman's oversight of the legality of covert intelligence gathering focuses on overseeing the internal oversight of authorities. In this context, one of the areas emphasised in 2014 during visits to the legal units of all police departments was the units' own oversight of the covert intelligence gathering methods used by the police departments.

The authorities using covert intelligence gathering have in recent years invested resources and efforts in internal oversight. This applies to criminal investigation authorities as well as courts.

With respect to the efficiency of internal oversight, it is of concern that the National Police Board has observed differences in the quantitative comprehensiveness of inspections conducted to oversee the police departments' use of covert intelligence gathering. According to the National Police Board, the variation depends at least partly on the amount and prioritisation of other tasks.

A key prerequisite for internal oversight is that those who conduct it are familiar with the field and have access to all documents. This applies not only to police departments but also to the National Police Board. Even the police estimate that the standard of oversight at police departments varies greatly, and the same most evidently applies to the expertise of those who conduct oversight. Based on the findings in the oversight of legality, internal oversight at the Finnish Security Intelligence Service and the National Bureau of Investigation is of good quality.

At the beginning of 2016, the Finnish Security Intelligence Service was transferred under the Ministry of the Interior and it is no longer subject to the oversight of legality conducted by the National Police Board. According to the information received, the Ministry of the Interior has very limited resources for the oversight of legality, and the staff have plenty of other tasks as well. It should be ensured that the quality of oversight over the Finnish Security Intelligence Service is not reduced.

At the Finnish Customs, Border Guard and Defence Forces, internal oversight has functioned very well according to the authorities' own assessment. In these authorities, oversight is easier because the volume of operations is much smaller than in the police.

The Ombudsman conducts retrospective oversight of a fairly general nature. The Ombudsman is remote from the actual activities and cannot begin directing the authorities' actions or otherwise be a key setter of limits, who would redress the weaknesses in legislation. Annual or other reports submitted to the Ombudsman are important but do not solve the problems related to oversight and legal protection.

The oversight of covert coercive measures is partly founded on trust in the fact that the person conducting the oversight activities receives all the information he or she wants. Due to the nature of the activities, precise documentation is a fundamental prerequisite for successful oversight.

Real-time active recording of events and measures also helps operators to evaluate and develop their own activities, to ensure the legality of their operations and to build trust in their activities. Keeping records is also an absolute precondition for the Ombudsman's retrospective oversight of legality.

Intelligence legislation

The Ministry of Defence published in January 2015 the report "Guidelines for developing Finnish intelligence legislation" drawn up by a working group on intelligence legislation. The report outlines guidelines for the possible enactment of intelligence legislation.

The report generated a fairly extensive public debate on the need for such legislation. According to those in favour of adopting intelligence legislation, intelligence activities and the related legislation are necessary to ensure that the authorities responsible for national security have the necessary capacities and that their activities are effective. Those who are critical as regards the legislation say that the proposed measures will not achieve the objectives set but will entail a serious interference with privacy and the confidentiality of communications.

In his statement on the report, Parliamentary Ombudsman Jääskeläinen said that the report only includes a very cursory discussion on matters concerning legal protection, legal remedies and oversight. The Ombudsman expressed his concerns about how these aspects could be made sufficiently efficient. The Ombudsman emphasised the importance of an independent court granting an authorisation for the use of the methods as a way of ensuring an objective evaluation

of whether the legal preconditions for the use are met. In particular, considering the proportionality of using a given method requires an external evaluation.

The report proposes that the external legal oversight of foreign intelligence would fall within the domain of the Parliamentary Ombudsman, among others. According to the Ombudsman, it is somewhat difficult to assess on the basis of the report how such a potential additional task would affect the Ombudsman's activities. Based on the experiences gained in the oversight of covert intelligence gathering, it is in any case clear that the oversight conducted by the Ombudsman may only be "oversight of oversight", which is insufficient on its own.

Based on the report, the Ministry of the Interior and the Ministry of Defence have begun preparing legislation on civil and military intelligence. The Ministry of Justice will examine and prepare the amendment of section 10 of the Constitution, which protects the secrecy of confidential communications.

Conclusion

No particularly significant problems relating to covert coercive measures or covert methods of gathering intelligence arose in the Ombudsman's oversight of legality during the year under review. However, this does not mean that there were no problems.

The importance of records in highlighted in the use of covert intelligence gathering. In this respect, the introduction of the SALPA system was an improvement in the oversight of covert coercive measures. The system also guides its users to follow correct and lawful operating models. However, the SALPA system – like other information systems used by the police – is gradually reaching its limits, and the VITJA reform project was intended to solve the problem. Because the project could not be implemented as planned, the SALPA system has required updating. It is important to ensure that the legality and oversight of activities are not compromised due to information system issues.

In the oversight of legality, the Ombudsman has continuously emphasised the importance of providing justifications for requests and decisions. The grounds and justifications should be recorded, for example, to enable the control of decisions. If a court does not require the applicant to provide sufficient justifications or if the court neglects to provide sufficient justifications, there is a risk that warrants are issued for cases other than those intended by the legislator.

During the year under review, discussions about police activities were largely dominated by the trial concerning the suspected violations of official duties and other offences committed by the head of the Helsinki Police Department's narcotics unit as the proceedings commenced during the year. Among other things, questions arose as to the sufficiency of oversight. The oversight of the most secret police operations is particularly important to ensure the legality of operations and to maintain trust in the activities.

However, with current resources, oversight can never be completely comprehensive. It is of vital importance that all operators strictly comply with the law. The oversight and guidance of employees, which are part of the normal duties of supervisory personnel, play a key role in covert intelligence gathering. Covert activities must never be so secret that they become invisible to the superiors of those who conduct them. Moreover, supervisory personnel are in the best position to detect and intervene in inappropriate, incorrect or unlawful operating methods.

5 Annexes

Constitutional Provisions pertaining to Parliamentary Ombudsman of Finland

11 June 1999 (731/1999), entry into force 1 March 2000

Section 27
Eligilibity and qualifications for the office of Representative

Everyone with the right to vote and who is not under guardianship can be a candidate in parliamentary elections.

A person holdin military office cannot, however, be elected as a Representative.

The Chancellor of Justice of the Government, the Parliamentary Ombudsman, a Justice of the Supreme Court or the Supreme Administrative Court, and the Prosecutor-General cannot serve as representatives. If a Representative is elected President of the Republic or appointed or elected to one of the aforesaid offices, he or she shall cease to be a Representative from the date of appointment or election. The office of a Representative shall cease also if the Representative forfeits his or her eligibility.

