JO RIKSDAGENS OMBUDSMÄN

Annual Report 2023

SUMMARY IN ENGLISH

JO RIKSDAGENS OMBUDSMÄN
THE SWEDISH PARLIAMENTARY OMBUDSMEN

The Parliamentary Ombudsmen (Riksdagens ombudsmän, JO, the official title), are appointed by the Swedish Riksdag (parliament) to ensure that public authorities and their staff comply with the laws and other statutes governing their actions.

The Parliamentary Ombudsmen form one pillar of parliamentary control in Sweden. The task of the ombudsmen is to review the implementation of laws and other regulations in the public sector on behalf of the Riksdag and independent of the executive power. This review includes courts of law and other public authorities, as well as their employees.

The Parliamentary Ombudsmen shall ensure that public authorities treat individuals lawfully and correctly. The ombudsmen form one pillar of constitutional protection for the basic freedoms and rights of individuals.

In addition to the Parliamentary Ombudsmen Sweden has a number of other ombudsmen who review specific fields. Examples include the Equality Ombudsman, the Ombudsman for Children, the Press Ombudsman and the Consumer Ombudsman.

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In many respects, 2023 was a very eventful year for the Parliamentary Ombudsmen. The most important thing has been that we have a new and modern instructions for the Parliamentary Ombudsmen, which entered into force on 1 September. It is the result of a major review of the Parliamentary Ombudsmen, initiated by the Committee on the Constitution, which was primarily motivated by the fact that much has changed in society at large and in public activities since the last review almost 40 years ago.

This is not the place to give a detailed account of the many changes that have been made to the instructions. However, some important and welcome ones can be mentioned. The Parliamentary Ombudsmen's task of specifically scrutinising compliance with the principle of objectivity is extended to include the activities of private actors in the part that involves the exercise of authority. With regard to the Parliamentary Ombudsmen's role as a special prosecutor, it is clarified that the Parliamentary Ombudsmen has the opportunity to choose to what extent a preliminary investigation should be initiated or prosecution brought in a case. The Riksdag Act has also been amended to ensure greater independence and security for the Ombudsmen and to promote the Ombudsmen's ability to work more long-term in their office. Thus the term of office for the election of a new Ombudsman has been changed from four years to six. Furthermore, as a dormant proposal for an amendment to the Instrument of Government, with entry into force on 1 January 2027, it has been decided that at least three quarters of those voting and more than half of the members of Parliament must agree on a decision to dismiss an Ombudsman.

With regard to this major review, I refer to the report of the Committee on the Constitution on the review of the Office of the Parliamentary Ombudsmen (report 2022/23:KU32) and the report from the Riksdag Administration with the same focus (2021/22:URF2).

Every year since 1810, the Parliamentary Ombudsmen has submitted an annual report to the Riksdag (Swedish Parliament). For the first 165 years, the report related to the previous calendar year. In 1975, it was decided that the report should cover the period from 1 July of the previous year to 30 June of the current year. The Parliamentary Ombudsmen's instructions of 2023 have reverted to calendar year reporting. This is very good for the Parliamentary Ombudsmen's

activities. The annual report will now cover the same period as the operational plan and the annual accounts, allowing us to make better use of our resources. However, this particular annual report is somewhat special in that, according to an explicit provision, it must also cover the period from 1 July to 31 December 2022. It therefore contains decisions from a period of one and a half years. As for the statistical data, these are also reported, where deemed appropriate, for this longer period. When comparisons are made, this is done for the past calendar year in relation to previous calendar years.

Like all other public organisations, the Parliamentary Ombudsmen must constantly develop their activities to ensure that we make the best possible use of our resources. One aspect of this is that, over the past two years, we Ombudsmen have increasingly delegated decisions on dismissal cases to heads of division. The proportion of delegated decisions increased from 10 per cent in 2021 to 30 per cent in 2022. In the past year, it has accounted for about 46 per cent of all dismissal decisions. Starting in the spring of 2023, a pilot project was launched whereby experienced legal experts were also given the opportunity to make dismissal decisions in certain simpler cases by delegation. This was successful, and during the autumn all Ombudsmen have delegated the right to make certain decisions to experienced legal experts who now make decisions in about 6 per cent of all dismissal cases. The increased delegation can give both Ombudsmen and heads of division more latitude to work on the cases under investigation and other enquiries.

Delegation to legal experts also serves other purposes. We fill these legal expert positions with associate judges from courts of appeal and administrative courts of appeal. They have fixed-term contracts and many then return to the judiciary as regular judges. For many reasons, it is important that they have good development opportunities during their time with us. One of these reasons is to make the position of legal expert at the Parliamentary Ombudsmen more attractive. This is important, not least for our recruitment opportunities at a time when competition for this labour force will apparently become more intense. But it is not only delegation that is important in this respect. We have also updated our promotion guidelines and taken steps to ensure that the merit value of working for the Parliamentary Ombudsmen is high and fair. A review of our professional development policy has been launched, and we intend to improve further in this area. It can also be mentioned that during the year we have increasingly encouraged legal experts to change divisions in order to broaden their experience, and several have done so.

Extensive work has been done during the year to digitise case management, and we have now also switched to being able to issue decisions digitally. This has created efficiency gains and laid the foundation for further development.

We have also implemented a new digital statistics tool. Through interactive and customisable reports, the authority's managers can now easily obtain daily updated statistics at various levels, thus creating better conditions for governance, management and follow-up.

A new and modern website was launched during the year. The Parliamentary Ombudsmen's digital appearance is now in step with the times. The website includes an improved search function and a more educational reporting procedure that has been developed with the help of user tests. We have also reviewed our service to the media and further adapted to journalists' short deadlines. In addition, we have developed our press releases to make it easier for the media to evaluate the news and select the information they want to publish. Media exposure of our decisions has increased by more than 20 per cent compared to the previous year.

Our security and security protection work has been reviewed, partly because of the increased threat of terrorism. Cooperation with the Riksdag Administration has been deepened in these areas, and more of our employees are now undergoing security checks than before. We have also introduced a new crisis and continuity plan in the organisation, to be better equipped if the unexpected occurs and to be able to continue our activities regardless of external circumstances. Related to this, the physical protection of the authority has also been strengthened in order to prevent unauthorised access to our premises.

With regard to complaints, the number increased by just over 2 per cent this year and amounts to about 10,500. There has been a significant decrease in complaints in some major categories. Compared to the calendar year 2022, police and migration cases have decreased by about 10 per cent and communications by about 25 per cent. Large increases have occurred in the areas of care for children and young people, application of the Social Services Act and the labour market (around 15, 20 and 25 per cent, respectively). The largest increase in terms of numbers was in the Prison and Probation Service, with around 200 complaints. The percentage increase amounts to 11, but this increase is largely attributable to the first quarter of this year. What is interesting about the Prison and Probation Service is that the large increase occurred in the second quarter of 2022 and that the number of complaints has remained at approximately the same elevated level since then. The Prison and Probation Service accounts for almost one fifth of all complaints.

It may be appropriate to mention here that we regularly make forecasts of the expected number of complaints in different areas in order to adjust the areas of responsibility of the Ombudsmen and the processing responsibilities of heads of division and other legal advisers if necessary. The increase in the number of complaints concerning the Prison and Probation Service is a contributory reason

why, as of 1 January 2024, we have made certain adjustments to the areas of responsibility and strengthened the review organisation with an additional head of division.

The number of inspections has almost reached the levels that applied before the pandemic, and this is also true of the inspections carried out within the framework of our OPCAT activities. It has also been possible to carry out international cooperation to the planned extent.

We have achieved all our internal operational goals and the ending backlog in the calendar year 2023 has decreased by about 17 per cent, or 160 cases. For the oldest cases, i.e. those older than 18 months, the backlog has decreased significantly over the past two years. The number amounted to 70 at the end of 2021, 23 at the end of 2022, and the authority had only 3 cases with a processing time longer than 18 months at the end of 2023. The corresponding figures for the cases where the processing time is 12–18 months are 96, 41 and 43, respectively. The improvement in the backlog situation is deemed to be partly due to the fact that several Ombudsmen have chosen to prioritise the oldest cases in combination determined work to generally have shorter processing times than before.

Shorter processing times are important for confidence in the Parliamentary Ombudsmen. For example, we cannot credibly criticise authorities for slow processing if we ourselves are suffering from excessively long processing times. Another issue that may be of importance to confidence is the number and proportion of cases investigated. Naturally, not all complaints can be investigated, far from it, nor is that the role of the Parliamentary Ombudsmen. The total number of decisions in investigated cases during the year amounted to 432. All else being equal, an increase in the number of complaints means that the proportion that can be investigated decreases. This could potentially undermine confidence in us. However, as I have already mentioned, we are working continuously to develop and streamline our operations, and we are doing this – successfully, I would say – in part to create scope for investigating more cases.

Matters of confidence are always central for us to work actively with. Clear and easily accessible communication is also highlighted as one of three prioritised areas in the operational plan for 2024, along with issues of efficiency and competence supply.

Erik Nymansson
Chief Parliamentary Ombudsman

Erik Nymansson

Chief Parliamentary Ombudsman

My area of responsibility includes the administrative courts, armed forces, healthcare, education and research, and tax and national registration. This area also includes public procurement and a number of key authorities.

In an international perspective, the Swedish system whereby the Parliamentary Ombudsmen is the supervisory authority over judges and courts is very unusual. As far as I know, only the Swedish and Finnish ombudsmen have this kind of general power. In light of the principle of judicial independence, it is also understandable that this arrangement raises questions abroad. But even if the Parliamentary Ombudsmen's supervision is not explicitly limited to a formal review, that is the direction the review has taken.

One example of this is the very large number of complaints concerning a high-profile acquittal in a sexual offence case by the Court of Appeal for Western Sweden (reg. no. 1766-2023). I decided not to investigate the complaints. The question of whether someone should be convicted of an offence is a matter for the courts. The judgment was also appealed to the Supreme Court, which set it aside and referred the case back to the Court of Appeal for a new trial.

The system for the Parliamentary Ombudsmen's supervision of judges and courts that we have in Sweden has not been questioned in connection with the major review of the Parliamentary Ombudsmen (report 2022/23:KU32 and 2021/22:URF2) nor by the 2020 constitutional inquiry (SOU 2023:12). However, in the latter inquiry, the corresponding supervision of the Office of the Chancellor of Justice was questioned, and the inquiry proposes that the Office of the Chancellor of Justice should no longer exercise supervision of the courts – a proposal that I supported in my statement of opinion. If the proposal is implemented, it can be expected that this area of responsibility will grow at the Parliamentary Ombudsmen.

In the annual report, I included four decisions that contain criticism of judges. In my opinion, these decisions show that the Parliamentary Ombudsmen's supervision of the courts, with the special restraint required by respect for the independence of the courts, serves an important function in society.

My general impression is that the activities of the administrative courts mainly function well, but that many courts have problems with long processing times. The latter is something I noted following complaints against administrative courts (reg. no. 7263-2022 migration case, Malmö, 7504-2022 migration case, Gothenburg, 1568-2022 general case, Uppsala, 4332-2022 public procurement case, Växjö, 5220-2022 social insurance case, Falun, and 1197-2023 weapons case, Gothenburg).

The supervision of judges and courts also includes inspections and other investigations. Since submitting the previous annual report, I have completed inspections at three administrative courts – the administrative courts in Jönköping, Falun and Umeå – which represents one fourth of the country's twelve administrative courts. In the first two inspections mentioned above, I was unfortunately able to note that the courts do not meet the Government's target for processing times. There are different types of cases that have become unacceptably old, but I noted this mainly for tax and social insurance cases. Social insurance cases in particular involve issues of great concern to the individual, who is often dependent on the benefit for their livelihood. It is therefore very unfortunate when such cases are not decided within a reasonable time. In addition, unreasonably long processing times, irrespective of the type of case in question, can affect confidence in the work of the courts and place great strain on the individual. During the inspections, I noted that the majority of the cases that had not been decided within a reasonable time had already been judged to be ready for decision at an early stage in the proceedings, but had then been left without any actual procedural measures.

With regard to my area of responsibility, health and medical care, I noted in the last report that the number of complaints had doubled compared to the years immediately before the pandemic. One might have thought that the number of complaints in the healthcare sector would return to previous lower levels now that this societal crisis is behind us. This has not been the case. The number of complaints remains at significantly higher levels than before the pandemic. To a very large extent, however, the complaints relate to dissatisfaction with the actual medical treatment or assessment, something I very rarely have reason to investigate.

A number of complaints have been received concerning the fact that psychiatry in various situations routinely encourages certain patient groups to provide samples to prove that they are drug-free. I have chosen to report on a couple of these cases in the annual report. I directed criticism at child and adolescent psychiatry in one region which regularly required patients with diagnosed ADHD or similar diagnoses to undergo a supervised urine test as a prerequisite for obtaining a medical certificate for a driving licence. In another decision, I criticised psychiatric services in two regions for making regular urine and blood tests a condition for patients to receive a certain treatment or investigation. Based on complaints that have continued to be received, my view is that psychiatry in many places still imposes such routine requirements instead of making an individual assessment in each case.

Complaints concerning issues of public access to official documents are very common. Traditionally, the Parliamentary Ombudsmen has felt a particular responsibility to monitor compliance with the principle of public access to information. I have had cause to seriously criticise an acting regional admin-

istrative director, who provided misleading information about the existence of a public document. Fortunately, this type of complaint is rare. Instead, it is common to hear complaints about delays in the disclosure of public documents. The Parliamentary Ombudsmen has placed high demands on the promptness of such disclosure. A number of decisions have stated that a decision on a disclosure issue should normally be given on the same day as the request was made, but that a delay of one or more days can be accepted if it is necessary to decide whether disclosure may take place.

We usually receive fairly clear signals if an authority generally has problems complying with these requirements. As an example of this, in the spring of 2023 many complaints began to come in against the Health and Social Care Inspectorate (IVO). I chose to investigate one of the complaints; the others were closed with a reference to the investigated case. In my decision, IVO was criticised for not having handled the requests with the requisite promptness. In my decision, I emphasised that the principle of public access to information is central to the Swedish legal system and a foundation of our democracy, and that it is important that an authority can ensure that the principle is upheld (reg. no. 2095-2023).

As I mentioned in my review of the year, our exposure in the media has increased. One example of a decision that was given considerable attention in this way is my criticism of the Swedish Agency for Public Management for only posting information about a vacancy on a physical notice board. Another example is my criticism of the Swedish Tax Agency because it was not possible to pay an application fee in cash.

I conclude the presentation of my observations with what I consider to be, and even more so may become, a challenge for the Parliamentary Ombudsmen in the long term. I think I can see cases where the shortcomings of authorities are due to the fact that they are unable to live up to the rules in force due to difficulties in recruiting staff. Examples of this include a county-wide inspection psychiatric services in Öjebyn (reg. no. O 4-2023), a case concerning slow processing at the Administrative Court in Karlstad (reg. no. 1295-2023) and a case concerning the Swedish Tax Agency's registration of estate inventories, which I have included in this annual report. I believe that the Parliamentary Ombudsmen mainly comes into its own when it is a matter of providing guidance when the legal situation is unclear or criticising authorities that have disregarded the rules that apply either deliberately or out of ignorance.

Katarina Påhlsson

Parliamentary Ombudsman

My supervision has covered the general courts, the rent and tenancy tribunals, the prison and probation system, the planning and building sector, matters relating to environmental and health protection, and chief guardian authorities. This area includes a number of national authorities such as the Swedish Enforcement Authority, the Swedish National Courts Administration, the Swedish Crime Victim Authority, the Swedish Board of Agriculture and the Swedish Environmental Protection Agency.

By far the largest case group in my area of responsibility concerns the Prison and Probation Service. I will therefore begin with a few examples from this area.

Within the scope of the inmates' contacts with the outside world, I have for some time had a particular focus on the authority's examination of various postal items and the conditions for inmates to receive visits. The legislator has emphasised that the possibility of communicating with the outside world, which also includes telephony and leave, is crucial for combating the negative consequences that deprivation of liberty may have for the individual and is an important component of the humane prison and probation system. These issues arouse engagement and are important to the inmates, which has been noted both in conversations during the inspections and in the complaints. Unfortunately, I found a lot of improper checks of letters and parcels, and in several cases this was due to a lack of knowledge of the legal regulations. The Prison and Probation Service's examination of postal items to and from inmates is an exception to the protection of confidential communication contained in the Instrument of Government. An examination measure that is not supported by law therefore constitutes a serious wrong. Some of the decisions I have issued on this theme are included in this year's annual report, while other such decisions and my inspection reports are available on the Parliamentary Ombudsmen's website. Next year, I may have the opportunity to describe in more detail how the inmates' right to receive visits works in practice.

I must once again return to the strained occupancy situation within the Prison and Probation Service and its consequences for the individuals deprived of their liberty. It continues to characterise the authority's activities and thus the conditions for the inmates as well as my supervision. The previous annual report contained cases that illustrated this, including a decision in which I expressed serious criticism of the Prison and Probation Service for the fact that an inmate with an enforceable prison sentence had not been transferred from a remand prison to a prison within 30 days, i.e. the maximum time allowed by the Terms of Punishment Act. The information in the

case indicated that this was not an isolated incident, which is why I took the initiative to conduct an in-depth investigation of how the authority generally meets the deadlines. I completed the review in December 2022 and was able to conclude that there were too many similar cases, i.e. that convicted persons held in remand prison remain there long after the absolute deadline for transfer to a prison. What emerged was extremely serious. For the individual, this can mean a risk of isolation in the remand prison and, moreover, that the recidivism prevention work does not start when it should. The decision is included in this annual report.

The lack of sufficient access to suitable prison places became clear during an inspection of the Kumla prison at the beginning of 2023. Following complaints from most of the inmates in a single ward of the prison, I conducted an unannounced visit less than a week later together with some staff. It emerged that the Prison and Probation Service was unable to relocate the 12 inmates during a renovation of the showers on the ward. The work resulted in long periods of confinement in the cell, which the inmates had to share in pairs without any further preparation and without the space being sufficiently adapted for it (e.g. one of them slept on a kind of extra bed on the desk). I judged that the conditions for these individuals deprived of their liberty must have been extremely stressful at times, and in some circumstances their treatment might be considered almost inhuman.

This inspection is an example of how I want to continue to work within the framework of the Parliamentary Ombudsmen's OPCAT mandate. In this mandate, we Ombudsmen perform the tasks of a national visiting body under the Optional Protocol of 18 December 2002 to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Sweden held its general elections in 2022. The Prison and Probation Service sent out internal information to both inmates and staff, and programme leaders and other prison officers, among other things, conducted games on democracy and societal issues and held many discussions with inmates. There was obviously a great deal of interest, as there was a high voter turnout at several of the sites. As stated in the decision in the annual report, some mistakes were made, but my overall impression is that the authority succeeded very well in providing the inmates with the conditions to exercise their fundamental right.

If a public official under my supervision fails to fulfil his or her duties, I can, under certain conditions, either open a preliminary investigation and bring charges or make a report to the person authorised to impose a disciplinary sanction. There is rarely a need to do so. In my opinion, the possibility of getting to the bottom of things through an ordinary investigation within my extraordinary supervision – where I, as the Ombudsman, have the right to access all documents and the individual official must provide all requested

information under an obligation to tell the truth – can also provide a more comprehensive basis than, for example, the penal tool. Thus, I can deepen the investigation and broaden my statements to more than the individual case and, by extension, hopefully contribute even better to good administration and increased legal certainty.

But in rare and exceptional cases, I must more seriously consider other measures. After a judge at a district court had failed in several respects in the handling of two family cases by, among other things, not formalising interim and adjudicated positions in written decisions and not drawing up minutes, I made a report to the Government Disciplinary Board for Higher Officials. A judge has an obligation to decide in a legally certain and effective manner the cases he or she is to handle and within the applicable time frames, but this judge had not been able to do so. The Disciplinary Board shared my view and issued the judge a warning.

In October 2022, the Swedish National Courts Administration launched a new operational support system for district courts, Digitalt brottmålsavgörande [Digital Criminal Case Adjudication] (DiBa). It came to my attention that many judges felt that the new solution had significant flaws and shortcomings. For example, it would now be difficult to formulate the verdict in accordance with the decided judgment and there could be information that should be kept confidential but which the responsible judge did not even know was in the system. Last summer, I decided to take an initiative and examine the Swedish National Courts Administration's introduction of DiBa with a particular focus on how the system safeguards the independence of the courts in accordance with the Instrument of Government and in the interest of legal certainty.

Even though the general courts are no longer part of my area of responsibility since the start of 2024, I will keep this case concerning the Swedish National Courts Administration and DiBa. During the final period of this supervisory responsibility, I have deliberately refrained from investigating matters relating solely to slow processing. This does not mean that there have been no reports of such complaints, but I have instead examined other interesting questions: When does the presiding judge at a hearing in a criminal case take over responsibility for the security of a person deprived of their liberty and when does the Prison and Probation Service's responsibility for monitoring cease, e.g. in relation to when an individual is to be imprisoned? Under what forms should the court hold further deliberations and should the members send a draft judgement to each other in an ordinary email? And what is the balance between the principle of public access to information and the interest of being able to conduct a hearing without distractions – has the new regulation on audio recordings at various meetings made it easier for the district court judge? Moreover, is it acceptable for a chair of a building and environment committee to secretly record what is said during

a meeting with complainants in an inspection case? I have dealt with these and many other issues in my role as a Parliamentary Ombudsman. Several of them can be found in this annual report.

Thomas Norling

Parliamentary Ombudsman

The issues within my area of responsibility relate to social insurance and social services, including compulsory care for substance abusers and young people. The supervision within this area of responsibility also includes cases concerning the application of the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) and labour market cases.

During the operational year, in special enquiries, I focused on following up various statements that I had previously made in my review of the authorities within my area of responsibility. One purpose of these enquiries was to investigate whether my decisions had the impact that I expected, i.e. whether my statements on application issues contributed to the authorities actually remedying the deficiencies that existed and now processing their cases in a correct and more legally certain manner.

The Administrative Procedure Act entered into force on 1 July 2018 and has now been applied for more than five years. An important issue that I wanted to draw attention to in connection with this is how the stricter requirements in the Act have been handled by the authorities. When assessing what should be required of the authorities in this respect, emphasis should be placed on the Act's primary purpose of protecting the individual and laying the foundation for how the contacts between the authorities and individuals should be conducted. The bill for the Administrative Procedure Act stated that a modern administration should be characterised by a clear citizen perspective with high demands for good service, which is of decisive importance for the public's confidence in the administration. The connection between legal certainty and service requires a procedure that ensures that the administration provides quick, simple and unambiguous information to help the individual to exercise their rights (see Government Bill 2016/17:180 p. 20 et seq.). My supervision has not strengthened my view that this is always done.

Looking back on my six years as Parliamentary Ombudsman, I can see that much of what the authorities do is an expression of good administration, but that there are also many problems that are both recurring and serious from a legal certainty perspective.

In the annual reports of previous years, I have reiterated that it is particularly important for the Parliamentary Ombudsmen to draw attention to measures and decisions by public authorities that have no legal basis whatsoever or that mean that regulations are disregarded. In this year's report, I have also chosen to include decisions that in various ways illustrate the serious consequences for the individual that result from authorities acting in violation of the principle of legality and its requirements for legal certainty for the indi-

vidual and legislative support for the authorities' actions. Here I can mention some of my decisions during the operational year that have been included in the annual report. See, for example, reg. no. 7766-2022 and 9432-2022 on the Swedish Public Employment Service's view of how the authority fulfils some of its duties, reg. no. 8958-2020 on a social welfare board that included conditions in a rental contract with an individual for a training flat, including requirements for certain medical contact, medication, home visits and drug tests, and reg. no. 8443-2021 where the social welfare board failed in its processing when a man was discharged from a nursing home, among other things by not applying the mandatory rules in the Tenancy Act.

In a decision which, for reasons of space, I have chosen not to cite in this year's annual report, I reviewed in a more extensive project some authorities' application of Sections 11 and 12 of the Administrative Procedure Act (reg. no. 3232-2023). These provisions have no equivalent in the previous Administrative Procedure Act from 1986. Their stated purpose is to strengthen the position of individuals in the event of slow processing. They mean that an authority must, in certain cases and in a certain manner, inform the individual that the decision in a case will be significantly delayed, and then also state the reasons for this (Section 11 of the Administrative Procedures Act) and that the individual can, under certain circumstances, request that his or her case be decided (Section 12 of the Administrative Procedures Act).

In the ongoing review of complaint cases, it has been clear that some authorities sometimes do not apply Sections 11 and 12 at all or apply them in completely different ways. One possible explanation for this may be that it is unclear to the authorities how the provisions should be applied.

My investigation covered nine different authorities: the Swedish Public Employment Service, the Swedish Social Insurance Agency, the Swedish Pensions Agency and six municipal boards. Four of these authorities were inspected as part of the investigation. In the decision, I make certain general statements about how the provisions should be applied. Another intention of the project was to investigate whether Sections 11 and 12 fulfil the purpose of strengthening the individual's position in the event of slow processing. The results of the investigation showed that there are major shortcomings in the application of the provisions, especially with regard to Section 11. It also emerged that the provisions are perceived as difficult and resource-intensive for the authorities. Based on the results of the investigation, I find it difficult to see that the provisions have had the intended effect of speeding up the investigated authorities' processing and strengthening the position of the individual when it has been slow.

In the annual report, I also included a number of decisions in which I continuously criticised the Swedish Public Employment Service and the Swedish Social Insurance Agency during the operational year for how they applied the provisions of Sections 11 and 12 of the Administrative Procedures Act

(see e.g. reg. no. 7811-2021 regarding the Swedish Public Employment Service and reg. no. 6473-2021 and 4900-2022 regarding the Swedish Social Insurance Agency).

The implication of these decisions is that the authorities are criticised because they have deliberately failed to apply the provisions or have applied the provisions incorrectly, and that they have thereby not contributed to the protection of the interests of individuals in the manner intended by the legislator. It is clear that the authorities' behaviour in the cases examined was primarily aimed at facilitating their own activities and that it was hardly of any benefit to individuals. Regardless of the authorities' reasons for doing so, the behaviour cannot be considered to fulfil the requirements of good administration. This is not acceptable and is something that I will return to in my continued supervision. In this context, I can also mention that during an inspection of the Swedish Pensions Agency in October 2023, I was able to conclude that the statements I made in the project earlier in the year did not motivate the authority to review its working methods or procedures to ensure correct application, which I find remarkable.

During the autumn of 2023, I continued to follow up on various statements on application that I had previously made in my supervisory activities. This concerned, for example, the project that I led in the spring of 2022, which dealt with the question of how social services in six major municipalities handle cases of access restrictions under Section 14 of the Care of Young Persons (Special Provisions) Act (reg. no. 822-2022). The follow-up was limited to the social services in two of these municipalities, namely Malmö and Södertälje. My follow-up review revealed that there are still deficiencies of such a nature and to such an extent that I intend to continue to follow the question of how the social services in one municipality, for example, better fulfil the requirement to have a child perspective in their processing (reg. no. 6869-2023).

In another project that began in the autumn of 2023, I decided to follow up social services in four smaller municipalities that had previously been found to have serious shortcomings in their procedures and had therefore been subject to criticism. In this series of inspections, the review focused on the question of how well social services deal with the issues of legal certainty that exist in connection with, for example, compulsory care of young people. Through so-called desk inspections, I reviewed social services in Gislaved, Gällivare and Tierp, while the inspection of social services in Kungsbacka will be carried out on site.

The background to this project was that, in recent years, I have repeatedly criticised various social services for not always complying with the legal safeguards contained in the Care of Young Persons (Special Provisions) Act. Among other things, there were serious shortcomings in the social services concerned in meeting the administrative procedural requirements. Anoth-

er decisive factor in the selection made in the project was that I wanted to scrutinise social services in smaller municipalities because they are not so often subject to Parliamentary Ombudsmen inspections. In this follow-up, too, I found that the reviewed social services have, to varying degrees, found it difficult to take on board the criticism I had previously levelled at them. There is therefore still some work to be done by them before I am convinced that their procedures are as legally certain as required and that the requirement for a child perspective is really put into practice.

Per Lennerbrant

Parliamentary Ombudsman

Again this year, my supervision has included public prosecutors, the police and customs services, foreigners' cases at the Migration Agency, foreign affairs authorities, the communications sector and local administration that is not specially regulated. I have conducted reviews in many urgent and interesting cases together with my colleagues. A selection of these are included in the annual report.

The issues that arise in my supervisory activities are often of a topical nature. When I look back on the period covered by this report, it is a reminder of various events and a reflection of our society. Some of the events brought to the attention of the Parliamentary Ombudsmen may affect us for a long time to come, while others have already been forgotten. Crises and conflicts in the world around us also have an impact on our supervisory activities.

As Parliamentary Ombudsman, one of my most important duties is to ensure that the fundamental rights and freedoms of individuals are not infringed in public activities. Since 2011, there has been a special provision in the Instrument of Government on the protection of personal privacy (Chapter 2, Section 6, second paragraph). Another provision that also protects personal privacy is found in Article 8 of the European Convention on Human Rights. I often have occasion to refer to these provisions.

Two reviews that highlighted the protection of personal privacy and the right to a private life concerned a couple of municipalities that had taken measures to monitor individuals in certain respects. In the first case, the municipality had used what in normal parlance can be called surveillance methods to investigate suspected wrongful payments of financial benefits under the Social Services Act (reg. no. 7507-2022 et al.). The second case concerned a municipality that used so-called background checks to investigate whether employees of the municipality had committed offences (reg. no. 7143-2022). In both cases, I found that the measures infringed on the protection of personal privacy and the right to a private life and therefore required statutory support. However, there was no statutory support and I seriously criticised the fact that the measures were taken anyway. The reviews were followed by a discussion on whether there should be statutory support for the measures taken by the two municipalities.

Another area where the protection of personal privacy is often emphasised is the legislative proposals submitted by the Government Offices. During the operating period, I have responded to a large number of such consultation referrals. These have concerned, for example, the use of secret coercive measures, more effective law enforcement through the use of biometrics and exclusion from public space. On several occasions, I have noted that the

submitted documents lacked an analysis of the consequences of the proposals for personal privacy. This has made it difficult to assess whether the proposals were appropriate, proportionate and acceptable in a democratic society in the way required by the Instrument of Government. In view of the major changes that have been proposed in a short period of time, I have also felt compelled to emphasise the importance of the legislator taking a holistic view of the proposals that have been submitted and of the overall and long-term consequences being given sufficient weight.

With regard to the treatment of children and the application of the Convention on the Rights of the Child, I have continued to keep these issues under particular scrutiny. I have included a couple of reviews on this in the annual report (reg. no. 7201-2020 and O 12-2023).

Something that I have previously reported to the Committee on the Constitution is the existence of long processing times in the public sector. This operating period is no exception in this respect. One of the cornerstones of the Administrative Procedure Act is that cases should be processed as quickly and efficiently as possible without compromising legal certainty. If the authorities do not live up to this urgency requirement, it could have many negative effects for individuals. A long processing time for a request for disclosure of a public document can in practice mean a limitation of the principle of public access to information.

Conditions at the Migration Agency have been the subject of several reviews. Complaints against the agency are very common at the Parliamentary Ombudsmen, not least when it comes to long processing times. During the year, I have followed up on a previous investigation I conducted into processing times (reg. no. 578-2022 etc.). The new review concerns the case types citizenship, affiliation and asylum and shows that the agency still has major problems. I found that it may take several years before processing times are at a reasonable level and that the Migration Agency must make special efforts to remedy this.

In January 2023, an inspection of a newly opened detention centre was carried out on my behalf (O 3-2023). The inspection revealed serious shortcomings in the staff's treatment of detainees. In the light of these deficiencies, among other things, I decided on a follow-up inspection of the detention centre.

As in previous years, questions about the Instrument of Government's requirements for objectivity and impartiality have also been raised in a number of cases.

The Parliamentary Ombudsmen has repeatedly criticised the Swedish Police Authority for the long processing times that occur in many places in investigative activities, particularly with regard to preliminary investigations into fraud and other types of property crime. In a review, I stated that the picture

that emerges is very worrying and gives the impression that certain types of property crime are in practice no longer investigated by the authority (reg. no. 1994-2022). It is very important that the Police Authority rectify the case backlog as soon as possible. In the light of what has emerged, the decision was sent for information to, among others, the Justice Committee.

One of the Parliamentary Ombudsmen's duties is to ensure that deficiencies in legislation are remedied. For this purpose, a Parliamentary Ombudsman may raise the question of a constitutional amendment with, among others, the Government. One case where I have used this option concerns the Police Act's provisions on body searches and searches of vehicles to look for weapons or other dangerous objects for crime prevention purposes (Parliamentary Ombudsmen 2020/21 p. 395, reg. no. 6855-2018). Since then, many complaints have continued to come in about individuals being subject to the measures without there being any legal basis for it.