Section 38
Parliamentary Ombudsman

The Parliament appoints for a term of four years a Parliamentary Ombudsman and two Deputy Ombudsmen, who shall have outstanding knowledge of law. A Deputy Ombudsman may have a substitute as provided in more detail by an Act. The provisions on the Ombudsman apply, in so far as appropriate, to a Deputy Ombudsman and to a Deputy Ombudsman's a substitute. (802/2007, entry into force 1.10.2007)

The Parliament, after having obtained the opinion of the Constitutional Law Committee, may, for extremely weighty reasons, dismiss the Ombudsman before the end of his or her term by a decision supported by at least two thirds of the votes cast.

Section 48
Right of attendance of Ministers, the Ombudsman and the Chancellor of Justice

Minister has the right to attend and to participate in debates in plenary sessions of the Parliament even if the Minister is not a Representative. A Minister may not be a member of a Committee of the Parliament. When performing the duties of the President of the Republic under section 59, a Minister may not participate in parliamentary work.

The Parliamentary Ombudsman and the Chancellor of Justice of the Government may attend and participate in debates in plenary sessions of the Parliament when their reports or other matters taken up on their initiative are being considered.

Section 109
Duties of the Parliamentary Ombudsman

The Ombudsman shall ensure that the courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights.

The Ombudsman submits an annual report to the Parliament on his or her work, including observations on the state of the administration of justice and on any shortcomings in legislation.

Section 110
The right of the Chancellor of Justice and the Ombudsman to bring charges and the division of responsibilities between them

A decision to bring charges against a judge for unlawful conduct in office is made by the Chancellor of Justice or the Ombudsman. The Chancellor of Justice and the Ombudsman may prosecute or order that charges be brought also in other matters falling within the purview of their supervision of legality.

Provisions on the division of responsibilities between the Chancellor of Justice and the Ombudsman may be laid down by an Act, without, however, restricting the competence of either of them in the supervision of legality.

Section 111
The right of the Chancellor of Justice and Ombudsman to receive information

The Chancellor of Justice and the Ombudsman have the right to receive from public authorities or others performing public duties the information needed for their supervision of legality.

The Chancellor of Justice shall be present at meetings of the Government and when matters are presented to the President of the Republic in a presidential meeting of the Government. The Ombudsman has the right to attend these meetings and presentations.

Section 112
Supervision of the lawfulness of the official acts of the Government and the President of the Republic

If the Chancellor of Justice becomes aware that the lawfulness of a decision or measure taken by the Government, a Minister or the President of the Republic gives rise to a comment, the Chancellor shall present the comment, with reasons, on the aforesaid decision or measure. If the comment is ignored, the Chancellor of Justice shall have the comment entered in the minutes of the Government and, where necessary, undertake other measures. The Ombudsman has the corresponding right to make a comment and to undertake measures.

If a decision made by the President is unlawful, the Government shall, after having obtained a statement from the Chancellor of Justice, notify the President that the decision cannot be implemented, and propose to the President that the decision be amended or revoked.

Section 113
Criminal liability of the President of the Republic

If the Chancellor of Justice, the Ombudsman or the Government deem that the President of the Republic is guilty of treason or high treason, or a crime against humanity, the matter shall be communicated to the Parliament. In this event, if the Parliament, by three fourths of the votes cast, decides that charges are to be brought, the Prosecutor-General shall prosecute the President in the High Court of Impeachment and the President shall abstain from office for the duration of the proceedings. In other cases, no charges shall be brought for the official acts of the President.

Section 114
Prosecution of Ministers

A charge against a Member of the Government for unlawful conduct in office is heard by the High Court of Impeachment, as provided in more detail by an Act.

The decision to bring a charge is made by the Parliament, after having obtained an opinion from the Constitutional Law Committee concerning the unlawfulness of the actions of the Minister. Before the Parliament decides to bring charges or not it shall allow the Minister an opportunity to give an explanation. When considering a matter of this kind the Committee shall have a quorum when all of its members are present.

A Member of the Government is prosecuted by the Prosecutor-General.

Section 115
Initiation of a matter concerning the legal responsibility of a Minister

An inquiry into the lawfulness of the official acts of a Minister may be initiated in the Constitutional Law Committee on the basis of:

1) A notification submitted to the Constitutional Law Committee by the Chancellor of Justice or the Ombudsman;
2) A petition signed by at least ten Representatives; or
3) A request for an inquiry addressed to the Constitutional Law Committee by another Committee of the Parliament.

The Constitutional Law Committee may open an inquiry into the lawfulness of the official acts of a Minister also on its own initiative.

Section 117
Legal responsibility of the Chancellor of Justice and the Ombudsman

The provisions in sections 114 and 115 concerning a member of the Government apply to an inquiry into the lawfulness of the official acts of the Chancellor of Justice and the Ombudsman, the bringing of charges against them for unlawful conduct in office and the procedure for the hearing of such charges.

Parliamentary Ombudsman Act

14 March 2002 (197/2002)

CHAPTER 1
Oversight of legality

Section 1
Subjects of the Parliamentary Ombudsman's oversight

(1) For the purposes of this Act, *subjects of oversight* shall, in accordance with Section 109 (1) of the Constitution of Finland, be defined as courts of law, other authorities, officials, employees of public bodies and also other parties performing public tasks.

(2) In addition, as provided for in Sections 112 and 113 of the Constitution, the Ombudsman shall oversee the legality of the decisions and actions of the Government, the Ministers and the President of the Republic. The provisions set forth below in relation to subjects of oversight apply in so far as appropriate also to the Government, the Ministers and the President of the Republic.

Section 2
Complaint

(1) A complaint in a matter within the Ombudsman's remit may be filed by anyone who thinks a subject has acted unlawfully or neglected a duty in the performance of their task.

(2) The complaint shall be filed in writing. It shall contain the name and contact particulars of the complainant, as well as the necessary information on the matter to which the complaint relates.

Section 3
Investigation of a complaint (20.5.2011/535)

(1) The Ombudsman shall investigate a complaint if the matter to which it relates falls within his or her remit and if there is reason to suspect that the subject has acted unlawfully or neglected a duty or if the Ombudsman for another reason takes the view that doing so is warranted.

(2) Arising from a complaint made to him or her, the Ombudsman shall take the measures that he or she deems necessary from the perspective of compliance with the law, protection under the law or implementation of fundamental and human rights. Information shall be procured in the matter as deemed necessary by the Ombudsman.

(3) The Ombudsman shall not investigate a complaint relating to a matter more than two years old, unless there is a special reason for doing so.

(4) The Ombudsman must without delay notify the complainant if no measures are to be taken in a matter by virtue of paragraph 3 or because it is not within the Ombudsman's remit, it is pending before a competent authority, it is appealable through regular appeal procedures, or for another reason. The Ombudsman can at the same time inform the complainant of the legal remedies available in the matter and give other necessary guidance.

(5) The Ombudsman can transfer handling of a complaint to a competent authority if the nature of the matter so warrants. The complainant must be notified of the transfer. The authority must inform the Ombudsman of its decision or other measures in the matter within the deadline set by the Ombudsman. Separate provisions shall apply to a transfer of a complaint between the Parliamentary Ombudsman and the Chancellor of Justice of the Government.

Section 4
Own initiative

The Ombudsman may also, on his or her own initiative, take up a matter within his or her remit.

Section 5
Inspections (28.6.2013/495)

(1) The Ombudsman shall carry out the on-site inspections of public offices and institutions necessary to monitor matters within his or her remit. Specifically, the Ombudsman shall carry out inspections in prisons and other closed institutions to oversee the treatment of inmates, as well as in the various units of the Defence Forces and Finland's military crisis management organisation to monitor the treatment of conscripts, other persons doing their military service and crisis management personnel.

(2) In the context of an inspection, the Ombudsman and officials in the Office of the Ombudsman assigned to this task by the Ombudsman have the right of access to all premises and information systems of the inspection subjeft, as well as the right to have confidential discussions with the personnel of the office or institution, persons serving there and its inmates.

Section 6
Executive assistance

The Ombudsman has the right to executive assistance free of charge from the authorities as he or she deems necessary, as well as the right to obtain the required copies or printouts of the documents and files of the authorities and other subjects.

Section 7
Right of the Ombudsman to information

The right of the Ombudsman to receive information necessary for his or her oversight of legality is regulated by Section 111 (1) of the Constitution.

Section 8
Ordering a police inquiry or a pre-trial investigation (22.7.2011/811)

The Ombudsman may order that a police inquiry, as referred to in the Police Act (872/2011), or a pre-trial investigation, as referred to in the Pre-trial Investigations Act (805/2011), be carried out in order to clarify a matter under investigation by the Ombudsman.

Section 9
Hearing a subject

If there is reason to believe that the matter may give rise to criticism as to the conduct of the subject, the Ombudsman shall reserve the subject an opportunity to be heard in the matter before it is decided.

Section 10
Reprimand and opinion

(1) If, in a matter within his or her remit, the Ombudsman concludes that a subject has acted unlawfully or neglected a duty, but considers that a criminal charge or disciplinary proceedings are nonetheless unwarranted in this case, the Ombudsman may issue a reprimand to the subject for future guidance.

(2) If necessary, the Ombudsman may express to the subject his or her opinion concerning what constitutes proper observance of the law, or draw the attention of the subject to the requirements of good administration or to considerations of promoting fundamental and human rights.

(3) If a decision made by the Parliamentary Ombudsman referred to in Subsection 1 contains an imputation of criminal guilt, the party having been issued with a reprimand has the right to have the decision concerning criminal guilt heard by a court of law. The demand for a court hearing shall be submitted to the Parliamentary Ombudsman in writing within 30 days of the date on which the party was notified of the reprimand. If notification of the reprimand is served in a letter sent by post, the party shall be deemed to have been notified of the reprimand on the seventh day following the dispatch of the letter unless otherwise proven. The party having been issued with a reprimand shall be informed without delay of the time and place of the court hearing, and of the fact that a decision may be given in the matter

in their absence. Otherwise the provisions on court proceedings in criminal matters shall be complied with in the hearing of the matter where applicable. (22.8.2014/674)

Section 11
Recommendation

(1) In a matter within the Ombudsman's remit, he or she may issue a recommendation to the competent authority that an error be redressed or a shortcoming rectified.

(2) In the performance of his or her duties, the Ombudsman may draw the attention of the Government or another body responsible for legislative drafting to defects in legislation or official regulations, as well as make recommendations concerning the development of these and the elimination of the defects.

CHAPTER 1 a
National Preventive Mechanism (NPM) (28.6.2013/495)

Section 11 a
National Preventive Mechanism (28.6.2013/495)

The Ombudsman shall act as the National Preventive Mechanism referred to in Article 3 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (International Treaty Series /).

Section 11 b
Inspection duty (28.6.2013/495)

(1) When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman inspects places where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (place of detention).

(2) In order to carry out such inspections, the Ombudsman and an official in the Office of the Ombudsman assigned to this task by the Ombudsman have the right of access to all premises and information systems of the place of detention, as well as the right to have confidential discussions with persons having been deprived of their liberty, with the personnel of the place of detention and with any other persons who may supply relevant information.

Section 11 c
Access to information (28.6.2013/495)

Notwithstanding the secrecy provisions, when carrying out their duties in capacity of the National Preventive Mechanism the Ombudsman and an official in the Office of the Ombudsman assigned to this task by the Ombudsman have the right to receive from authorities and parties maintaining the places of detention information about the number of persons deprived of their liberty, the number and locations of the facilities, the treatment of persons deprived of their liberty and the conditions in which they are kept, as well as any other information necessary in order to carry out the duties of the National Preventive Mechanism.

Section 11 d
Disclosure of information (28.6.2013/495)

In addition to the provisions contained in the Act on the Openness of Government Activities (621/1999) the Ombudsman may, notwithstanding the secrecy provisions, disclose information about persons having been deprived of their liberty, their treatment and the conditions in which they are kept to a Subcommittee referred to in Article 2 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Section 11 e
Issuing of recommendations (28.6.2013/495)

When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman may issue the subjects of supervision recommendations intended to improve the treatment of persons having been deprived of their liberty and the conditions in which they are kept and to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Section 11 f
Other applicable provisions (28.6.2013/495)

In addition, the provisions contained in Sections 6 and 8–11 herein on the Ombudsman's action in the oversight of legality shall apply to the Ombudsman's activities in his or her capacity as the National Preventive Mechanism.

Section 11 g
Independent Experts (28.6.2013/495)

(1) When carrying out his or her duties in capacity of the National Preventive Mechanism, the Ombudsman may rely on expert assistance. The Ombudsman may appoint as an expert a person who has given his or her consent to accepting this task and who has particular expertise relevant to the inspection duties of the National Preventive Mechanism. The expert may take part in conducting inspections referred to in Section 11 b, in which case the provisions in the aforementioned section and Section 11 c shall apply to their competence.

(2) When the expert is carrying out his or her duties referred to in this Chapter, the provisions on criminal liability for acts in office shall apply. Provisions on liability for damages are contained in the Tort Liability Act (412/1974).

Section 11 h
Prohibition of imposing sanctions (28.6.2013/495)

No punishment or other sanctions may be imposed on persons having provided information to the National Preventive Mechanism for having communicated this information.

CHAPTER 2
Report to the Parliament and declaration of interests

Section 12
Report

(1) The Ombudsman shall submit to the Parliament an annual report on his or her activities and the state of administration of justice, public administration and the performance of public tasks, as well as on defects observed in legislation, with special attention to implementation of fundamental and human rights.