Together with my colleagues, I conducted inspections at four local police districts (Linköping, Örebro, Luleå/Boden and Helsingborg), reviewed documentation from a large number of interventions and spoke with police officers working in the field. The conclusion of the review is that the use of coercive measures is not scrutinised in the manner prescribed in the legislation. The application is therefore not compatible with the principle of legality, which expresses the basic principle of the normative nature of the exercise of power and is part of the foundations of the Government. I again found that the regulation needs to be reviewed in order to better fulfil the high legal certainty requirements for coercive measures and submitted a copy of the decision to the Government for information (reg. no. 2199-2023).

Summaries of individual cases

Summaries of individual cases

The following is a selection of summmaries of cases dealt with by the Ombudsmen during the period 1 July 2022 to 31 December 2023.

Courts

Public courts

A district court unjustifiably prohibited audio recording at preparatory hearings in civil cases

A district court prohibited audio recording in two preparatory hearings in civil cases. In one case, the decision was taken in advance. The decision was not documented in the minutes of the hearing.

The Parliamentary Ombudsman states that there is no legal basis for a general prohibition of audio recordings in preparatory hearings in civil cases and states that a ban of audio recordings on the basis of Chapter 5, section 9 of the Code of Judicial Procedure requires the chairperson in the individual case to assess that the ban is necessary to uphold order. This necessity must be balanced with the principle of public access to official records and the individual's interest in being able to make the audio recording. According to the Parliamentary Ombudsman, caution must be exercised in notifying parties and representatives of a ban. Moreover, it may only be necessary in exceptional cases to take such a decision in advance. The Parliamentary Ombudsman notes that the District Court does not appear to have made any real evaluation in the individual cases, but rather took the view that it is generally inappropriate to make audio recordings during oral preparations in civil cases. The district court is criticised for its processing.

The Ombudsman further states that the issue of not allowing audio recordings is of such importance that in both cases the District Court should have made the position clear to the parties and recorded the decision in the respective minutes. [Reg. no. 8765-2020]

A suspect was handcuffed during a remand hearing. Statements on the Policy Authority's and District Court's management and responsibility and on a suspect's attendance

At a remand hearing, the suspect was handcuffed to the armrests of his chair. He attended via a video link from a police station and had been discharged from a psychiatric emergency ward shortly before.

The Parliamentary Ombudsman emphasises in the decision that in the vast majority of cases, such use of handcuffs must be considered to be contrary to the requirement to treat people deprived of their liberty humanely and only in the most exceptional cases can it be considered to comply with the principle of proportionality. Her assessment is that the coercive measure in this case was not justified and that there was no legal basis for it. In addition, the Parliamentary Ombudsman is critical of the fact it took several months for the decision on handcuffing to be recorded in the minutes and that the documentation of it was clearly inadequate. The Police Authority also received criticism for, among other things, failing to inform the court of the suspect's state of health with sufficient clarity.

When the remand hearing began, the chairperson saw that the suspect was locked to their chair. However, the judge did not take any measures and did not make a decision of their own on the issue of handcuffing. Neither were the circumstances documented in the minutes of the hearing. The Parliamentary Ombudsman criticises the judge for that.

In the decision, the Parliamentary Ombudsman makes statements on the chairperson's responsibility for handcuffing in the courtroom and for order and safety during video conferences. Finally, the Parliamentary Ombudsman reflects on the question of a serious impediment to the suspect's presence at a remand hearing and underlines that the chairperson must examine such an issue when the circumstances warrant this. [Reg. no. 3043-2021]

A district court prohibited all use of electronic equipment during a main hearing in a criminal case

Before a main hearing in a criminal case, Eksjö District Court decided to prohibit all use of electronic equipment. In the case, several juveniles were being prosecuted and one of them was sus-

pected of very serious offences. According to the District Court, the circumstances were such that the court could have instead taken the decision to hold the whole hearing in camera (behind closed doors). The Parliamentary Ombudsman concludes that the District Court's approach was in itself in compliance with the general principle that court hearings are public.

In the decision, the Parliamentary Ombudsman states that only in exceptional circumstances should the District Court, on the basis of the general provision in Chapter 5, section 9 of the Code of Judicial Procedure, according to which a chairperson shall issue the rules necessary for maintaining order at court sessions, go beyond the specific provisions on audio recording and transmission and on electronic equipment laid down in sections 9c and 9d of that same chapter. Particular care should be taken with regard to prohibiting audio recording by or for parties, representatives and the media. The Parliamentary Ombudsman further states that special rules of procedure should only be announced in advance in exceptional cases, as it is usually considered appropriate to give parties and representatives and possibly other interested parties the opportunity to express their opinion first. However, in view of the circumstances in the case, the Parliamentary Ombudsman has no comments on the fact the District Court took the decision in advance.

The Parliamentary Ombudsman notes that the preparatory statements for Chapter 5, section 9d of the Code of Judicial Procedure are not entirely clear and could be interpreted as that it was the intention of the legislature to exclude certain electronic equipment, such as dictaphones, from the scope of the regulation. According to the Parliamentary Ombudsman, the starting point must be the wording of the act. This means that if certain electronic equipment could disturb the order, then it is covered by the provision, regardless of the intended use of the equipment.

The current regulation was changed a few years ago, but the Parliamentary Ombudsman shares the Districts Court's view that there are a number of difficulties in applying them. The Parliamentary Ombudsman is therefore sending a copy of the decision to the government for information. [Reg. no. 4039-2021]

A party in a civil case was not allowed to bring their assistance dog to a district court hearing

The judge in charge of a civil case refused to allow a party to bring their assistance dog to a hearing.

The Parliamentary Ombudsman observes that courts of law must seek to ensure everyone can participate in their proceedings. This means, for example, that court premises must be functional from an accessibility point of view. Furthermore, everyone has the right to a fair trial. Thus in individual cases, the court may need to make a special effort to enable a person with a disability or other limitations to fully participate in and benefit from a court action. This may involve the court having the make adjustments before or during a hearing. If the court does not take any measures at all, this may ultimately jeopardise an individual party's right to a fair trial. The responsibility lies in the first place with the judge who is in charge of the case. They may, however, need documentation which shows what the individual's support needs are.

The Parliamentary Ombudsman states that, having regard to the circumstances of the present case, she understands why the District Court was unable to make an adequate assessment of the party's need to have her assistance dog with them at the hearing. However, the judge should have attempted to clarify any doubts through supplementary questions and to find a practical solution to the situation that had arisen. [Reg. no. 4397-2021]

After the Parliamentary Ombudsman filed a report with the Government Disciplinary Board for Higher Officials, a judge was issued a warning

In a complaint to the Parliamentary Ombudsman, two representatives complained about deficiencies in Värmland District Court's processing of two custody cases. The Parliamentary Ombudsman's investigation into the matter showed that the judge in charge had chaired the preparatory hearings held in the two cases in June 2021.

In the first case, interim applications for contact were made, and according to the Parliamentary Ombudsman, the District Court should have ruled on these after the preparatory hearing and directly after the parties had commented on the Social Welfare Board's rapid statement in July 2021. However, this did not happen until December of the same year after the District Court's Chief Justice had taken over the proceedings, and only then were the minutes of the preparatory hearing dispatched. Furthermore, it had taken several months for the judge to rule on an application for legal aid.

In the second case, the judge made an interim order on sole custody at the preparatory hearing. However, no minutes were drawn up and the parties were thus not notified of any written

decision. Nor did it appear from the record sheet that a preparatory hearing had been held or that an interim order had been made. The judge did not respond to the legal representatives' requests for the minutes, nor does it appear he took any steps to compile or dispatch them. This did not take place until nine months later when the Chief Justice took over responsibility for the case.

According to the Parliamentary Ombudsman, the judge had made such errors in the course of his duties that there were grounds for her to file a report with the Government Disciplinary Board for Higher Officials for it to examine whether the judge should be subject to disciplinary sanctions. The Government Disciplinary Board for Higher Officials decided to issue the judge with a warning under sections 14 and 15 of the Public Employment Act and the decision is now legally binding, so the Parliamentary Ombudsman is now closing her supervisory cases. [Reg. no. 8017-2021]

A meeting the court holds after the main hearing in a criminal case is to be considered as deliberation; also statements on the need to show lay judges a written draft of the judgment and on sending it by email

A district court held a main hearing in a criminal case and decided that the judgment would be pronounced by making it available at the court registry two weeks later. According to notes from the hearing, the court had determined the judgment, but was going to reconvene after a few days. The chairperson cancelled that meeting and emailed a draft of the judgment to the lay judges.

In the decision, the Parliamentary Ombudsman makes statements about, among other things, forms of deliberation in criminal cases and about the chairperson's obligation to discuss with the lay judges what the court has to consider and which legal rules apply. She comes to the conclusion that the scheduled meeting of the members of the court was planned to continue deliberation. When the chairperson of the court cancelled the meeting and instead sent a draft of their reasoning to the lay judges, the purpose of the continued deliberation fell away. The procedure took on the character of written deliberations, which are not permitted. Furthermore, sending it by email entailed a clear risk that the confidentiality of the yet to be pronounced judgment would be breached. The Parliamentary Ombudsman criticises the chairperson's management. [Reg. no. 124-2022]

Administrative courts

An administrative court has a responsibility to promptly inform the parties that a decision to immediately take children into care was submitted too late and thus no longer valid

A social welfare board decided to immediately take six children into care. The decisions were submitted for examination by the administrative court more than a week after the decisions were taken. The decisions on immediate care were therefore no longer valid. This was not noticed by the judge in charge, who appointed public counsel and started communicating with the parties. It was only when the judge started preparing a ruling that it was realised that the decisions had been submitted too late. The case was then dismissed. The Chief Parliamentary Ombudsman directs criticism towards the judge for a lack of precision. The Chief Parliamentary Ombudsman also states that a court should have a responsibility to promptly inform the parties that a decision on immediate care has been submitted too late. In addition, the court should ensure that this information reaches the parties, which is best done through a telephone call. [Reg. no. 7970-2021]

Statements in a certain case on the conflict of interest of lay judges in the administrative court who are also a member or alternate member of the municipal executive board

A municipality had not established special boards in addition to the municipal executive board. Instead, its municipal executive board had several special subcommittees to fulfil the municipality's responsibilities. The Chief Parliamentary Ombudsman concludes that the municipal board in charge of the administration of the issue to which a case related was the municipal executive board. Therefore, a lay judge had a conflict of interest in the case merely because he was a member of the of the municipal executive board. The Chief Parliamentary Ombudsman directs criticism at the chairperson, because she allowed the lay judge to participate in deciding the case despite having a conflict of interest. In addition, the Chief Parliamentary Ombudsman states that the conflict of interest provision in Chapter 4, section 13, first paragraph, point 4 of the Code of Judicial Procedure, in his opinion, covers not only members but also alternate members of municipal boards. [Reg. no. 10409-2021]

Judge criticised for his formulation of reasons

A judge formulated reasoning in three cases in a way that contravenes the provision in Chapter

1, section 9 of the Instrument of Government, which requires courts to observe objectivity and impartiality. Among other things, he made a statement which was completely irrelevant to the examination of the facts of the cases. He also expressed himself in such a way that calls into question his impartiality. The Chief Parliamentary Ombudsman takes a serious view of this and the criticises the judge. [Reg. no. 8425-2022]

Criticism against a Chief District Judge for allowing her husband to read sections of a draft for a judgment

The Chief Parliamentary Ombudsman criticises a Chief District Judge for allowing her husband to read sections of a judgment that had not yet been pronounced, and by doing so she violated a confidentiality regulation. In an assessment of the severity of what has occurred, the Chief Parliamentary Ombudsman finds that based on the contents of the disclosed sections of the judgment draft it is not possible to draw any conclusions about the judgment nor the court's assessments, that the information was not disclosed to anyone other than the husband and that the risk of further disclosure appears to be very small. [Reg. no. 4023-2023]

Education and research

Question of whether a university syllabus was a provision under Chapter 8 of the Instrument of Government Also, the question of amending favourable administrative decisions

Students took a written multiple choice exam in procedural law at Stockholm University. They were then informed that they could not count the credits they had received, because a second opportunity to sit the exam was cancelled due to the pandemic. In a complaint to the Parliamentary Ombudsman, it was submitted that the university had amended a favourable administrative decision without a legal basis. The university stated that it was not a matter of amending a favourable administrative decision, but a decision taken by the head of department to deviate from the syllabus so that the multiple-choice examination was no longer a compulsory component of the course in question. According to the university, it was not an administrative decision but an amendment of a provision in the sense of Chapter 8 of the Instrument of Government.

The Chief Parliamentary Ombudsman states that Chapter 6, section 15, of the Higher Education Ordinance contains basic requirements for what the contents of a syllabus must contain, but that the Ordinance does not explicitly authorise higher education institutions to issue provisions in syllabi. The Chief Parliamentary Ombudsman comes to the conclusion that the syllabus in question was not a provision under Chapter 8 of the Instrument for Government. According to the Chief Parliamentary Ombudsman, it is essential that higher education institutions have a clear understanding of the legal status of a syllabus.

The Chief Parliamentary Ombudsman then finds that, firstly, the decision to deviate from the syllabus was duly taken and, second, that the credits were a favourable administrative decision. While the university did not expressly amend any decisions on credits, the Chief Parliamentary Ombudsman considers that the information provided to the students included a clear message that the credits could no longer be used as a basis for future examinations and grading in the current semester. The information may be considered to have been an administrative decision. The inevitable consequence of the decision was that the points became meaningless for that semester. This meant that the university amended favourable administrative decisions. The Chief Parliamentary Ombudsman considers that there was no basis for amending the decisions and the university cannot escape criticism for doing so.

The Chief Parliamentary Ombudsman feels there is reason to send a copy of the decision to the Government. [Reg. no. 2445-2020]

Criticism of a school counsellor for inadequate processing of a case involving a pupil which concerned abusive treatment

A school counsellor called a 12-year old pupil to a meeting because another pupil had accused him of abusive treatment of a sexual nature. At the meeting, the pupil making the accusation and a student on placement were also present. Before the meeting, the school counsellor had not informed the pupil about what the meeting would be about or who would be present. The school counsellor had not informed the pupil's guardian either.

The Chief Parliamentary Ombudsman criticises the processing of the matter. He observes that in and of itself it is possible that a 12-year old may have reached such a level of maturity that he or she may themselves decide to talk to a school counsellor about the issues involved in the case. As the pupil did not take the initiative himself to have the meeting, however, the school counsellor should have informed the pupil about what the meeting would be about and

who would be present, and should have given the pupil time to consider whether he wanted to participate in the meeting or not. The Chief Parliamentary Ombudsman considers this was particularly true in view of the nature of the case and the fact that the counsellor was of the opinion that it might relate to an act of a criminal nature, that a report of concern should be made and that the situation was in no way urgent. For the same reason, the school counsellor should have also informed the pupil's guardian and obtained their opinion before she held the meeting with the pupil. The Chief Parliamentary Ombudsman is also critical of the fact the school counsellor informed the pupil that she intended to make a report of concern, without first informing the guardians of this. [Reg. no. 4420-2021]

Environmental and health protection

The chair of a municipal environmental committee made an audio recording at a meeting in a supervisory case without informing the other participants in advance

In a supervisory case pursuant to the Environmental Code, a meeting was held at the request of the complainant and a relative of his with the chair of the committee and the case officer. At the meeting, the relative was angry and raised the tone. There are conflicting reports on whether there were threats and abusive and derogatory statements against the officer. At one point during the meeting, the chair began to audio record it on their telephone without announcing this.

The Parliamentary Ombudsman concludes that an authority, except where it is necessary for specific reasons, may not record a meeting without informing the other participants of the meeting in advance. According to the Parliamentary Ombudsman, in this case, it did not appear that the situation was such that it was necessary to refrain from announcing a recording was about to start. The chair is therefore criticised. [Reg. no. 7717-2020]

Health and medical care

An injured party in a murder case was not given the opportunity to request to be informed when the offender leaves the forensic psychiatric clinic

The forensic psychiatric clinic at Skaraborg hospital in the Västra Götaland region incorrectly interpreted and applied the provision in section 28 of the Forensic Mental Care Act regarding notification of an injured party. The clinic understood the provision to mean it was sufficient to contact the injured party only around the time of e.g. a temporary stay outside the clinic or if the patient absconds. Further, the clinic, despite the provision having applied for over 30 years, did not have written procedures for such notifications. This led to an injured party in a murder case not having the opportunity to request to be notified when the offender left the clinic. The Chief Parliamentary Ombudsman is very critical of what happened.