(2) The Ombudsman may also submit a special report to the Parliament on a matter he or she deems to be of importance.

(3) In connection with the submission of reports, the Ombudsman may make recommendations to the Parliament concerning the elimination of defects in legislation. If a defect relates to a matter under deliberation in the Parliament, the Ombudsman may also otherwise communicate his or her observations to the relevant body within the Parliament.

Section 13
Declaration of interests (24.8.2007/804)

(1) A person elected to the position of Ombudsman, Deputy-Ombudsman or as a substitute for a Deputy-Ombudsman shall without delay submit to the Parliament a declaration of business activities and assets and duties and other interests which may be of relevance in the evaluation of his or her activity as Ombudsman, Deputy-Ombudsman or substitute for a Deputy-Ombudsman.

(2) During their term in office, the Ombudsman the Deputy-Ombudsmen and the substitute for a Deputy-Ombudsman shall without delay declare any changes to the information referred to in paragraph (1) above.

CHAPTER 3
General provisions on the Ombudsman, the Deputy-Ombudsmen and the Director of the Human Rights Centre (20.5.2011/535)

Section 14
Competence of the Ombudsman and the Deputy-Ombudsmen

(1) The Ombudsman has sole competence to make decisions in all matters falling within his or her remit under the law. Having heard the opinions of the Deputy-Ombudsmen, the Ombudsman shall also decide on the allocation of duties among the Ombudsman and the Deputy-Ombudsmen.

(2) The Deputy-Ombudsmen have the same competence as the Ombudsman to consider and decide on those oversight-of-legality matters that the Ombudsman has allocated to them or that they have taken up on their own initiative.

(3) If a Deputy-Ombudsman deems that in a matter under his or her consideration there is reason to issue a reprimand for a decision or action of the Government, a Minister or the President of the Republic, or to bring a charge against the President or a Justice of the Supreme Court or the Supreme Administrative Court, he or she shall refer the matter to the Ombudsman for a decision.

Section 15
Decision-making by the Ombudsman

The Ombudsman or a Deputy-Ombudsman shall make their decisions on the basis of drafts prepared by referendary officials, unless they specifically decide otherwise in a given case.

Section 16
Substitution (24.8.2007/804)

(1) If the Ombudsman dies in office or resigns, and the Parliament has not elected a successor, his or her duties shall be performed by the senior Deputy-Ombudsman.

(2) The senior Deputy-Ombudsman shall perform the duties of the Ombudsman also when the latter is recused or otherwise prevented from attending to his or her duties, as provided for in greater detail in the Rules of Procedure of the Office of the Parliamentary Ombudsman.

(3) Having received the opinion of the Constitutional Law Committee on the matter, the Parliamentary Ombudsman shall choose a substitute for a Deputy-Ombudsman for a term in office of not more than four years.

(4) When a Deputy-Ombudsman is recused or otherwise prevented from attending to his or her duties, these shall be performed by the Ombudsman or the other Deputy-Ombudsman as provided for in greater detail in the Rules of Procedure of the Office, unless the Ombudsman, as provided for in Section 19 a, paragraph 1, invites a substitute for a Deputy-Ombudsman to perform the Deputy-Ombudsman's tasks. When a substitute is performing the tasks of a Deputy-Ombudsman, the provisions of paragraphs (1) and (2) above concerning a Deputy-Ombudsman shall not apply to him or her.

Section 17
Other duties and leave of absence

(1) During their term of service, the Ombudsman and the Deputy-Ombudsmen shall not hold other public offices. In addition, they shall not have public or private duties that may compromise the credibility of their impartiality as overseers of legality or otherwise hamper the appropriate performance of their duties as Ombudsman or Deputy-Ombudsman.

(2) If the person elected as Ombudsman, Deputy-Ombudsman or Director of the Human Rights Centre holds a state office, he or she shall

be granted leave of absence from it for the duration of their term of service as as Ombudsman, Deputy-Ombudsman or Director of the Human Rights Centre (20.5.2011/535).

Section 18
Remuneration

(1) The Ombudsman and the Deputy-Ombudsmen shall be remunerated for their service. The Ombudsman's remuneration shall be determined on the same basis as the salary of the Chancellor of Justice of the Government and that of the Deputy-Ombudsmen on the same basis as the salary of the Deputy Chancellor of Justice.

(2) If a person elected as Ombudsman or Deputy-Ombudsman is in a public or private employment relationship, he or she shall forgo the remuneration from that employment relationship for the duration of their term. For the duration of their term, they shall also forgo any other perquisites of an employment relationship or other office to which they have been elected or appointed and which could compromise the credibility of their impartiality as overseers of legality.

Section 19
Annual vacation

The Ombudsman and the Deputy-Ombudsmen are each entitled to annual vacation time of a month and a half.

Section 19 a
Substitute for a Deputy-Ombudsman (24.8.2007/804)

(1) A substitute for a Deputy-Ombudsman can perform the duties of a Deputy-Ombudsman if the latter is prevented from attending to them or if a Deputy-Ombudsman's post has not been filled. The Ombudsman shall decide on inviting a substitute to perform the tasks of a Deputy-Ombudsman. (20.5.2011/535)

(2) The provisions of this and other Acts concerning a Deputy-Ombudsman shall apply *mutatis mutandis* also to a substitute for a Deputy-Ombudsman while he or she is performing the tasks of a Deputy-Ombudsman, unless separately otherwise regulated.

CHAPTER 3 a
Human Rights Centre (20.5.2011/535)

Section 19 b
Purpose of the Human Rights Centre (20.5.2011/535)

For the promotion of fundamental and human rights there shall be a Human Rights Centre under the auspices of the Office of the Parliamentary Ombudsman.

Section 19 c
The Director of the Human Rights Centre (20.5.2011/535)

(1) The Human Rights Centre shall have a Director, who must have good familiarity with fundamental and human rights. Having received the Constitutional Law Committee's opinion on the matter, the Parliamentary Ombudsman shall appoint the Director for a four-year term.

(2) The Director shall be tasked with heading and representing the Human Rights Centre as well as resolving those matters within the remit of the Human Rights Centre that are not assigned under the provisions of this Act to the Human Rights Delegation.

Section 19 d
Tasks of the Human Rights Centre (20.5.2011/535)

(1) The tasks of the Human Rights Centre are:
1) to promote information, education, training and research concerning fundamental and human rights as well as cooperation relating to them;
2) to draft reports on implementation of fundamental and human rights;
3) to present initiatives and issue statements in order to promote and implement fundamental and human rights;

4) to participate in European and international cooperation associated with promoting and safeguarding fundamental and human rights;
5) to take care of other comparable tasks associated with promoting and implementing fundamental and human rights.

(2) The Human Rights Centre does not handle complaints.

(3) In order to perform its tasks, the Human Rights Centre shall have the right to receive the necessary information and reports free of charge from the authorities.

Section 19 e
Human Rights Delegation (20.5.2011/535)

(1) The Human Rights Centre shall have a Human Rights Delegation, which the Parliamentary Ombudsman, having heard the view of the Director of the Human Rights Centre, shall appoint for a four-year term. The Director of the Human Rights Centre shall chair the Human Rights Delegation. In addition, the Delegation shall have not fewer than 20 and no more than 40 members. The Delegation shall comprise representatives of civil society, research in the field of fundamental and human rights as well as other actors participating in the promotion and safeguarding of fundamental and human rights. The Delegation shall choose a deputy chair from among its own number. If a member of the Delegation resigns or dies mid-term, the Ombudsman shall appoint a replacement for him or her for the remainder of the term.

(2) The Office Commission of the Eduskunta shall confirm the remuneration of the members of the Delegation.

(3) The tasks of the Delegation are:
1) to deal with matters of fundamental and human rights that are far-reaching and important in principle;
2) to approve annually the Human Rights Centre's operational plan and the Centre's annual report;
3) to act as a national cooperative body for actors in the sector of fundamental and human rights.

(4) A quarum of the Delegation shall be present when the chair or the deputy chair as well as at least half of the members are in attendance. The opinion that the majority has supported shall constitute the decision of the Delegation. In the event of a tie, the chair shall have the casting vote.

(5) To organise its activities, the Delegation may have a work committee and sections. The Delegation may adopt rules of procedure.

CHAPTER 3 b
Other tasks (10.4.2015/374)

Section 19 f (10.4.2015/374)
Promotion, protection and monitoring of the implementation of the Convention on the Rights of Persons with Disabilities

(1) The tasks under Article 33(2) of the Convention on the Rights of Persons with Disabilities concluded in New York in 13 December 2006 shall be performed by the Parliamentary Ombudsman, the Human Rights Centre and its Human Rights Delegation.

(2) Chapter 3 b and Section 19 f added pursuant to Act 374/2015 shall enter into force on the date to be laid down in a Decree.

CHAPTER 4
Office of the Parliamentary Ombudsman and the detailed provisions (20.5.2011/535)

Section 20 (20.5.2011/535)
Office of the Parliamentary Ombudsman and detailed provisions

For the preliminary processing of cases for decision by the Ombudsman and the performance of the other duties of the Ombudsman as well as for the discharge of tasks assigned to the Human Rights Centre, there shall be an office headed by the Parliamentary Ombudsman.

Section 21
Staff Regulations of the Parliamentary Ombudsman and the Rules of Procedure of the Office (20.5.2011/535)

(1) The positions in the Office of the Parliamentary Ombudsman and the special qualifications for those positions shall be set forth in the Staff Regulations of the Parliamentary Ombudsman.

(2) The Rules of Procedure of the Office of the Parliamentary Ombudsman shall contain more detailed provisions on the allocation of tasks among the Ombudsman and the Deputy-Ombudsmen. Also determined in the Rules of Procedure shall be substitution arrangements for the Ombudsman, the Deputy-Ombudsmen and the Director of the Human Rights Centre as well as the duties of the office staff and the cooperation procedures to be observed in the Office.

(3) The Ombudsman shall confirm the Rules of Procedure of the Office having heard the views of the Deputy-Ombudsmen and the Director of the Human Rights Centre.

CHAPTER 5
Entry into force and transitional provision

Section 22
Entry into force

This Act enters into force on 1 April 2002.

Section 23
Transitional provision

The persons performing the duties of Ombudsman and Deputy-Ombudsman shall declare their interests, as referred to in Section 13, within one month of the entry into force of this Act.

Entry into force and application of the amending acts:

24.8.2007/804:
The date on which this Act enters into force shall be laid down in a Government Decree. (Act 840/2007 enters into force under Decree 836/2007 on 1 October 2007.)

20.5.2011/535
This Act shall enter into force on 1 January 2012.

Section 3 and the first paragraph of Section 19 a of the Act shall, however, enter into force on 1 June 2011.

The measures necessary to launch the activities of the Human Rights Centre may be taken before the entry into force of the Act.

22.7.2011/811
This Act shall enter into force on 1 January 2014.

28.6.2013/495
This Act shall enter into force on the date to be laid down in a Government Decree. However, Section 5 of the Act shall enter into force on 1 July 2013. (Act 495/2013 enters into force under Decree 848/2014 on 7 November 2014.)

22.8.2014/674
This Act shall enter into force on 1 January 2015.

10.4.2015/374
This Act shall enter into force on the date laid down in a Government Decree.

Division of labour between the Ombudsman and the Deputy-Ombudsmen

Ombudsman Mr. Petri Jääskeläinen
decides on matters concerning:

- the highest organs of state
- questions involving important principles
- courts
- health care
- legal guardianship
- language legislation
- asylum and immigration
- the rights of persons with disabilities
- oversight of covert intelligence gathering
- the coordination of the tasks of the National Preventive Mechanism against Torture and reports relating to its work

Deputy-Ombudsman Mr. Jussi Pajuoja
decides on matters concerning:

- the police
- public prosecutor
- social insurance
- labour administration
- unemployment security
- education, science and culture
- data protecton, data management and telecommunications
- the prison service and execution of sentences

Deputy-Ombudsman Ms. Maija Sakslin
decides on matters concerning:

- municipal affairs
- children's rights and early childhood education and care
- social welfare
- Sámi affairs
- agriculture and forestry
- customs
- distraint, bankruptcy and dept arrangements
- taxation
- environmental administration
- Defence Forces, Border Guard and non-military national service
- church affairs
- traffic and communications

Statistical data on the Ombudsman's work in 2015

MATTERS UNDER CONSIDERATION

Oversight-of-legality cases under consideration			**6,522**
Cases initiated in 2015		5,240	
– complaints to the Ombudsman	4,727		
– complaints transferred from the Chancellor of Justice	32		
– taken up on the Ombudsman's own initiative	89		
– submissions and attendances at hearings	74		
– other written communications	318		
Cases held over from 2014		1,228	
Cases held over from 2013		22	
Cases held over from 2012		19	
Cases held over from 2011		11	
Cases held over from 2010		1	
Cases held over from 2009		1	
Cases resolved			**5,255**
Complaints		4,794	
Taken up on the Ombudsman's own initiative		73	
Submissions and attendances at hearings		75	
Other written communications		313	
Cases held over to the following year			**1,267**
From 2015		1,215	
From 2014		28	
From 2013		12	
From 2012		8	
From 2011		4	
Other matters under consideration			**328**
Inspections [1]		152	
Administrative matters in the Office		150	
International matters		26	