In the decision, the Chief Parliamentary Ombudsman emphasises that the underlying purpose of the provision is to offer support and protection to victims of crime and to prevent new crimes being committed by the same offender. In order to achieve this, it is vital that the injured party – who should be given the opportunity to request to be notified – is identified at the earliest stage possible and that the Chief Medical Officer ensures that that injured party is also given this opportunity as soon as possible. Furthermore, the Chief Medical Officer must ensure that the injured party is also notified in the situations specified by the provision. [Reg. no. 6102-2021]

Criticism of a region's child and adolescent psychiatry services for taking regular urine samples in the context of issuing a medical certificate for a driving licence

A person diagnosed with ADD applied for a driving licence and requested a medical certificate for this from the child and adolescent psychiatry services in the Uppsala Region. The person was asked to undergo a supervised urine test. Through the Parliamentary Ombudsman's investigation, it came to light that the services had applied a procedure which entailed a regular requirement to provide a urine sample for a certificate to be issued in respect of driving licences for the group of patients concerned.

In an earlier decision, the Parliamentary Ombudsman had examined the issue of some regions operating procedures which made it obligatory for all patients with an ADHD diagnosis to undergo supervised urine tests in order to receive treatment with stimulant medicines (JO 2020/21 p. 115). In that decision, the Parliamentary Ombudsman stated, among other things, that there is no justification for imposing a general requirement for regular urine testing as a condition for the treatment in question, and therefore levelled criticism against the regions

for having established and applied guidance which imposed such requirements.

The Chief Parliamentary Ombudsman concludes in the decision that the issue in this case is clearly not whether a patient should receive treatment with a particular medicine. However, in his view, the same approach can be taken to assessing this situation, as it also seems to have involved routine, compulsory urine testing as a condition for a doctor taking a certain type of action. Depending on the circumstances, the Chief Parliamentary Ombudsman does not rule out that there may be grounds for a doctor to deem the taking of a sample as necessary in order to be able to issue a certain type of certificate, but an individual assessment must be made even in those cases. The patient in question should also receive information on all available treatment alternatives.

In conclusion, the Chief Parliamentary Ombudsman is critical of the general procedure which has been applied in the region in this area. [Reg. no. 7438-2021]

Criticism of a forensic psychiatric clinic for patients not having the opportunity to speak on the phone in private

At the forensic psychiatric regional clinic in Sundsvall, patients on one of the wards have access to a landline phone that is located in a place staff can see it and thus ensure that those patients who are subject to restrictions on their right to use electronic communication services do not use it. The location of the phone carries the risk that other patients or staff can hear what the person on the phone is saying. The patients also have the possibility of using a phone in a conference room. During such conversations, a member of the ward's staff is present for security reasons.

The Chief Parliamentary Ombudsman does not have any objection to the location of the phone, as long as the patients who are allowed to use the phone are able to do so in private. This is not possible, however. Even if the aim of having staff present in the conference room is not to listen to the patient's phone conversations, this is a consequence of their presence in the room, according to the Chief Parliamentary Ombudsman. He concludes that there is no legal basis for such a measure and criticises the clinic for its procedures. The Chief Parliamentary Ombudsman assumes that the clinic has taken steps to address the issues and that this has resulted in patients who have the right to speak on the phone in private being able to do so. [Reg. no. 7702-2021]

Statement on the Health and Social Care Inspectorate's general processing times in cases regarding the destruction of records

A complainant submitted a complaint against the Health and Social Care Inspectorate for the slow processing of a case regarding the destruction of records. The processing time in her case was over a year and a half, and she was not informed by the authority that the case would be significantly delayed. The Chief Parliamentary Ombudsman criticises the Health and Social Care Inspectorate for these failings.

The decision states that the majority of the Health and Social Care Inspectorate's cases on the destruction of records have similar processing times and that the authority has not informed the individual parties that the decisions have been significantly delayed. According to the Chief Parliamentary Ombudsman, it is unacceptable that individuals are affected by the authority's slow processing times. The authority's response states that it has requested additional funding for the coming years. The Chief Parliamentary Ombudsman calls on the Health and Social Care Inspectorate to also consider other measures that may be needed to overcome the slow processing times. In his view, it is essential that the authority does its utmost to shorten them as quickly as possible. The Chief Parliamentary Ombudsman intends to monitor this issue. [Reg. no. 486-2022]

Statement on the prerequisites for a doctor to notify the Transport Agency that a patient is medically unfit to hold a driving licence

Chapter 10, section 5, first paragraph of the Driving License Act provides that, as a rule, a doctor has a duty to notify the Transport Agency if the doctor, when examining a patient, finds that they are unfit to hold a driving licence for medical reasons.

The duty to notify also applies when the doctor, upon examination or review of medical records, finds that it is likely that the patient is unfit to hold a driving licence for medical reasons. In that case the patient must have opposed further examination or investigation. This follows from the second paragraph of the provision. Such notification is usually called an investigation report ("utredningsanmälan").

In the present case, a doctor notified the Transport Agency about a patient. As the doctor had not examined the patient, the Chief Parliamentary Ombudsman concludes that the prerequisites laid down in the provision's first paragraph for notifying the Transport Agency

had not been met. The doctor does not appear to have taken any measures to seek the patient's view on further examination or investigation. According to the Chief Parliamentary Ombudsman, the prerequisites for filing an investigation report had therefore not been met. The doctor is criticised for poor management.

The Chief Parliamentary Ombudsman states that, when notifying the Transport Agency, it is advisable for a doctor to use the form provided by the Transport Agency for this purpose. This reduces the risk of misunderstandings and shortcomings in the notification process. He also calls on the regional authorities to supervise the notification procedures and to consider whether there is a need to provide training or information in this area. [Reg. no. 4616-2022]

Criticism of psychiatry services in two regions for carrying out regular checks using urine and blood tests as a condition for patients receiving certain tests or treatments

In the decision, the Chief Parliamentary Ombudsman criticises the psychiatry services in Örebro Regional Council and Region Stockholm for having routinely asked certain patient groups to provide urine or blood samples.

Örebro Regional County applied a procedure whereby samples were taken as a condition for patients to undergo a neuropsychiatric assessment. Samples were also obligatory before starting treatment with ADHD medicines and when following up such treatment. The Chief Parliamentary Ombudsman states that the procedure is not justified and emphasises that an individual assessment of the need to take a sample must always be done. Where in an individual case taking a sample is assessed to be necessary, it is important for the patient to receive adequate information so they can make an informed decision and can give their voluntary consent to treatment. The patient should also receive information on the options that are available if he or she does not want to provide samples.

As regards Region Stockholm, the Chief Parliamentary Ombudsman notes that the psychiatry clinic concerned imposed a general requirement that all patients must provide samples at least once a year. Taking samples seems to also have been a general condition for doctors to prescribe ADHD medicines. The Chief Parliamentary Ombudsman concludes that this system is contrary to both the region's own procedural documents and the statements the Parliamentary Ombudsmen made in a previous decision. Furthermore, the Chief Parliamentary Ombudsman emphasises that it is the responsibility of the healthcare provider, in relation to every individual patient and at any given time, to ensure that the requirement for individual assessment is fulfilled and that patients receive relevant information about the taking of samples and on the treatment options that are available. [Reg. no. 6160-2022]

A patient was wrongly charged a fee for not attending a medical examination (aorta screening)

For a region to impose a fee for failing to attend a healthcare appointment, the appointment must have been agreed to. In the Skåne Region, men over 65 years old are invited to undergo an examination of the large body pulmonary artery (aorta screening). The Chief Parliamentary Ombudsman concludes that a mere invitation to attend such an examination does not amount to an agreed appointment. Therefore, the vascular clinic at Kristianstad Central Hospital cannot avoid criticism for having written in invitations to such examinations that a no-show fee will be applied if the patient does not attend the appointment, and also for having charged a fee in an individual case. [Reg. no. 8181-2022]

Labour market authorities/ institutions

In a wage subsidy case initiated by the employer, the Public Employment Service should have notified the employer of a substantial delay in accordance with section 11 of the Administrative Procedure Act. On the basis of its service duty, the Public Employment Service should have also informed the individual of the delay

A woman complained about the Public Employment Service's slow processing time in a wage subsidy case. The processing time in the case was over 18 months by the time of the Public Employment Service's response, and a decision had still not been made. The Parliamentary Ombudsman is very critical of the processing time.

If an authority assesses that the determination of a case initiated by a private party will be substantially delayed, pursuant to section 11 of the Administrative Procedure Act (2017:900), the authority must notify the party of this. In its notification, the authority must set out the reason for the delay.

The wage subsidy case was initiated after an employer stated it wished to employ the woman with the benefit of a wage subsidy. The employer and the jobseeker are considered to be parties in the case. As the notification duty under section

11 of the Administrative Procedure Act applies in respect of the party who initiated the matter, the Public Employment Service should have notified the employer when it became clear that the decision in the case would be substantially delayed.

It is reasonable that the individual is not kept in the dark about what is happening in the case. The aim of section 11 of the Administrative Procedure Act is to minimise the risk that a lack of information about the processing of a case leads to unnecessary irritation at the delay, which can lead to a party contacting the authority in order to find out about the case's processing. If the authority provides correct and clear information, such interaction may not occur, giving the authority time to focus on finalising the case instead.

The Parliamentary Ombudsman concludes that in a case with two private parties, the party who did not initiate the case may also have a legitimate interest in receiving information when a decision is delayed. It is therefore reasonable that an authority, as part of its service duty, also gives that party the same information about the substantial delay. The Public Employment Service should have therefore informed the woman of the delay as well.

The Parliamentary Ombudsman is also critical of the Public Employment Service's documentation practice in the case and of the fact the authority did not answer the woman's questions.

Severe criticism is directed at the Public Employment Service for significant deficiencies in its processing. [Reg. no. 7811-2021]

The Public Employment Service did not fulfil its service duty in relation to a person with disabilities

A man who registered with the Public Employment Service in June 2021 was asked to submit medical documentation to prove his disability. The documentation, submitted in October 2021, showed that he was not managing to look for work on his own. He also contacted the Public Employment Service several times and asked for help. However, he did not receive any help from the authority, either to look for work or to report his activities. His action plan was not revised either. Instead he received a warning decision and an order for reimbursement from his unemployment insurance fund on the basis that he had mismanaged his job search.

Persons with disabilities may have particular difficulties both in terms of looking for work and defending their interests before the Public Employment Service. For the individual to have access to the right interventions and in order to avoid unnecessarily long periods of unemployment, the Parliamentary Ombudsman considers it essential that the Public Employment Service investigates and assesses with speed whether the individual has a disability which entitles them to support measures. In accordance with section 6 of the Administrative Procedure Act, the authority may need to adapt its response and its support measures to the capacity and circumstances of the individual. That may mean a more far-reaching service duty in relation to persons with disabilities, for example they may need a face-to-face meeting.

The Public Employment Service's lack of action meant it took seven months from the time the individual sent in the medical documentation until the time he received a disability certification code. The Parliamentary Ombudsman criticises the passive processing of the case. If the authority had met its service and investigation duties, it would have become aware of the individual's need for extra support earlier. Sanctions from the unemployment insurance fund could then have been avoided. The provision on substantial delay in section 11 of the Administrative Procedure Act is not applicable in matters of registration with the Public Employment Service, since such matters are not decided by that authority. However, if the processing of a case is delayed, the Parliamentary Ombudsman considers it appropriate for the authority to inform the individual of this as part of its service duty.

The Public Employment Service is also criticised for a lack of accessibility and for deficiencies in its service and documentation. In summary, the authority receives severe criticism. [Reg. no. 5394-2022]

The Public Employment Service is severely criticised for a lack of accessibility and deficient service and for having acted in a way that is contrary to the principle of legality

The Public Employment Service has a practice of extending the deadline for submitting activity reports when the authority's website malfunctions. The Parliamentary Ombudsman notes that the practice lacks a legal basis and is therefore contrary to the principle of legality. In addition, the Public Employment Service indicated in internal guidance for administrators that notifications should not be sent to unemployment funds in a particular situation. However, there are no exemptions from the

authority's obligation to notify in the regulation that regulates this. The Parliamentary Ombudsman is critical of this and states that it is not acceptable to issue internal instructions that are contrary to applicable legislation. Both the rules on activity reporting and the obligation to notify the unemployment insurance funds in certain cases are part of the control responsibility that the government has imposed on the Public Employment Service. The Parliamentary Ombudsman takes a serious view of fact the authority has failed to fulfil that responsibility.

In addition to this, the Public Employment Service is criticised for lacking accessibility. Investigations show that there have been periods where not all phone calls or attempts to reach the authority via a chat function have been responded to. It is unacceptable for an authority to be so hard to reach, according to the Parliamentary Ombudsman.

Finally, the Parliamentary Ombudsman makes particular statements about the agency's obligation to contribute to the Parliamentary Ombudsman's investigation. [Reg. no. 7766-2022]

Migration

The Migration Agency made statements regarding the applicants' representatives in decisions in violation of the requirement of objectivity in Chapter 1, section 9, of the Instrument for Government

The Migration Agency rejected two applications for residence and work permits. In the decisions, the Agency highlighted circumstances which related to the applicants' representatives. The Agency gave neither the representative nor his client the chance to comment on the circumstances in the case in question.

The Parliamentary Ombudsman observes that what was written about the representative in both decisions concerned similar circumstances and were communicated within a short time of each other. Both decisions, when read in the light of each other, may be said to imply that the representative is complicit in the circumvention of labour immigration rules for third-country nationals. In addition, one of the decisions contains what could be interpreted as a more or less direct accusation to that effect.

The circumstances concerning the representative were not communicated in a satisfactory manner prior to the decisions being taken. The resulting shortcoming was all the greater because the information appears to have influenced the outcome of the cases. The matter may also have had consequences for the representative's ability to act as a lawyer.

The Parliamentary Ombudsman's overall assessment is that the shortcomings in the Migration Agency's processing meant that the decisions in these parts were not based on a sufficiently solid foundation and that the requirements of the Instrument of Government regarding objectivity were not observed. The Parliamentary Ombudsman views this to be a serious matter and criticises the Migration Agency for its processing of the matter. Reg. no. 3624-2021]

The Migration Agency's processing times continue to be unreasonably long

The Parliamentary Ombudsman has carried out a new review of processing times at the Migration Agency. The review concerns cases on citizenship, family ties and asylum. The review shows that the Migration Agency continues to have major problems. The Parliamentary Ombudsman fears that it will take several years before processing times are at a reasonable level.

According to the Parliamentary Ombudsman, it cannot be accepted that, year after year, the Migration Agency has unreasonably long processing times in a large number of its cases. The Parliamentary Ombudsman notes that his previously expressed fears that the agency's long processing times would become the norm seem to be materialising. The Migration Agency must now make a special effort to address the processing times.

Because the processing times are also a question of allocation of resources, the decision is forwarded to the Government for information.

The Parliamentary Ombudsman criticises the Migration Agency for slow and passive processing in the individual cases reviewed. In some of the cases, the processing times exceeded three and a half years. [Reg. no. 578-2022]

Inspection of one of the Migration Agency's detention centres

When an unannounced OPCAT inspection took place in January 2023, the detention centre had only been open for a relatively short time and not all sections were in use yet. The inspection highlighted serious shortcomings in how the staff treated detainees. The Parliamentary Ombudsman states that it is unacceptable for staff to use their superior position, for example through the unequal treatment of detainees or by threatening them with coercive measures. The Parliamentary Ombudsman stresses that the Migration Agency is responsible for its staff hav-

ing the necessary qualifications, and the agency needs to ensure that its activities are conducted in a way that ensures legal certainty and equality in respect of the detainees. [Reg. no. O 3-2023]

Cases involving police, prosecutors and customs

Application of the Convention on the Rights of the Child to a police body search of a young boy to search for weapons for crime prevention purposes

A police patrol was called to a scene after reports of an ongoing brawl involving persons wielding knives. The police body searched persons on the scene in order to search for weapons or other dangerous objects for crime prevention purposes. Among those searched was a boy who was only 10-years old and therefore covered by the provisions of the Convention on the Rights of the Child.

The Parliamentary Ombudsman states that, under the Convention on the Rights of the Child, the best interests of the child and a child's right to dignity must be given special importance when weighing up the need to carry out a body search. The younger the child, the weightier these considerations are. When a police officer is considering carrying out a body search of a very young person, the assessment of whether the measure is really necessary must be made with particular care. Other, less intrusive measures must take priority. If a body search is still assessed to be necessary, it must always be carried out in a way that entails as little distress as possible for the child.