[1] Number of inspection days 99

OVERSIGHT OF PUBLIC AUTHORITIES

Complaint cases		4,794
Social security		1,074
– social welfare	789	
– social insurance	285	
Police		723
Health care		483
Criminal sanctions		469
Labour administration authorities		256
Courts		241
– civil and criminal	210	
– special	6	
– administrative	25	
Education		184
Municipal affairs		172
Environment		131
Distraint		128
Transport and communications		108
Taxation		95
Guardianship		95
Highest organs of state		94
Agriculture and forestry		76
Prosecutors		66
Defence		65
Asylum and immigration		62
Customs		53
Municipal councils		32
Private parties not subject to oversight		22
Church		21
Other subjects of oversight		144

OVERSIGHT OF PUBLIC AUTHORITIES

Taken up on the Ombudsman's own initiative		**73**
Health care	18	
Social security	11	
– social welfare	10	
– social insurance	1	
Criminal sanctions	9	
Police	8	
Municipal affairs	5	
Defence	5	
Labour administration authorities	3	
Agriculture and forestry	3	
Environment	1	
Taxation	1	
Distraint	1	
Asylum and immigration	1	
Guardianship	1	
Customs	1	
Transport and communications	1	
Other subjects of oversight	1	
Total number of decisions		**4,867**

MEASURES TAKEN BY THE OMBUDSMAN

Complaints		**4,794**
Decisions leading to measures on the part of the Ombudsman		777
– prosecution		–
– reprimands		11
– opinions		614
– as a rebuke	340	
– for future guidance	274	
– recommendations		26
– to redress an error or rectify a shortcoming	3	
– to develop legislation or regulations	10	
– to provide compensation for a violation*	12	
– to rech an agreed settlement	1	
– matters redressed in the course of investigation		24
– other measure		102
– to rech an agreed settlement	–	
No action taken, because		2,520
– no incorrect procedure found		295
– no grounds		2,225
– to suspect illegal or incorrect procedure	1,651	
– for the Ombudsman's measures	574	
Complaint not investigated, because		1,497
– matter not within Ombudsman's remit		171
– still pending before a competent authority or possibility of appeal still open		556
– unspecified		312
– transferred to Chancellor of Justice		20
– transferred to Prosecutor-General		1
– transferred to other authority		187
– older than two years		138
– inadmissible on other grounds		112

MEASURES TAKEN BY THE OMBUDSMAN

Taken up on the Ombudsman's own initiative		**73**
Decisions leading to measures on the part of the Ombudsman		57
– prosecution		–
– reprimands		–
– opinions		30
– as a rebuke	15	
– for future guidanc	15	
– recommendations		2
– to redress an error or rectify a shortcoming	–	
– to develop legislation or regulations	–	
– to provide compensation for a violation	2	
– to rech an agreed settlement	–	
– matters redressed in the course of investigation		6
– other measure		19
No action taken, because		8
– no incorrect procedure found		4
– no grounds		4
– to suspect illegal or incorrect procedure	2	
– for the Ombudsman's measures	2	
Own initiative not investigated, because		8
– still pending before a competent authority or possibility of appeal still open		3
– inadmissible on other grounds		5

INCOMING CASES BY AUTHORITY

Ten biggest categories of cases

Social security		1,105
– social welfare	810	
– social insurance	295	
Police		705
Health care		495
Criminal sanctions		447
Labour administration authorities		249
Courts		246
– civil and criminal	214	
– special	6	
– administrative	26	
Education		170
Municipal affairs		148
Environment		137
Distraint		136

Inspections

* = inspection without advance notice

Courts

- 27.10. South Karelia District Court, Imatra Office
- 10.11. Administrative Court of Eastern Finland, Kuopio

Prosecution service

- 7.5. Prosecutor's Office of Salpausselkä, Kouvola
- 29.10. Prosecutor's Office of Itä-Uusimaa, Vantaa Main Office
- 9.12. Office of the Prosecutor General, Helsinki

Police administration

- 4.2. Pasila Police Station, police prison
- 25.2. Police Traffic Safety Centre, Helsinki
- 4.3. Helsinki Police Department, Command Centre and Safety and Preparedness Unit
- 6.3. National Bureau of Investigation, covert intelligence gathering
- 22.4. Lahti Central Police Station, police prison*
- 7.5. Southeastern Finland Police Department, Kouvola
- 7.5. Southeastern Finland Police Department, covert intelligence gathering, Kouvola
- 7.5. Kouvola Central Police Station, police prison and detention facilities for intoxicated persons
- 12.6. National Police Board, Helsinki
- 15.6. Rovaniemi Central Police Station, police prison and detention facilities for intoxicated persons*
- 15.6. Kemijärvi Police Station, police prison and detention facilities for intoxicated persons*
- 15.6. Kuusamo Police Station, police prison and detention facilities for intoxicated persons*
- 16.6. Kajaani Police Station, police prison and detention facilities for intoxicated persons*
- 16.6. Suomussalmi Police Station, police prison and detention facilities for intoxicated persons*
- 16.6. Sotkamo Police Station, police prison and detention facilities for intoxicated persons*
- 17.6. Kuhmo Police Station, police prison and detention facilities for intoxicated persons*
- 17.6. Nurmes Police Station, police prison and detention facilities for intoxicated persons*
- 17.6. Lieksa Police Station, police prison and detention facilities for intoxicated persons*
- 17.6. Joensuu Police Station, police prison and detention facilities for intoxicated persons*
- 10.7. Helsinki Police Department, activities of police patrols
- 26.8. Joensuu Police Station, police prison and detention facilities for intoxicated persons*
- 22.9. Raasepori Police Station, police prison and detention facilities for intoxicated persons*
- 22.9. Salo Police Station, police prison and detention facilities for intoxicated persons*
- 22.9. Turku Police Station, police prison and detention facilities for intoxicated persons*
- 23.9. Rauma Police Station, police prison and detention facilities for intoxicated persons*
- 23.9. Pori Police Station, police prison and detention facilities for intoxicated persons*
- 23.9. Loimaa Police Station, police prison and detention facilities for intoxicated persons*
- 12.10. Iisalmi Police Station, police prison and detention facilities for intoxicated persons*
- 27.10. Imatra Police Station, police prison*
- 29.10. Rovaniemi Central Police Station, police prison and detention facilities for intoxicated persons*
- 30.10. Eastern Uusimaa Police Department, Vantaa

- 30.10. Eastern Uusimaa Police Department (covert intelligence gathering), Vantaa
- 3.11. Helsinki Police Department, Töölö custodial facilities
- 18.11. National Police Board, Helsinki
- 4.12. National Bureau of Investigation, Helsinki
- 16.12. National Police Board, Helsinki