In the case at issue, the investigation does not support the contention that the police could have checked if the boy was carrying a knife or another weapon in a way other than a body search. The measure had a legal basis and the purpose of the search was both real and acceptable. There is no indication that the search was carried in an unacceptable manner. According to the Parliamentary Ombudsman, the body search was necessary and not contrary to the Convention on the Rights of the Child, even taking into account the special restrictiveness that must characterise the assessment when it is concerns a person of such a young age. [Reg. no. 7201-2020]

Statement on the preconditions for Swedish Customs to carry out a check pursuant to the Internal Border Act in an area near the border

The Parliamentary Ombudsman's review covered the legal preconditions for a check pursuant to the Internal Border Act in an area near the border. Such a check may be undertaken in a relatively large geographical area where there may also be individuals present who have not entered from another EU country. Therefore, the assessment of whether to carry out such a check must be made with particular care. An example of such a situation is where the check is to be carried out on board a train which, after entering Sweden, has made several stops at which people may have boarded the train.

According to the Parliamentary Ombudsman, for a check pursuant to the Internal Borders Act to take place, there must be one or several circumstances which give reason to assume that the person has crossed the border from another EU country. In order not to undermine the constitutional protection against body searches, there must be a temporal link between the border crossing and the check. When a check in the area close to the border is being considered, a customs officer must seek to clarify – through questioning, checking travel documents or other means – the basic question of whether the traveller has crossed the border a relatively short time before the check.

In the case under review, the Parliamentary Ombudsman concludes that Swedish Customs did not present any documentation that gave the customs officers reason to assume that the person crossed the border from another EU country a relatively short time before the check. Therefore, the legal preconditions for the control measures carried out had not been met. The Parliamentary Ombudsman criticises Swedish Customs for this. The Parliamentary Ombudsman further states that the documentation duty on Swedish Customs should be extended and sends the decision to the Government Offices for information. [Reg. no. 1548-2022]

Serious criticism of the Police Authority for slow and passive processing of a preliminary investigation into property crime

In a preliminary investigation into a property crime, the Police Authority essentially undertook no investigative actions whatsoever over a period of almost four years. In the decision, the Parliamentary Ombudsman observes that such inaction is evidently wholly unacceptable and contrary to the requirement to act quickly in the Code of Judicial Procedure. The Parliamentary Ombudsman raises the question of whether the passive processing could also constitute a violation of the right to property under the European Convention on Human Rights, but finds

there is not enough evidence in the case to make statements about it.

The Parliamentary Ombudsman has repeatedly directed criticism at the Police Authority for the long processing times in many areas of its investigative activities, particularly with regard to preliminary investigations into fraud and other types of property crime. The passive processing of the preliminary investigation in question is thus not an isolated case. The picture that emerges of the Police Authority's investigative activities is very concerning and gives the impression that, in practice, certain types of property crime are no longer investigated by the authority. According to the Parliamentary Ombudsman, it is essential that the Police Authority deal with the backlog of cases as soon as possible.

In conclusion, the Parliamentary Ombudsman is very critical of how the Police Authority handled the preliminary investigation in this case. The Policy Authority therefore receives serious criticism from the Parliamentary Ombudsman, who believes there is good reason to alert the Government to the situation that has come to light. The decision will therefore be send to the Government Offices for information. It will also be sent to the Parliament for information. [Reg. no. 1994-2022]

The Police jeopardised a suspect's right to a fair trial by asking him for the PIN code for a seized mobile phone during a mandatory intervention

A 16-year old boy was taken in for questioning on the grounds of suspicion of committing a crime and his mobile phone was seized. When he was brought in for questioning, the Police asked him for the PIN code for the phone without informing him of his right to remain silent. It was only during the police interview which took at the police station that he was notified of the allegations against him and informed of his rights as a suspect. His defence lawyer was also present at the interview.

According to the Parliamentary Ombudsman, information about a password should be regarded as part of the investigation into a suspected crime. The Police may ask a suspect for the code for a seized mobile phone, for example, but in order not to jeopardise the suspect's right to a fair trial, the question should be asked as part of an interview. This ensures that the suspect has been notified of the allegations and informed of their rights – including the right to remain silent and the right against self-incrimination – and has been given the opportunity to have a lawyer present.

The Parliamentary Ombudsman concludes that those requirements were not fulfilled when the 16-year old was asked for his PIN code. The Police's actions therefore did not comply with the suspect's right not to cooperate with the investigation. Nor was the action in line with the Convention on the Rights of the Child. The Police Authority is criticised because the boy was asked for his PIN code for the seized mobile phone in the way he was. [Reg. no. 2426-2022]

A person who was to be interviewed by the police was prohibited from making his own audio recording of the interview for no objective reason

A man who was to be interviewed by the police wanted to make his own audio recording of the interview with his mobile phone. When he contacted the police before the interview, he was informed that no recording would be allowed and that the phone could be confiscated if he nevertheless made a recording.

The Parliamentary Ombudsman notes that there is no statutory right for an individual to make their own recording of a police interview, but neither is there an express prohibition against it. According to the Parliamentary Ombudsman, the point of departure is that it is permissible to make one's own recording of an interview.

Information often comes to light in a preliminary investigation which is subject to confidentiality and it is essential that information provided in an interview is not disclosed to third parties in a way that could cause damage or harm to the criminal investigation or other purposes worthy of protection. There is also an interest in being able to maintain order during an interview and conduct it in an efficient and effective manner. According to the Parliamentary Ombudsman, an interrogating officer or investigating officer may refuse to allow a person to make their own recording, provided there are concrete and objectively acceptable circumstances of the kind mentioned above. Such a position must be documented.

The Police Authority is criticised for having prohibited the man from making his own recording of the interview without there being acceptable reasons for this and for having conveyed that the phone could be confiscated despite the fact there was no legal basis for such confiscation.

In the Parliamentary Ombudsman's view, in the interests of legal certainty, statutory regulation of the issues that arose in this decision should

be considered. Therefore, a copy of the Parliamentary Ombudsman's decision will be sent to the Government for information. [Reg. no. 2837-2022]

Detention staff denied a public defence counsel access to the suspect on the grounds no defence counsel appointment order was available

In the decision, the Parliamentary Ombudsman addresses several questions of both principal and practice as regards the right of contact between a person who is deprived of their liberty as an arrested or detained person and his or her defence counsel.

In the case under review, the Police Authority is criticised for having denied contact between a detained person and his public defence counsel on the sole ground that a defence counsel appointment order was not available to the detention staff.

The Parliamentary Ombudsman also states that it is important for judicial authorities to have effective procedures for the transmission and receipt of public defence counsel appointment orders. According to the Parliamentary Ombudsman, the Police Authority should initiate a review of current procedures. The work may also involve the Prosecution Authority and the National Courts Administration. [Reg. no. 5016-2022]

Statements about a customs check that was filmed as part of Swedish Customs' participation in a TV production

Swedish Customs carried out a customs check of a man entering Sweden from Denmark. The man's passenger car and other belongings were searched. A superficial body search was also carried out. The Parliamentary Ombudsman considers that those measures had a legal basis.

At the time the check took place, a camera crew was filming Swedish Customs' activities on an assignment from a production company. The material was to be used in the TV series Border Control: Sweden. In his complaint to the Parliamentary Ombudsman, the man stated that he found the camera crew's presence during the control uncomfortable and that he felt worried about being recognised.

The Parliamentary Ombudsman expresses profound understanding for how the man felt in the situation, but found that there was insufficient reason to direct criticism at how Customs Sweden dealt with the camera crew's presence during the customs check.

The Parliamentary Ombudsman stresses, however, that it appears to be very difficult to predict what information about individuals may emerge during Swedish Customs operational activities. The risk of disclosure of confidential information – or in this case privacy-sensitive information – appears to be significant.

Although there is value in portraying the work of customs officials to the public, the Parliamentary Ombudsman expresses his doubts about Swedish Customs allowing a production company to follow and film the agency's checks on individuals and interventions, not least in view of an individual's legitimate claim to respect for their integrity and privacy. [Reg. no. 6212-2022]

A prosecutor denied a lawyer who was a private defence counsel access to the suspect on the grounds that the lawyer was not appointed as public defence counsel

In their capacity as private defence counsel, a lawyer tried to contact their client who was in police custody on suspicion of a crime. A prosecutor denied the contact on the grounds that the lawyer was not appointed as public defence counsel.

A suspect's right to contact with their defence counsel is absolute and applies to both public defence counsel and private defence counsel, as long as the private defence counsel meets the requirements set out in Chapter 21, section 5, first paragraph, of the Code of Judicial Procedure that must be fulfilled in order to be considered as public defence counsel. It has not been put forward that the lawyer does not fulfil those requirements. The prosecutor is criticised for denying contact on the grounds the lawyer was not appointed as public defence counsel.

The police officer who was involved in the intervention in question against the client, and who was in contact with the lawyer on the evening in question, is criticised for having asked the lawyer questions that were not compatible with the so-called one-room privilege and for having asked the client about matters relating to the preliminary investigation outside of a regular interrogation. [Reg. no. 7281-2022]

Inadequate access to the Police Authority through the 114 14 telephone number

The Parliamentary Ombudsman's review focussed on the accessibility of the Police Authority via the 114 14 telephone number. The review shows that when phoning to make a report to the police, the response times were very long during the second half of 2022 and the beginning of 2023, above all in the Stockholm police region. The average waiting time was over 100 minutes. In other police regions, the average waiting time was 40 minutes or longer during that period.

The Parliamentary Ombudsman notes in the decision that it is of urgent public interest for an individual to be able to contact the police within a reasonable time, for example to report a crime. Against this background, the Parliamentary Ombudsman is of the view that such long waiting times are not compatible with the accessibility requirement in the Administrative Procedure Act, nor with the Police Authority's service duty. The lack of accessibility at the Policy Authority risks serious damage to public confidence in the authority and may reduce willingness to report crime. The Parliamentary Ombudsman takes a serious view of what emerged in the review and criticises the Police Authority for the lack of accessibility.

In its statement to the Ombudsman, the Police Authority set out a number of measures that have been or will be taken to address the problems. The Parliamentary Ombudsman will continue to monitor the issue. According to the Parliamentary Ombudsman, there are grounds to send a copy of the decision to the Government for information. [Reg. no. 9929-2022]

Review of police use of bodily search and search of vehicles for crime preventative purposes

JO has carried out inspections in four local police districts on how the provisions of the Police Act on bodily searches and search of vehicles for crime preventative purposes is used (see section 19, second paragraph sections 1 and 20 a of the Police Act). As part of the inspection, documentation from roughly 650 interventions have been examined and interviews have been held with individual police officers. The review is now completed with this decision, in which JO presents statements on the observations from the inspections.

JO establishes that the conditions for how coercive measures are used is being reviewed according to the wording of the Act. Thus, how the police has applied the current provisions, assessed in a general sense, does not conform with the principle of legality JO finds that such an application of the provisions is unacceptable and entails a danger to the rule of law for private citizens who are affected by the actions. JO regards this as a serious violation. However, what the review has shown does not provide JO with a basis for determining whether the coercive measures have been applied in a discriminatory way, or for the purpose of harassment, which was claimed in many reports to JO.

In June 2020, JO brought the matter to the attention of the government, suggesting an overview of current provisions. The review has shown that a review is needed. A copy of the decision is therefore sent to the government for information. [Reg. no. 2199-2023]

Criticism of the Prison and Probation Service and a prosecutor for improper handling of correspondence sent by a person deprived of their liberty to the Parliamentary Ombudsmen

An administrator at the Prison and Probation Service accidentally sent correspondence from an inmate that was addressed to the Parliamentary Ombudsmen to a prosecutor for review. The inmate was being held on remand and was subject to restrictions. The prosecutor reviewed the correspondence and decided that it should not be forwarded. In addition to letter addressed to the Parliamentary Ombudsmen, the correspondence contained a letter to a private person.

Any limitations placed on the right to send letters or other documents of a person who has been deprived of his or her liberty may not impede that individual's ability to correspond with the Ombudsmen. Such correspondence should always be forwarded without review. This is expressly stated in the Act with Instruction for the Parliamentary Ombudsmen. Whether or not the person deprived of their liberty is subject to restrictions is irrelevant.

The handling of the current correspondence was contrary to the express provisions in the Parliamentary Ombudsmen Instruction. The Prison and Probation Service and the prosecutor are criticised for improper handling. The fact that the correspondence also turned out to contain a letter to a private person is of no relevance to the question whether or not the correspondence could be reviewed. [Reg. no. 3288-2023]

Inspections aimed at the situation for children in police custody

An arrested or detained person under the age of 18 may be held in police custody only if absolutely necessary (section 6a of the Act with special provisions for young offenders).

As instructed by the Parliamentary Ombudsman, five custody suites were inspected, with a focus on the impact the provision has had. The Parliamentary Ombudsman concludes that the impact of the provision has been varied and that the inspections unfortunately show that there are custody suites where children are regularly held in custody in police cells. That is an unacceptable situation which the Police Authority needs to rectify. The Parliamentary Ombudsman considers that the question of children in custody suites is important and intends to continue to monitor it. [Reg. no. O 12-2023]

Prison and probation service

On the placing of a remand prisoner who is subject to restrictions in a police cell

An inmate of Uppsala remand prison was placed in a police cell for a few days. According to the Prison and Probation Service, they are responsible for the operation of police detention activities in Uppsala by agreement with the Policy Authority. This type of arrangement, which means remand prisoners may be placed in police cells, has been highlighted by the Parliamentary Ombudsman before. The Parliamentary Ombudsman's investigation shows that inmates of remand prisons are placed in the police cell section due to overcrowding. Police cells known as "LOB cells" (LOB refers to the Care of Intoxicated Persons Act) are also used by the remand prison where necessary, for example in the event of serious disruption to public order and extensive damage to the remand prison cells.

The Parliamentary Ombudsman notes, however, that police cells and remand prisons are intended for different types of detainees. The provisions in Chapter 24, section 22 of the Code of Judicial Procedure also have the effect that a decision to place a remand prisoner in a police cell can only be taken for investigative reasons, and this must be a decision taken by the court at the request of the prosecutor. Therefore, the system applied at the remand prison in this respect was not based on law, which, according to the Parliamentary Ombudsman, is remarkable in itself. The Parliamentary Ombudsman also states that the lack of space does not justify in legal terms keeping a new remand prisoner in a police cell. The same applies to inmates who are already in a remand prison and who are then taken to a police cell. The standard of the cell is irrelevant in this context. Even if a police cell is equipped in accordance with the standards applicable to a remand prison, the cell is de facto a police cell, which means that the rules in Chapter 24, section 22 of the Code of Judicial Procedure apply.

The Parliamentary Ombudsman has already drawn this problem to the Government's attention. According to the Parliamentary Ombudsman, the circumstances in this case further illustrate the seriousness of the situation, and the investigation suggests that the provision of the Code of Judicial Procedure is regularly being disregarded. The Parliamentary Ombudsman is therefore sending a copy of the decision to the Government for information. [Reg. no. 4989-2020]

On the delivery of post from public authorities to prisoners and their communication with lawyers

Hall prison operates a procedure whereby inmates open post from public authorities in the presence of staff at a specially designated location. According to the Prison and Probation Service, however, the staff member stands on the other side of the table at which the inmate is sitting opening the post and therefore cannot see its contents.

The Parliamentary Ombudsman considers such a procedure to be contrary to the purpose of the rules on respecting post to and from public authorities, even if in itself it does not constitute an examination of the post. In her view, from a proportionality perspective, there may be some advantage to an inmate, who may be expected to take unauthorised actions, accessing his post from public authorities in such a way that a coercive measure such as a body search can then be avoided. The Parliamentary Ombudsman states, however, that the described system could lead to staff in fact being able to see the contents, or getting an idea of the contents, and that the procedure is thus not in compliance with respect for confidential communication or the rules on the delivery of post from public authorities. The system of delivering post from public authorities at Hall prison can be called into question, according to the Parliamentary Ombudsman.

In the decision, the Parliamentary Ombudsman also recalls that an uncontrolled lawyer's visit may not be monitored with a surveillance camera. It is further stressed that there is no room whatsoever for electronic communications between an inmate and a lawyer to be listened to when they concern a legal matter. [Reg. no. 7551-2021]

The treatment of a remand prisoner and use of restraints on court premises

The Prison and Probation Service did not have access to any space that was classified as secure at Hudiksvall District Court. This led to the person in custody wearing restraints outside the courtroom in that court building. The level of risk of incident was normal. The inmate was handcuffed and wore a waist restraint with handles or straps. According to the complaint, these restraints were also used during meals and toilet visits.

In the decision, the Parliamentary Ombudsman states that it is important for a detained person's basic needs to be met, irrespective of which building a hearing is taking place in. For

example, it is not acceptable for a detainee to be forced to forego food, drinks, taking medicines or going to the toilet due to the fact the restraints make this impossible. She is therefore of the view that, before transporting inmates to court buildings where secure spaces are not available, the Prison and Probation Service must consider whether compensatory measures can be taken to meet their needs humanely. According to the Parliamentary Ombudsman, transport planning should also include an advance assessment of whether restraints can be removed during toilet visits and meals. [Reg. no. 8643-2021]

The Prison and Probation Service's procedures for urine testing

The Prison and Probation Service's procedures for taking urine samples and the application of those procedures in practice means that an inmate must almost invariably undergo such urine tests completely naked. According to the authority, the main reason for this is to reduce the risk of manipulation.

In the decision, the Parliamentary Ombudsman states that rules which concern intrusive coercive measures of intervention, such as urine tests, must not be formulated too generally and intrusively or without taking into account the so-called principle of consideration. She furthermore highlights comments made by the Council of Europe's Committee for the Prevention of Torture (CPT) about the current system.

According to the Parliamentary Ombudsman, the current rules on and routine application of urine testing may be called into question, and she emphasises that individual assessments should be made as to whether it is necessary for an inmate to provide a urine sample naked. In conclusion, the Parliamentary Ombudsman is critical of how the Prison and Probation Service designed the procedures and shares the CPT's view that the authority should review them. [Reg. no. 8843-2021]

The Prison and Probation Service is not adhering to the time limits laid down in the Terms of Punishment Act for the transfer from remand prison to prison of inmates who are due to start their sentences

In an earlier decision, the Parliamentary Ombudsman levelled severe criticism against the Prison and Probation Service because an inmate had remained in a remand prison for two months while awaiting a place in a prison (decision case no. 7654-2020). It came to light through the investigation in that case that the time limits in section 10 of the Terms of Punishment Act are not being adhered to in the Prison and Probation Service's operations. On the basis of this information, the Parliamentary Ombudsman decided to examine this issue in the context of a particular case, including the extent of the problem, and to investigate related matters. This initiative was undertaken in this case.

The Parliamentary Ombudsman's investigation shows that during the time covered by the review, the absolute time limit of 30 days laid down in section 10 of the Terms of Punishment Act was exceeded in multiple cases, despite there being no legal basis for this. According to the Prison and Probation Service, this is essentially explained by the strain on occupancy levels, meaning that there is quite simply insufficient supply of suitable prison places.

In the Parliamentary Ombudsman's view, it is contrary to the aims of the Imprisonment Act for a convicted person not to be transferred to a prison or not to have their placement assessment (known as an in-depth investigation of the conditions) started within a reasonable time while they instead remain in a remand prison. This is especially true when an inmate is made to serve their whole sentence in a remand prison. In such a case, it can be questioned what the sentence will entail in practice. One further worrying aspect of the problem is that the placement assessment is not always completed within a reasonable time.

The Parliamentary Ombudsman deems the findings of the investigation to be extremely serious. The situation in the Prison and Probation Service means that binding statutory provisions that are laid down in respect of its activities – and which are to the benefit of persons deprived of their liberty – often cannot be adhered to. The Parliamentary Ombudsman concludes, however, that the Prison and Probation Service is not the only authority to face this situation and therefore submits a copy of the decision to the Parliament and the Government for information. [Reg. no. 1716-2022]

Prisoners' contact with lawyers in legal matters

An inmate of Kumla prison had received a warning and asked to make a phone call to a lawyer. The prison refused on the grounds there was no active legal matter and decided that contact should take place by letter.

The Parliamentary Ombudsman understands that the inmate wanted to have legal representation in order to challenge a warning decision and the Ombudsman states that a legal matter did thus exist. In such cases, an inmate has the right to be represented by a lawyer and will nor-

mally need to speak to the lawyer. Furthermore, questions relating to a warning must be decided promptly. According to the Parliamentary Ombudsman, it was therefore unacceptable that the inmate was told to correspond by letter, and the institution is criticised.

In the decision, the Parliamentary Ombudsman emphasises that, similarly, an inmate who, for example, is considering taking legal action before a court or other authority may need to consult with a lawyer in order to decide whether or not to do so. [Reg. no. 3036-2022]

Criticism against the Swedish Prison and Probation Service, Sollentuna detention centre, due to an inmate being placed in a cell without a bed or table, and for other inadequacies.

JO criticises Sollentuna for allowing an inmate to spend two weeks placed in a cell without a bed or table. She would like to point out that the circumstances that form the basis of a cell placement with limited equipment must be documented. The remand centre is also criticised for insufficient documentation of isolation-breaking actions. Due to this lack of documentation, JO has not been able to investigate to what extent the inmate was offered such actions. Certain statements are made in the decision on the times for supervised visits. [Reg. no. 3884-2022]

A remand prison has shown significant shortcomings in the handling of inmates' correspondence with public authorities

A remand prison is severely criticised for the improper handling of inmates' post to and from public authorities. The investigation shows extensive and fundamental shortcomings as regards both the examination of such post and the remand prison's procedures for handling inmates' post to and from authorities. The Parliamentary Ombudsman takes an extremely serious view of the fact that in several respects the procedures have no basis in the legislation, and states that it is essential that training is carried out at the remand prison. [Reg. no. 3992-2022]

An inmate in a remand prison had to sleep on a mattress on the floor; statement on the Prison and Probation Service's regulations on the contents of a remand cell

A remand prison is criticised because a double cell did not have two beds and the complainant and another inmate had to take it in turns to sleep on a mattress on the floor.

In Chapter 1, section 17 of the Prison and Probation Service regulations and general advice (KVFS 2011:2) on remand prisons, it is specified that it is not necessary to have a bed in an inmate's cell if there is a lack of ordinary cells due to a lack of space. The Parliamentary Ombudsman concludes that the provisions contravene the superior regulations in the Ordinance (2014:1108) on the design of remand prisons and police cells. The Parliamentary Ombudsman finds that the Prison and Probation Service thus breached its regulatory powers, and states that the regulations need to be amended as a matter of urgency. [Reg. no. 4530-2022]

The Prison and Probation Service decided to allow a prison to increase the lock-up period for all inmates over summer

The Director General of the Prison and Probation Service decided that inmates of Salberga prison would be locked in their cells for two additional hours per day in summer 2022, in connection with their nightly rest period, and gave the prison director the authority to decide the times for locking them in their cells and unlocking them within particular time frames. The decision resulted from shortages in staff and a lack of space. Between 27 June and 31 August, inmates in the prison were locked in their cells for two hours longer than normal per day.

The Parliamentary Ombudsman is very critical of the increased time spent locked up and considers that staff shortages can never provide a proportionate or legally acceptable reason to keep inmates separated. Even if the Prison and Probation Service took steps to manage the situation and tried to minimise the negative effects of being locked up, she notes that once again the inmates had to bear the negative consequences of the authority's decision.

Work is underway to increase the number of remand and prison places in the country, and the Prison and Probation Service has significant recruitment and training needs. According to the Parliamentary Ombudsman, the authority's own forecasts of staffing needs give cause for concern given the problems it already has in relation to skills supply.

Lastly, she notes that in January 2023 the Prison and Probation Service decided to derogate from the regulations governing the length of the daily rest period for all the prisons in the country, and the Parliamentary Ombudsman has already received many complaints about this. In her view, the move towards increased lock-up time is extremely worrying.

A copy of the decision is submitted to the Parliament and Government for information. (Reg.no. 5237-2022]

The Prison and Probation Service did not give a number of inmates the opportunity to vote in the 2022 general election

In three different situations, the Prison and Probation Service breached its duty to give inmates the opportunity to vote in the 2022 general election. The authority is criticised for this.

In order that inmates of institutions ran by the Prison and Probation Service can exercise their fundamental right to vote, the authority is required to make the necessary practical arrangements for this. According to the Parliamentary Ombudsman, it is also necessary that the Prison and Probation Service inform the inmates that they can vote and how they can vote at the relevant facility. She views it as positive that the authority is now starting work on establishing governing documents for the management of voting in elections for inmates. In the Parliamentary Ombudsman's view, there are situations in which guidance is especially important, including if the inmate has initially missed the opportunity to vote as a result of, for example, illness, temporary absence or transfer to another facility. Similar circumstances may arise for persons who are brought into a remand prison or a prison on election day or shortly beforehand and who have not yet voted. [Reg. no. 7179-2022]

Visiting times at the Prison and Probation Service's facilities must be suitable for children

The Parliamentary Ombudsman criticises a prison for offering supervised visits only at times when there is an obligation for children to be at school. According to the Parliamentary Ombudsman, such a system means that children either miss out on school time or do not have the possibility to visit a parent who is in prison. This cannot be considered to comply with the Convention on the Rights of the Child.

The Parliamentary Ombudsman considers that from a child rights perspective, it is essential that all the Prison and Probation Service's facilities provide visiting times that are suitable for children, both for supervised and unsupervised visits. Otherwise, children's opportunities to establish or maintain contact with imprisoned parents where visiting is in their best interests will be limited. From random searches on the Prison and Probation Service's website carried out when completing this decision, it was established that many remand prisons and prisons do not offer child-friendly visiting times. The matter was also raised during the Parliamentary Ombudsman's inspections of the Prison and Probation Service's facilities in the last year, which had as a supervisory theme the contact inmates have with the outside world. According to the Parliamentary Ombudsman, there is good reason for the Prison and Probation Service to develop a coherent approach to the issue in order for the authority to comply with the Convention on the Rights of the Child. [Reg. no. 7823-2022]

Criticism of a remand prison that failed to address a risky shelf construction. Also other statements on the Swedish Prison and Probation Service's work on suicide prevention

During an inspection of Huddinge remand prison in 2017, the supervisory section of the Swedish Prison and Probation Service reported that some bookshelves were not fully fastened to the wall, which resulted in a gap which could form an attachment point for a choke cord. After an inmate took his own life in February 2022, it came to light that the work to rectify the risky shelf construction had been started but not finished.

In the decision, the Parliamentary Ombudsman states that the Swedish Prison and Probation Service has a responsibility to protect inmates from foreseeable dangers and must take measures on both a general and individual level to prevent inmates in custody from committing suicide. According to the Parliamentary Ombudsman, it is of the utmost importance that the agency carries out its suicide prevention work in a systematic and structured way. The Parliamentary Ombudsman also states that is serious that Huddinge remand prison did not ensure with greater urgency the removal of possible attachment points for a choke cord in the affected living spaces. She is highly critical of the remand prison's poor management. [Reg. no. 7943-2022]

Criticism against the Swedish Prison and Probation Service, the Beateberg correctional facility, for incorrect review of government mail etc. Also statements on handling of such mail when they arrive with other mail.

In the decision, JO makes a statement on how a correctional facility, when examining mail, should handle mail from e.g. a private citizen or private organisation that contains a sealed letter from a government agency. She finds that the letter from the government agency should be considered government mail even if it arrives in mail from a sender that is not subject to the rules for such mail. According to her, the approach is more compliant with the basic con-

stitutional right to communication and the rules on examination of government agency mail. Thus, the letter from the government agency can only be examined for the purpose of establishing who the sender is when the is reason to assume that this information is inaccurate.

In the decision, a correctional facility is criticised for examining a letter from a government agency for the purpose of finding out whether it contained an unauthorised object. [Reg. no. 9884-2022]

The treatment of inmates during ongoing renovation works at the reception centre in the Fenix building

Having received several complaints from inmates at Kumla prison on how current renovations are leading to long lock-up periods and impacting their situation in other ways, the Parliamentary Ombudsman carried out an unannounced inspection in order to investigate conditions.

The Parliamentary Ombudsman assesses that the conditions for the inmates in the section concerned must sometimes be extremely stressful. In certain circumstances, the treatment of the detainees concerned would have seemed, in her view, almost inhumane. The prison has known for several years that renovations were needed and the Parliamentary Ombudsman questions whether sufficient efforts were made to avoid the situation that has arisen. The Parliamentary Ombudsman criticises the prison and observes that it is remarkable that no more compensatory measures have been taken for the inmates.

The prison has separated the inmates on the basis of Chapter 6, section 5 of the Imprisonment Act. According to the Parliamentary Ombudsman, however, that provision is not applicable to the situation at issue.

As the Parliamentary Ombudsman questions both the legality of certain decisions and the treatment of the inmates in the section concerned, she finds she has grounds to send a copy of the inspection report to the Government. [Reg. no. O 6-2023]

Public access to documents and secrecy as well as freedom of expression

A municipal executive board violated an individual's freedom of expression in a case under the Act concerning Support and Service for Persons with Certain Functional Disabilities

In an individual plan drawn up pursuant to the Act concerning Support and Service for Persons with Certain Functional Disabilities, a municipality specified that certain information could not be posted on social media. It was also indicated that if this happened, the assistance would be terminated. According to the Parliamentary Ombudsman, the wording cannot be understood in any other way than that it was intended to prevent the individual granted the assistance from using their freedom of expression to post information on the internet.

An individual who applies for and is granted assistance from an authority must, according to the Parliamentary Ombudsman, be considered to be in a dependent relationship with the authority. To terminate assistance that the individual needs and has been granted because the need cannot be met in any other way would have significant negative consequences for that person. If this happens due to an individual exercising their constitutional right to freely express themselves, the action must be considered to be an unlawful reprisal on the part of the authority. But even a statement, for example in an individual plan, that assistance may be terminated in certain circumstances, may result in the individual refraining from exercising their freedom of expression in order not to risk being affected in a negative way.

In the Parliamentary Ombudsman's view, the wording in the individual plan breached the individual's right to freedom of expression. It is particularly serious that the attempted constraint took place in relation to assistance under the Act concerning Support and Service for Persons with Certain Functional Disabilities, because influence and self-determination for the individual are fundamental principles under that legislation. The municipal executive board is criticised for the wording in question and for further shortcomings which the Parliamentary Ombudsman noticed in the design of individual plans. [Reg. no. 5259-2021]

Severe criticism of an acting director of a regional authority who provided misleading information on the existence of a public document

In interview situations with the mass media, an acting director of a regional authority provided misleading information on the existence of an agreement with the region. Furthermore, the agreement was only registered a few months after it had been drawn up. The Chief Parliamentary Officer considers that the inadequate handling led to public documents not being disclosed on request and that public transparency and scrutiny of the agreement were considerably hampered, which the Chief Parliamentary Officer is very critical of.

The Chief Parliamentary Ombudsman further

considers that the regional director's statements must be considered to have been so clearly connected to his official duties that these are not covered by the principle known as the freedom to communicate information. The statements were not compatible with the requirement of objectivity under the Instrument of Government either, and the action, in addition to the failure to register the agreement, hampered and delayed the disclosure of a public document. The Chief Parliamentary Ombudsman directs severe criticism at the regional director for this. [Reg. no. 3751-2022]

An authority must be able to receive unannounced visitors every weekday in order to give individuals the opportunity to access public documents

Gothenburg Region's Association of Municipalities kept its reception and phone switchboard closed for five weeks one summer. Employees who were in service during that period were available via their direct phone numbers, email and by letter, and in-person appointments could be arranged. For public document requests, the Association referred via its website to two functional mailboxes which were read daily. However, it was not possible for the public to visit the authority unannounced.

According to the Parliamentary Ombudsman, in order for an authority to comply with the requirements of the Freedom of the Press Act on public access to documents, which includes a right to access public documents anonymously, the authority must keep, for example, its reception or registry open every weekday for unannounced visits.

The Parliamentary Ombudsman criticises the Association for having failed to comply with the requirements of the Freedom of the Press Act during the period at issue. The Association is also criticised for having provided insufficient information about the authority's availability in relation to its premises. [Reg. no. 6043-2022]

Opportunities for inmates in the Prison and Probation Service to consult the Parliamentary Ombudsman's inspection report

A prison is criticised for not making copies of the Parliamentary Ombudsman's inspection report available on the request of inmates sufficiently quickly.

The prison charged a fee for the copies. The Parliamentary Ombudsman concludes that it was based on the Fees and Charges Regulation. In her view, it is important, however, for the inmates at an inspected facility to be given the opportunity to read the Parliamentary Ombudsman's inspection report, even if they cannot or do not want to pay for a copy. She also thinks that the facility should inform the inmates they can consult the report on site free of charge. [Reg. no. 7905-2022]

A head of section at one of the Migration Agency's detention centres has made a statement in an email that could be perceived as retaliation and a restriction of the freedom of expression of employees

In an email to everyone at one of the Migration Agency's detention centres, a head of section complained that employees had sent emails, internally and externally, to authorities and the media, in which they expressed dissatisfaction with their employer. In a statement to the Parliamentary Ombudsman, the Migration Agency stated that the head of section did not know at the time the email was sent that there had been contact with the media.