Defence Forces and Border Guard

- 6.3. Guard Jaeger Regiment, Santahamina
- 6.3. Guard Jaeger Regiment, detention facilities for persons deprived of their liberty*, Santahamina
- 5.5. Utti Jaeger Regiment
- 5.5. Utti Jaeger Regiment, detention facilities for persons deprived of their liberty*
- 12.5. Helsinki Border Control Department, Helsinki-Vantaa airport
- 12.5. Helsinki-Vantaa airport, detention facilities for persons deprived of their liberty*
- 26.5. Reserve Officer School, Hamina
- 26.5. Reserve Officer School, detention facilities for persons deprived of their liberty, Hamina
- 15.6. Jaeger Brigade, Rovaniemi Air Defence Battalion, detention facilities for persons deprived of their liberty
- 16.6. Kainuu Brigade, detention facilities for persons deprived of their liberty*, Kajaani
- 21.10. Border and Coast Guard Academy, Imatra
- 21.10. Southeast Finland Border Guard District, Imatra
- 22.10. Army Academy, Lappeenranta
- 22.10. Army Academy, detention facilities for persons deprived of their liberty*, Lappeenranta
- 3.11. Pori Brigade, Niinisalo unit
- 3.11. Pori Brigade, Niinisalo unit, detention facilities for persons deprived of their liberty*
- 4.11. Pori Brigade, Säkylä unit
- 4.11. Pori Brigade, Säkylä unit, detention facilities for persons deprived of their liberty*
- 1.12. National Defence University, Santahamina

Criminal sanctions

- 20.1. Helsinki prison*
- 27.1. Helsinki Community Sanctions Office
- 3.2. Uusimaa Community Sanctions Office supervision patrol, Vantaa
- 12.3. Riihimäki prison*
- 1.4. Helsinki prison
- 1.4. Helsinki prison, outpatient clinic
- 24.4. Satakunta prison, Huittinen unit
- 12.5. Vantaa prison
- 2.6. Riihimäki prison*
- 4.6. Criminal Sanctions Region of Western Finland, Region Centre supervision patrol, Tampere
- 25.8. Pyhäselkä prison*
- 29.9. Criminal Sanctions Agency, Central Administration Unit (prisoner information system)
- 12.–13.10. Sukeva prison
- 13.10. Sukeva prison, outpatient clinic
- 19.10. Vanaja prison, Vanaja unit family ward
- 19.10. Hämeenlinna prison family ward
- 10.11. Kuopio prison, outpatient clinic
- 10.11. Kuopio prison, women's ward
- 17.11. Riihimäki prison*

Distraint

- 13.3. Raahe Region Enforcement Agency, Raahe main office
- 13.3. City of Raahe, financial and debt counselling
- 24.11. City of Hämeenlinna, Financial and administrative services

Asylum and immigration

- 8.10. National Immigration Service, Helsinki
- 21.10. Joutseno Reception Centre and Detention Unit*
- 27.10. Joutseno Reception Centre
- 27.10. Joutseno Reception Centre, Detention Unit
- 27.10. Southeast Finland Police Department, Aliens unit

- 3.11. Metsäkoto Oy, group home for asylum seekers aged under 16*, Pori
- 3.12. Tornio registration centre for asylum seekers*

Emergency Responce Centre Administration and rescue services

- 12.3. Kerava Emergency Response Centre
- 20.8. Ministry of the Interior, Department for Rescue Services, Helsinki
- 24.11. City of Helsinki, rescue services
- 24.11. City of Helsinki, Rescue School

Social welfare

- 27.1. Uusi-Annila Oy*, Nummela (private housing service)
- 4.2. City of Helsinki, Roihuvuori Comprehensive Service Centre (Group homes Huvikumpu, Ronja and Kultakukko)*
- 11.3. City of Oulu, child welfare services
- 12.3. Regional State Administrative Agency for Northern Finland
- 12.3. Residential school Pohjolakoti and child welfare substitute care units Toukola, Koivulehto, Koivu, Salorinne and Utanen-Nuojua (maintained by an association), Muhos
- 22.4. City of Helsinki, Riistavuori Comprehensive Service Centre*, Helsinki
- 23.4. Children's home Veera (private child welfare institution)*, Järvenpää
- 27.5. City of Helsinki, Department of Social Services and Health Care, Helsinki
- 30.6. City of Salo, Anninkartano group home*, Salo (housing service for the elderly)
- 30.6. City of Salo, Pahkavuori group home*, Salo (housing service for the elderly)
- 10.7. Care home Villa Petriina*, Hyvinkää (private housing service for the elderly)
- 10.7. Service Centre Hyvinkään Lepovilla, Vilmakoti*, Hyvinkää (private housing service for the elderly)
- 3.9. Support and Expert Centre for Persons with Intellectual Disability KTO, Psychiatric Crisis and Research Centre for Persons with Intellectual Disability*, Paimio
- 3.9. Support and Expert Centre for Persons with Intellectual Disability KTO, Sheltered housing*, Paimio
- 4.9. Karviainen Joint Municipal Authority for Health Care and Social Services, home care and services for the elderly, Nummela
- 1.10. City of Helsinki, Myllypuro Comprehensive Service Centre*
- 8.10. City of Kouvola, home care
- 22.10. City of Helsinki, Madetoja Service Centre (home for dementia patients Emma and psychogeriatric group home Viljankukka)*
- 23.11. City of Kemi, Kemi youth home* (child welfare unit)
- 23.11. City of Kemi, Kaivarin vintti* (child welfare unit)
- 11.12. Eteva Joint Municipal Authority, Hämeenlinna Psychiatric Unit for Persons with Intellectual Disabilities

Health care

- 22.4. Paihola Hospital, adult psychiatry ward and wards for child and youth psychiatry, Joensuu
- 7.5. Kouvola detoxification unit (maintained by A-Clinic Foundation)
- 22.9. Turku detoxification unit (maintained by A-Clinic Foundation)
- 3.11. City of Helsinki, detoxification unit, Töölö Sports Hall
- 10.11. Niuvanniemi Hospital, Kuopio
- 10.11. Hospital District of Pohjois-Savo, Kuopio University Hospital (secure room)*
- 10.11. Regional State Administrative Agency for Eastern Finland, Kuopio Office (supervision of psychiatric care)
- 24.11. Pirkanmaa Hospital District, Tampere University Hospital/intellectual disability services, Care unit 2*, Tampere
- 24.11. Pirkanmaa Hospital District, Tampere University Hospital/intellectual disability services, Psychosocial rehabilitation unit*, Tampere

- 24.11. Pirkanmaa Hospital District, Tampere University Hospital/intellectual disability services, Rehabilitation unit for young people*, Tampere