The Parliamentary Ombudsman states that the head of section's email undoubtedly gives the impression that she was aware that employees had had contact with the media. However, it cannot be considered to have been established that the email was retaliation for someone using their freedom of expression in the forms specifically provided for under the Freedom of the Press Act or the fundamental right to freedom of expression.

According to the Parliamentary Ombudsman, the email was a reaction to email correspondence in which some officials were openly critical of the organisation. The head of section may therefore, according to the Parliamentary Ombudsman, be considered to have taken a retaliatory measure in contravention of the constitutional right to freedom of expression. The Parliamentary Ombudsman states that even employees who did not criticise the workplace conditions may have perceived the head of section's email to be a restriction of their freedom of expression and that the head of section should have realised that the email could have been perceived in this way.

The head of section is criticised for how she expressed herself in the email. [Reg. no. 3533-2023]

Social insurance

The Social Insurance Agency receives sever criticism for, among other things, slow processing in assistance allowance cases and repeatedly failing to send documents to the individual's representative

The Social Insurance Agency decided a man did not have the right to assistance allowance for a

certain period. The authority also decided the man should pay back the allowance which had been paid to him in advance. On appeal, the Administrative Court annulled both decisions and referred the case concerning the right to assistance allowance back to the Social Insurance Agency for further investigation. [Reg. no. 3622-2021]

The Social Insurance Agency continues to have long processing times in cases of reimbursement of additional costs, but has not reported substantial delays. Statements on, among other things, the relationship between sections 11 and 12 of the Administrative Procedure Act and on the obligation to notify in relation to the obligation to provide services

The Social Insurance Agency took almost 14 months to process one case on the reimbursement of additional costs. There is no evidence that the authority notified the individual of a substantial delay during the time it was being processed. The Social Insurance Agency is criticised for the long processing time and for not notifying the person of substantial delay.

The Parliamentary Ombudsman states that it is very worrying that the Social Insurance Agency has had major problems with long processing times for several years in cases of additional cost reimbursement. Although developments are now moving in the right direction, the Parliamentary Ombudsman takes a serious view of the fact that for a long time individuals have had to bear the consequences of the authority's priorities and inability to find effective measures quickly enough.

In the decision, the Parliamentary Ombudsman also makes certain statements on the application of sections 11 and 12 of the Administrative Procedure Act (2017:900). The statements concern the relationship between the provisions, how the notification obligation in section 11 of the Administrative Procedure Act relates to the service obligation in section 6 of the Administrative Procedure Act, and at what point a notification of a substantial delay should be submitted when the delay is due to the authority's work situation. [Reg. no. 6473-2021]

The Social Insurance Agency did not take a decision within the statutory deadline in cases concerning the reimbursement of the costs of medical treatment abroad, nor did it process the individual's request for a decision under section 12 of the Administrative Procedure Act

Under the Act on the reimbursement of the costs of medical treatment in another country in the European Economic Area (Reimbursement Act), a decision on reimbursement must be taken as soon as possible and at the latest within 90 days of a complete application being received by the Social Insurance Agency. In the decision, it is stated that the Reimbursement Act does not contain any provisions which depart from the Administrative Procedure Act with regard to the required contents of an application from an individual, and it is not clear from the preparatory works what is meant by a complete application. The Parliamentary Ombudsman states that the most obvious way to apply sections 19 and 20 of the Administrative Procedure Act would therefore be to consider that an application is complete if it can form the basis of a review of the merits.

In AA's case, the total processing time of a request for reimbursement of the costs of medical treatment abroad amounted to eight and a half months. When almost five months had passed, AA requested that the Social Insurance Agency determine the matter under section 12 of the Administrative Procedure Act (action for delay). Such a request may not, however, be made before the processing has been ongoing for at least six months (blocking period). In the decision, the Parliamentary Ombudsman states, among other things, that, as a general rule, an action for delay which is received by the authority before the end of the blocking period must be rejected. [Reg. no. 4900-2022]

The Social Insurance Agency is criticised for prioritising cases in a way that contravened the constitutional principles of equality and objectivity, and for not notifying individuals under section 11 of the Administrative Procedure Act that their cases would be substantially delayed.

To achieve the target of 80% of sickness benefit reconsideration cases being decided within six weeks, the reconsideration unit decided that, at least during the summer of 2022, the cases would not be decided in order of age. Instead, caseworkers were asked to take only half of the cases from the backlog of older cases and the rest from the batch of newer cases. In addition, the caseworkers were asked to deal only with newer cases for a two-week period.

The Parliamentary Ombudsman states in the decision that when newer cases are prioritised in this way at the expense of older cases, those cases which have already waited a long time without being decided must wait even longer, while the cases that are prioritised are dealt with very quickly. According to the Parliamen-

tary Ombudsman, regarding older cases as more time-consuming and delaying them on that basis in favour of newer cases, without an assessment of the individual case, is contrary to the principles of equality and objectivity in the Instrument of Government. The same applies when an authority set priorities which result in only more recent cases being decided in order to achieve a particular operational objective. The order of priority applied by the Social Insurance Agency's reconsideration unit was therefore not compatible with the principles of equality and objectivity in Chapter 1, section 9, of the Instrument of Government.

Furthermore, the administrators at the reconsideration unit had been instructed during the summer of 2022 not to send notifications of substantial delays in accordance with section 11 of the Administrative Procedure Act (2017:900). The Parliamentary Ombudsman points out that the authority deliberately departed from its notification obligation, which he is critical of. [Reg. no. 6358-2022]

An application for reimbursement of medical or dental expenses abroad shall be considered complete if it can be used as a basis for a review of the merits. Also statements on what a notification of substantial delay under section 11 of the Administrative Procedure Act should contain and when it should be sent out

Under the Act on the reimbursement of the costs of medical treatment in another country in the European Economic Area (Reimbursement Act), a decision on reimbursement must be taken as soon as possible and at the latest within 90 days of a complete application being received by the Social Insurance Agency. In the decision, it is stated that the Reimbursement Act does not contain any provisions which depart from the Administrative Procedure Act with regard to the required contents of an application from an individual, and it is not clear from the preparatory works what is meant by a complete application. The Parliamentary Ombudsman states that the most obvious way to apply sections 19 and 20 of the Administrative Procedure Act (2017:900) would therefore be to consider that an application is complete if it can form the basis of a review of the merits.

In AA's and BB's cases, the processing times for reimbursement of medical and dental expenses abroad were around eight months. The Parliamentary Ombudsman takes a serious view of the fact that the Social Insurance Agency has major problems with long processing times in the case types in question.

In the decision, the Parliamentary Ombudsman also makes certain statements on the application of section 11 of the Administrative Procedure Act. The statements concern, among other things, the timing and content of the notice of substantial delay in certain situations. The Parliamentary Ombudsman also notes that the provision does not exclude that an authority may in certain cases be obliged to notify the individual of substantial delays several times during the processing of one and the same case. [Reg. no. 7262-2022]

Social services

Social Services Act

In a rental contract with an individual for a training apartment, a social welfare committee included conditions requiring, among other things, contact with a doctor, certain medication, home visits and drug tests

The City District Board of Södermalm in Stockholm Municipality entered into a rental contract and sublet an apartment to a woman. The committee then granted the woman assistance in the form of accommodation in a training apartment. The rental contract was accompanied by an agreement with various requirements for living in a training apartment. The agreement included requirements for contact with a doctor and certain medication, requirements for supervision and home visits, requirements for sobriety and drug tests, and a requirement that only the woman was allowed to live in the apartment. She was told that she risked losing the property if she did not comply with the requirements.

In the decision, the Parliamentary Ombudsman comments on the various requirements the committee placed on the woman and states that they are largely in violation of the provisions of the Instrument of Government and do not have a legal basis. The Parliamentary Ombudsman also concludes that some requirements are contrary to the rules in Chapter 12 of the Land Code. In his decision, the Parliamentary Ombudsman also underlines the principle of legality and that an authority may only take measures that are based on law.

The Parliamentary Ombudsman further points out that it is particularly serious for the committee to have wrongly claimed that the woman risked losing her home if she failed to comply with requirements the committee had no right to make.

In the decision, the Parliamentary Ombudsman severely criticises the City District Board for the extensive shortcomings that came to light during the review of the case. [Reg. no. 8958-2020]

A social welfare committee failed to act in several respects when a man was discharged from a care home, among other things by not applying the mandatory rules in the Rent Act

A man was granted assistance in the form of a home with special services and lived in a care home ran by the municipality. The man was later discharged from the home for allegedly being threatening and violent towards staff.

In the decision, the Parliamentary Ombudsman states that when the decision to discharge the man was made, the municipality, as the man's landlord, had not applied the mandatory rules laid down in the Rent Act to protect tenants. The Parliamentary Ombudsman further notes that the municipality had not taken a formal decision on discharging the man, which meant that it was not possible for him to have the matter reviewed by a court. The decision to discharge him was also taken by a person who was not authorised to do so, and, furthermore, without first having communicated with the man. In addition, the Parliamentary Ombudsman notes that it took too long to re-enforce the decision on assistance.

In conclusion, the Parliamentary Ombudsman criticises the committee's inadequate processing. [Reg. no. 8443-2021]

A social welfare committee failed to process a case on financial support for rent arrears

A social welfare committee received an application from a couple for financial support for rent arrears. It was processed over the next five months and during that time the couple were evicted. In the case, the Parliamentary Ombudsman states that this type of application must be processed with great speed. The social welfare committee should take all necessary measures in order to be able to take a decision while it is still possible for the individual to stay in their home.

In relation to the processing of the couple's application, the committee initially sent out a letter indicating the case would only start to be processed after a month. After processing began, it took a long time to make an appointment for a meeting with the couple and, after the meeting, the couple was given a grace period which expired several days after the date when the rent arrears should have been paid in order to avoid eviction.

It is furthermore clear from the investigation that the couple submitted several applications for financial support, in addition to the application for support for rent arrears. The Parliamentary Ombudsman has difficulty comprehending why the social welfare committee waited to take a decision in the case on rent arrears until all the documents requested in each case had been received instead of promptly taking a decision in the case on rent arrears when it was complete. Furthermore, the Parliamentary Ombudsman is of the view that it would have been appropriate for the social welfare committee to consider granting the couple financial help pursuant to Chapter 4, section 2, of the Social Service Act (2001:453) when the investigation into the couple's financial situation was delayed.

The Parliamentary Ombudsman is very critical of what has emerged in the case and observes that, in all likelihood, its slow and incorrect handling had a substantial negative effect on the couple, both financially and socially. The social welfare committee receives severe criticism for inadequate processing. [Reg. no. 10517-2021]

Criticism against the Social Administrative Committee in Åtvidaberg municipality for not sufficiently considering actions to carry out a video chat with a private citizen within the framework of an investigation on financial aid

Within the framework of an investigation on financial aid, a committee carried out a video chat with the private citizen. The purpose of the investigation measure was to obtain documentation for assessment of whether or not the individual was living alone in their residence. During the video chat, the individual was asked to film their home, by among other things showing their hallway, closets, bathroom cabinet, some kitchen cabinets and the bedroom.

In his decision, JO establishes that he can recognize that he a social welfare committee may have a valid interest in carrying out a video chat in the way that it has done in this case. JO clarifies in the decision what considerations the committee must take before carrying out a video chat for the above mentioned purpose. JO also mentions how the committee should handle the matter of the individual's consent to such an action.

In the case in question, the committee has not documented any considerations before taking this action. In addition, the comment letter did not indicate that the committee had made any considerations of the kind that is now in question. Nor did the committee handle the matter of the individual's consent correctly. JO is therefore criticising the committee's processing of this case. [Reg. no. 1874-2022]

Children and Education Board in Söderhamn municipality is criticised for having decided on and carried out follow-up and two preliminary assessments without being authorised to do so

The Children and Education Board in Söderhamn municipality decided on and carried out follow-up pursuant to Chapter 11, section 4a, of the Social Services Act (2001:453) with regard to a child who had moved to another municipality. The Parliamentary Ombudsman considers that the wording of the provision implies that the municipality must be authorised to take decisions on interventions in order to be able to decide on and carry out follow-up. Such interventions can only be decided upon after a new investigation has been opened and in most cases this cannot be done after the child has changed their municipality of residence. If a child moved during a child investigation, the board therefore cannot decide on follow-up after the investigation ends. The board cannot escape criticism for having decided on and carried out follow-up.

During the follow-up period, two reports of concern about the child were also received. The Parliamentary Ombudsman states that, when another municipality is responsible for support and assistance, the responsibility of the municipality of residence is limited to emergency situations. Conducting an assessment of whether a child who is staying in the municipality needs immediate protection must be seen as part of that responsibility. On the other hand, the responsibility cannot include subsequently conducting a preliminary assessment in order to establish whether or not to open an investigation. The board is criticised for having done two preliminary assessments without being authorised to do so.

Finally, the Parliamentary Ombudsman recalls earlier statements on the conditions for interviewing a child without their guardian's consent during a preliminary assessment and follow-up. [Reg. no. 8528-2022]

Care of Young Persons (Special Provisions) Act [LVU]

Social and Labour Market Board in Östersund's municipality is criticized for requesting a forensic psychiatric investigation on the children's mother in three so called child investigations and for how the information has been presented in the investigations.

The Social and Labour Market Board in Östersund's municipality has within the framework of three so-called child investigations requested a forensic psychiatric investigation regarding the children's mother from a court, with reference to the provision on the obligation to provide data in Chapter 14, Section 1 of the Social Services Act (2001:453), SoL. The Board has then presented parts of the investigation in the child investigations.

Basically, there is confidentiality between, on the one hand, the healthcare sector and forensic psychiatric activities, and on the other hand Social Services regarding data that concern a private individual's health status or other personal conditions. This also applies between courts and Social Services in terms of the information and conditions that are found in a forensic psychiatric investigation. There is a confidentiality-breaking rule in Chapter 14, Section 1, third paragraph of SoL that states that healthcare and forensic psychiatric activities are obligated to provide data in relation to the Social Welfare Boars when it concerns information that may be important to an investigation of a child's need for support and protection. Courts cannot be regarded as included in that provision.

In its decision, JO states that a Social Welfare Board must be especially restrictive when it considers a request for data from a forensic psychiatric investigation, since such an investigation is conducted for a certain purpose. JO finds that the Board lacked the authority to request the forensic psychiatric investigation from the court on the basis of Chapter 14, Section § of SoL. The fact that the investigation was requested on the basis of that provision gave the court the incorrect signal that it was obligated to provide the data. The Board is criticized for requesting the entire forensic psychiatric investigation from the court, and for also doing it on the basis of a provision that was not applicable in this case.

Moreover, JO states in its decision that a Social Welfare Board must in a child investigation only present data on a parent that are current and that are a decisive factor in the board's decision. The Board is criticized for reporting detailed, private and old data on the children's mother. [Reg. no. 1369-2022]

Care of Abusers (Special Provisions) Act [LVM]

A social welfare committee delayed reporting the need for a place at a residential home for the compulsory care of substance abusers ('LVM home') for a person taken into immediate compulsory care

On Friday 1 October 2021, a man was immediately taken into compulsory care under the Care of Substance Abusers (Special Provisions) Act

(LVM). On Monday 4 October, the man was found deceased. When the committee had taken its decision on 1 October, it decided that the man should be initially cared for in a hospital. However, the man chose to leave the hospital and the committee requested assistance to bring him back to the hospital. After a short time there, the man left the hospital again. Thereafter, the man did not stay either in a hospital or in one of the LVM homes ran by the National Board of Institutional Care. The man had already stated on 1 October that he did not want hospital treatment and the hospital had told the committee that day that it did not consider him to be in need of inpatient care. The committee further contacted the National Board of Institutional Care during the night of 1 to 2 October for information on how the situation should be handled. Over the weekend of 2 and 3 October, the committee did not do anything to get the man the care he was considered to need.

The Parliamentary Ombudsman states in the decision that it is difficult to see any reason why the committee did not already report the need for a place in one of LVM homes when it decided on immediate compulsory care. The Parliamentary Ombudsman also states that it is difficult to understand why the committee did not take any action at all on 2 and 3 October. In the decision, the Parliamentary Ombudsman criticises the committee's inadequate handling of the case, but also criticises the National Board of Institutional Care for having provided information to the committee that was partially incorrect on the night of 1–2 October. [Reg. no. 9960-2021]

Shortcomings in how a residential home for the compulsory care of substance abusers ('LVM home') exercised its special powers

An inmate of the National Board of Institutional Care, Fortunagården LVM home, was separated from other inmates for two days. It emerged in the investigation that National Board of Institutional Care staff never examined whether the conditions for the special powers of segregation or separate care had been met. The Parliamentary Ombudsman states that this was not the result of an omission; rather the investigation shows that the staff did not reflect at all on the fact that placing the inmate alone could amount to a coercive measure. The Parliamentary Ombudsman views it as serious that the staff did not understand the measures entail curtailing the inmate's rights, for which they require a legal basis.