Social insurance

- 11.5. State Treasury (processing of claims addressed to central government and the rights of persons with disabilities), Helsinki
- 26.5. State Treasury (statutory compensation services), Helsinki
- 3.9. Social Insurance Institution/Centre for Interpreting Services for Disabled Clients, Turku
- 2.12. Finnish Motor Insurers' Centre, Helsinki
- 3.12. Traffic Accident Board, Helsinki

Labour and unemployment security

- 6.5. Centre for Economic Development, Transport and the Environment, Business and industry, area of responsibility for labour and competence, Helsinki

Education

- 15.1. Matriculation Examination Board, Helsinki
- 10.2. Ministry of Education and Culture, Helsinki
- 12.3. Pohjola School and Nuorten ystävät School (maintained by an association), Muhos
- 16.4. City of Helsinki, Vuosaari Upper Secondary School
- 21.4. Finnish National Board of Education, Helsinki
- 10.8. Finnish Education Evaluation Centre, Helsinki
- 2.11. Järvenpää Upper Secondary School
- 2.11. City of Järvenpää, basic education services
- 25.11. Matriculation Examination Board, Helsinki

Other inspections

- 24.2. Ministry of the Interior, Legal Affairs Unit, Helsinki
- 5.3. Consumer Disputes Board, Helsinki
- 12.3. Hospital District of Northern Ostrobothnia, financial administration, Oulu
- 14.4. Advance voting stations:
  - Viherlaakso Library, Espoo*
  - Soukka Service Centre, Espoo*
  - Matinkylä Joint Services Point, Espoo*
  - Kruunuhaka Post Office, Helsinki*
  - Pihlajamäki Youth Centre, Helsinki*
  - Galleria K, Vantaa*
  - Pähkinärinne Library, Vantaa*
- 22.4. Synod of the Orthodox Church of Finland, Kuopio
- 12.5. Airport Customs, Helsinki-Vantaa airport
- 15.9. Chapter of Oulu Diocese
- 24.9. Ministry of Employment and the Economy, ICT and Knowledge Management Department
- 10.11. Regional State Administrative Agency for Southern Finland, unit for environmental health, Helsinki
- 12.11. Finnish Communications Regulatory Authority, Helsinki

Other inspection-related meetings

- 10.6. Discussion with representatives of the legal affairs group at the Social Insurance Institution's Administrative Department.
- 6.10. Meeting with Director General and other representatives of the National Administrative Office for Enforcement to discuss topical enforcement issues.
- 29.10. A meeting to discuss questions related to the custody of reprimand prisoners with representatives of Eastern Uusimaa Police Department, Prosecutor's Office of Eastern Uusimaa, Vantaa prison and Vantaa District Court.

Staff of the Office of the Parliamentary Ombudsman

Parliamentary Ombudsman
Mr Petri Jääskeläinen, LL.D., LL.M. with court training

Deputy-Ombudsmen
Mr Jussi Pajuoja, LL.D.
Ms Maija Sakslin, LL.Lic.

Secretary General
Ms Päivi Romanov, LL.M. with court training

Principal Legal Advisers
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Mr Juha Haapamäki, LL.M. with court training
Mr Jorma Kuopus, LL.D., LL.M. with court training
Ms Ulla-Maija Lindström, LL.M. (since 1.9.)
Ms Riitta Länsisyrjä, LL.M. with court training
Mr Raino Marttunen, LL.M. with court training (till 31.5.)
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Mr Pasi Pölönen, LL.D., LL.M. with court training
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Legal Advisers
Ms Terhi Arjola-Sarja, LL.M. with court training
Mr Mikko Eteläpää, LL.M. with court training (till 31.3.)
Mr Kristian Holman, LL.M., M.Sc. (Admin.)
Mr Juha-Pekka Konttinen, LL.M.
Mr Juho Martikainen, LL.M. with court training
Mr Kari Muukkonen, LL.M. with court training
Ms Anu Rita, LL.M. with court training (till 30.6.)
Ms Piatta Skottman-Kivelä, LL.M. with court training
Ms Mia Spolander, LL.D., LL.M. with court training (since 1.11.)
Ms Iisa Suhonen, LL.M. with court training
Mr Jouni Toivola, LL.M.
Ms Minna Verronen, LL.M. with court training
Ms Pirkko Äijälä-Roudasmaa, LL.M. with court training

On-duty lawyers
Ms Jaana Romakkaniemi, LL.M. with court training
Ms Pia Wirta, LL.M. with court training

Information Officer
Ms Kaija Tuomisto, M.Soc.Sc.

Information Management Specialist
Mr Janne Madetoja, M.Sc. (Admin.)

Investigating Officers
Mr Reima Laakso
Mr Peter Fagerholm

Notaries
Ms Taru Koskiniemi, LL.B.
Ms Kaisu Lehtikangas, M.Soc.Sc.
Ms Helena Rahko, LL.B.
Ms Eeva-Maria Tuominen, M.Sc.(Admin.), LL.B.

Administrative secretary
Ms Eija Einola

Filing Clerk
Ms Helena Kataja

Assistant Filing Clerk
Ms Päivi Karhu (till 30.4.)

Departmental Secretaries
Ms Päivi Ahola
Ms Anu Forsell
Ms Mervi Stern

Office Secretaries
Ms Johanna Hellgren
Ms Pirjo Hokkanen (part-time, till 30.4.))
Mr Mikko Kaukolinna
Ms Krissu Keinänen
Ms Nina Moisio, M.Soc.Sc., M.A.
Ms Tiina Mäkinen (since 1.9.)
Ms Arja Raahenmaa (part-time)
Ms Taina Raatikainen, B.Soc.Sc.
Ms Sirpa Salminen, M.Sc.(Admin.) (till 12.8.)
Ms Virpi Salminen
Ms Riikka Saulamaa

Trainee
Ms Mia Muhonen (8.6.–28.8.)

Employed with employment promotion subsidies
Ms Matleena Kantola, M.Soc.Sc. (26.1.–25.7.)

Staff of the Human Rights Centre

Director
Ms Sirpa Rautio, LL.M. with court training

Experts
Ms Kristiina Kouros, LL.M. (on leave till 30.11.)
Ms Leena Leikas, LL.M. with court training (on leave)
Ms Kristiina Vainio, M.Soc.Sc. (till 31.5.)

Assistant Experts
Ms Elina Hakala, M.Soc.Sc.
Ms Anni Mäkeläinen, B.Soc.Sc. (17.11.–15.12.)
Ms Hanna Rönty, M.A. (since 19.7.)

Trainees
Ms Anni Mäkeläinen, B.Soc.Sc. (17.8.–16.11.)
Ms Amina Sarpola (since 1.12.)

Employed with employment promotion subsidies
Ms Hanna Rönty, M.A. (19.1.–18.7.)