As the staff never examined whether the requirements for the special powers had been met, there was no decision to document in the inmate's record either. The absence of a decision means that the National Board of Institutional Care subsequently was unable to provide a clear answer to the question of whether the inmate was segregated or received separate care. According to the Parliamentary Ombudsman, not least for reasons of legal certainty, it is absolutely crucial that the decision-maker has a clear understanding of whether a coercive measure entails a detainee receiving separate care or being placed in segregation, and that the legal considerations weighed up when choosing a measure are carefully set out in a decision.

As an explanation for the inadequate management, the LVM home referred to the fact it is rare for there to be situations in which the staff need to use the special powers. The Parliamentary Ombudsman also states that in such circumstances, the National Board of Institutional Care must ensure that staff have the necessary knowledge to be able to apply the regulatory framework in a way that creates legal certainty. The investigation highlighted errors and shortcomings in the inmate's record. The extent of those suggests, according to the Parliamentary Ombudsman, that the staff's lack of knowledge is not limited to the application of the rules on segregation and separate care. Taking into consideration the extent of the errors and shortcomings reported by the Parliamentary Ombudsmen, the LVM home is severely criticised. The Parliamentary Ombudsman is therefore sending a copy of the decision to the Government for information. [Reg. no. 10572-2021]

The National Board of Institutional Care, Rällsögården 'LVM' home, is severely criticised for, among other things, shortcomings in the exercise of particular powers and for rules of conduct which imposed unlawful restrictions on an inmate's use of his own laptop

Rällsögården 'LVM' home (a home for caring for substance abusers pursuant to the Care of Abusers (Special Provisions) Act ('LVM')) decided that a resident, AA, would be cared for in a lockable unit within the home. The Parliamentary Ombudsman emphasises that care in a lockable unit constitutes an interference with the inmate's rights and freedoms. The need for legal certainty is particularly high in such decisions and it is of the utmost importance that the grounds on which the assessment was based are able to be identified. The Parliamentary Ombudsman is critical of the fact the current decision only contains a standard justification and that it is not possible to understand the

home's reasoning in AA's case. The Parliamentary Ombudsman also concludes that the LVM home does not seem to have done any assessment of the proportionality of the action, which is a serious omission.

AA requested to be allowed to use his own laptop during his stay at the home. After his relatives delivered the laptop to him, the LVM home decided to confiscate it in order to search it at a later date. The purpose of the search was to investigate whether the laptop had been manipulated in any way or contained drugs.

Where property that an inmate is not permitted to possess is found, for example during a body search, this will be confiscated. The Parliamentary Ombudsman states that there is, however, no legal basis for the confiscation of property if the intention is to only later investigate whether it is prohibited. In the current case, the laptop was furthermore searched without a decision to conduct a body search having been taken, and there was no other basis in law for carrying out the action.

After AA got the laptop back, the LVM home developed rules of conduct on inmates using their own laptop. The rules of conduct, which seem to have only affected AA, essentially provide that an inmate may use their own laptop for two hours on weekdays. According to the Parliamentary Ombudsman, there was no basis for using general rules of conduct to restrict AA's use of his laptop. The Parliamentary Ombudsman furthermore notes that decisions on specifically regulated powers, for example, restricting the right to use electronic means of communication, are associated with certain procedural safeguards. The Parliamentary Ombudsman underlines that rules of conduct may never be used as an alternative to taking such decisions.

The decision also contains statements about the handling of an appeal and the documentation in AA's journal. In view of the scope of the errors and omissions, which the Parliamentary Ombudsman sets out in the decision, Rällsögården LVM home is severely criticised. [Reg. no. 5383-2022]

Taxation

Statements on the Swedish Tax Agency's processing times in two cases on repayment of value added tax and on the importance of being able to monitor a case by reading record sheets or similar documents

The Swedish Tax Agency decided to investigate a company's added value tax declarations and postpone payment of excess input value added tax. When the Swedish Tax Agency closed the cases, more than two years and four months respectively two years and three months had passed since the investigations started. The Chief Parliamentary Ombudsman also finds that cases of such a repayment nature are priority cases. Also, the Swedish Tax Agency has an extensive obligation to investigate, which in cases of this nature can be very time consuming. The Chief Parliamentary Ombudsman establishes that there have not been longer periods of passivity in the processing and that the drawn-out process has to some degree been due to the fact that the company has not provided the requested documentation. Furthermore, the documentation that the Swedish Tax Agency has needed to examine is extensive. Despite the general urgency requirement that applies in this case, the Chief Parliamentary Ombudsman finds that the processing times are acceptable.

The Chief Parliamentary Ombudsman also wishes to refer to the statements that he made after an inspection of the Swedish Tax Agency in the spring of 2023. During the inspection, it was noted that the case management systems that the Swedish Tax Agency uses are designed in such a way that it may be difficult to get an overview of what has happened in an individual case. The Chief Parliamentary Ombudsman emphasises the importance of being able to monitor a case by reading record sheets or similar documents. This is in part important in order for private citizens to safeguard their rights, and in part so that a supervisory authority can review how the case was handled in retrospect. [Reg. no. 5432-2022]

The Tax Agency is criticised for not allowing the payment of an application fee in cash

The Tax Agency does not accept cash payment of the application fee when applying to change a first name.

According to the Chief Parliamentary Ombudsman, the main rule in Chapter 4, section 12, of the Central Bank Act applies to the payment of the application fee. This means that the Tax Agency is obliged to accept cash for the payment of such a fee. The Tax Agency is criticised for not making it possible to pay the fee in cash. [Reg. no. 8524-2022]

Criticism of the Swedish Tax Agency for long processing times in cases relating to the registration of estate inventories and the issuing of European Certificates of Succession

The Parliamentary Ombudsmen have received several complaints against the Swedish Tax

Agency relating to the slow processing of cases concerning the registration of estate inventories. Complaints have also been made about delays in the issuing of European Certificates of Succession.

The Swedish Tax Agency's registration of estate inventories is of great importance to private citizens, who therefore normally have high expectations that these cases will be processed quickly. In accordance with an EU Regulation, a European Certificate of Succession must be issued without delay once the Swedish Tax Agency has established that such a certificate may be issued.

According to the Swedish Tax Agency, the processing times for both types of cases have gotten longer as a result of the pandemic, among other reasons. In March 2023, the waiting times were up to 9 weeks for registering estate inventories and 18 weeks for issuing a European Certificate of Succession. The Chief Parliamentary Ombudsman states that circumstances linked to the pandemic can no longer be considered mitigating circumstances when assessing processing times. The Swedish Tax Agency is criticised for its slow processing.

According to the Swedish Tax Agency's website, the waiting times for estate inventory cases increased further after that and are now just as long as the longest waiting times during the pandemic. For these cases, the waiting time increased by almost 50 percent between March and November 2023, and is now up to 13 weeks. The Chief Parliamentary Ombudsman states that this is very worrying and that is important that the Swedish Tax Agency address the causes and take effective action so that processing times are not extended further, but, on the contrary, can be shortened quickly. [Reg. no. 120-2023]

Other areas

A municipality's handling of a request from a political party to rent a room violated the principle of objectivity in Chapter 1, section 9, of the Instrument of Government

Nyköping Municipality refused to allow the party Alternative for Sweden to rent a room from the municipality, with reference to the municipality's rules on the booking of premises. A representative of the party repeatedly asked for a more detailed explanation of why he could not rent a room, but did not receive one. The Parliamentary Ombudsman notes it was only when giving its statement to the Parliamentary Ombudsman that the municipality provided, for the first time, detailed reasons as to why the party was not allowed to rent a room (risk of disturbance to public order). According to the Parliamentary Ombudsman, the municipality should have given the representative a reason when he asked for it.

The fact the municipality only gave detailed reasons for why the party was refused the lease in the statement submitted to the Parliamentary Ombudsman can be interpreted, in his view, as meaning that the municipality had not made any such considerations at the time of its decision, or that the municipality's position was in fact based on another ground. The reference only to the risk of disturbance to public order appears to be an afterthought, according to the Parliamentary Ombudsman.

The Parliamentary Ombudsman concludes that the municipality's handling of the party's request did not comply with the Instrument of Government's objectivity requirement. The Cultural and Leisure Committee in Nyköping Municipality is criticised for this and for failure to provide reasons in its response to the party.

In the decision, the Parliamentary Ombudsman also makes statements on whether a certain clause in the rental rules complies with the principle of objectivity in Instrument of Government. [Reg. no. 1008-2021]

Serious criticism against the Disciplinary Board for animal welfare for its management of a case involving disciplinary actions

In a case involving disciplinary actions, the Disciplinary Board for animal welfare criticized a veterinarian who participated in the after-care of a horse who had just undergone surgery. However, she was not issued a disciplinary action.

JO finds that the Disciplinary Board's reasoning for its decision does not meet the requirements of the Administrative Act, since it, among other things, is so broad that it is impossible to comprehend what inadequacies the Board bases its criticism of the veterinarian on, and in what way these inadequacies constituted an error from a veterinary medicine perspective. In addition, JO criticizes the Board for basing its assessment on circumstances that have not expressly been pointed out by the notifier or by the Board. In its decision, JO also mentions the Board's decision in relation to the burden of proof that applies in disciplinary cases.

In conclusion, JO finds that the processing of the case has not complied with the legal requirement that an agency that carries out

public administrative tasks must be objective in its activities and finds that, all in all, the Disciplinary Board deserves serious criticism. [Reg. no. 2045-2021]

A decision to prohibit individuals from visiting an authority's exhibitions and library had no legal basis

The Living History Forum prohibited two people from visiting the authority's exhibitions and library for a period of six months. The reason the authority gave for this measure was that the behaviour of the two people was a work environment problem.

In the decision, the Parliamentary Ombudsman notes that part of the authority's premises, for example the library, exhibition space and reception, are open to the public at set times. The authority may adopt general rules of conduct for such premises. Otherwise, without a legal basis, the authority has limited powers to determine the conditions of public access.

The measure the authority took was far-reaching and could be likened to a ban from the premises. According to the Ombudsman, the measure could not be taken within the framework of rules of conduct the authority can normally decide on, but required a legal basis. There was no legal basis for the measure and the authority is criticised for this.

The Parliamentary Ombudsman further observes that the authority did not have legal means to lend force to their words and enforce the prohibition. For this reason, the Parliamentary Ombudsman states that it is important for an authority not to pretend to have powers it does not have. [Reg. no. 4149-2021]

A decision to suspend an already enforced decision to take charge of animals does not mean that the animals must be returned pending the final review by the higher court

A county administrative board decided to take charge of three horses and ordered that the decision be enforced immediately. Following an appeal by the animal owner, the Administrative Court decided that the County Administrative Board's decision would not apply until further notice insofar as it concerned immediate enforcement. At the time of the Administrative Court's decision, the horses had already been taken charge of.

The Parliamentary Ombudsman states that a decision on suspension of enforcement does not automatically also include an interim order to revoke measures that have already been enforced. According to the Parliamentary Ombudsman, the responsibility of the County Administrative Board for the keeping of an animal in their charge is not part of the enforcement of the decision to take charge of it. Therefore, a decision to suspend an already enforced decision to take charge of animals does not mean that the animals must be returned pending the final review by the higher court.

In the case at issue, the Administrative Court's decision to suspend the enforcement had not expressly ordered the return of the horses taken charge of. The Parliamentary Ombudsman therefore finds no reason to criticise the County Administrative Board for not returning the horses. [Reg. no. 5865 2021]

Criticism of the National Property Board for putting up signs prohibiting the use of drones in a certain area without a legal basis

At the beginning of 2021, the National Property Board had signs erected prohibiting the use of drones in the castle park at Skokloster Castle, while the authority applied to the Transport Agency for the airspace to be a restricted area. Although the Transport Agency rejected the application in the spring of 2021, the National Property Board left the signs in place. The National Property Board covered the signs after the complaint was made to the Parliamentary Ombudsman.

The Chief Parliamentary Ombudsman concludes that it was not in line with the principle of legality to put up the signs when operating drones in the airspace was not prohibited. He also finds it remarkable that the National Property Board left the signs in place after the Transport Agency's rejection decision. The National Property Board is criticised for how it handled the matter. The Chief Parliamentary Ombudsman requires the authority to remove the signs, if it has not already done so. [Reg. no. 6489-2021]

Criticism of the Agency for Public Management for a lack of information about a vacant post

Under the Employment Ordinance, a state authority that intends to employ a worker must provide appropriate information so those interested in the employment can notify the authority within a certain time

In a newspaper article, it was reported, among other things, that the Director General of the Agency for Public Management had hand picked someone for a management post. The Parliamentary Ombudsman's investigation shows that information about the vacant post was only provided on the authority's physical

notice board, that the information only stayed up there for five days and that prior to that the Director General had contacted the person who was subsequently employed and informed them of the vacancy.

According to the Chief Parliamentary Ombudsman, it is not appropriate to only provide information of a vacant post on the authority's physical notice board. In his view, in order to comply with the Employment Ordinance, as a minimum, that information should be published on the authority's internal and external websites, unless it is an exceptional case. Often, however, that is not enough. The channels that are customary for the service in question should be used.

The Chief Parliamentary Ombudsman assesses that, as a starting point, an appropriate application period is three weeks. In his view, limiting the application period for the management post in question to five days is clearly beyond what can be considered appropriate.

He has no objection to a potential candidate being informed of a vacant post, as long as they are not given any advantage in the recruitment process and the information about the job can reach other interested parties.

According to the Chief Parliamentary Ombudsman, the procedure at the Agency for Public Management gives the impression that it was solely a question of assessing whether you wished to employ the person contacted. The Agency for Public Management failed to comply with the constitutional requirements of objectivity and impartiality. He is also critical of the fact the post was not notified to the Public Employment Service. [Reg. no. 2572-2022]

Whether a party can make a new request after the referral back under section 12 of the Administrative Procedure Act

The current Administrative Procedure Act introduced a new remedy in section 12, which means that an individual who has initiated a case has the right, under certain circumstances, to request the authority to decide the case. Such a request may be made at any time during the processing of the case.

In the decision, the Parliamentary Ombudsman concludes that the limitation of the remedy to one occasion during the processing of the case should be counted from the date the case was initiated at first instance until the authority has taken a final decision in the case, potentially after referral back. An individual party, therefore, does not have the right to make a new request under section 12 after the case has been referred back, and an authority which receives such a request should reject it immediately.

The decision concerns a complaint where the complainant has made a new request for a decision under section 12 in a supervisory case after it was referred back to the first instance. The Parliamentary Ombudsman criticises the county administrative board for taking seven weeks to make a decision on the request, but in view of the complexity of the matter and the lack of guiding statements, the authority is not criticised for having reconsidered the request on its merits instead of rejecting it. [Reg. no. 5151-2022]

Serious criticism against the Municipal Board in Södertälje for violating the protection of personal integrity and privacy by screening whether municipal employees have a criminal record

Södertälje municipality has implemented an order that entails that the municipality regularly screens whether its employees have committed a certain type of crime. The municipality has entered an agreement with an external company that on behalf of the municipality carries out the screenings through searches in databases containing public documents from courts and authorities. The final candidate in an employment procedure is screened in a corresponding way. To enable the screenings, the municipality discloses the personal identity numbers of the persons who will be screened to the company.

JO has examined whether the screenings of employees comply with basic regulations implemented to safeguard the protection of the personal integrity of private citizens as well as their right to privacy. JO also makes certain statements on the screenings of the final candidate in employment procedures.

According to JO, the screenings of employees constitute a serious violation of personal integrity and they entail a monitoring and survey of personal conditions that is done without consent. There is no legal basis for this. The screenings therefore violate the constitutional right to personal integrity. The screenings also violate the European Convention's right to respect of privacy. JO finds that the municipality's actions are highly conspicuous and gets the impression that the municipality wants to limit insight into this procedure. The municipal board receives serious criticism for these screenings, and JO assumes that the municipality will review the procedure in question.

In conclusion, JO notes that this is the second time recently that he is criticizing a municipality for not respecting the demand for legal support for actions that violate the protection of personal integrity and privacy. JO feels that there is

reason to inform the legislator about what has been discovered and is therefore sending a copy of the decision to the government. [Reg. no. 7143-2022]

Statements regarding a municipality setting a requirement of e-identification to support proposals from residents in the municipality; also an issue of the framework of JO's supervision of municipal activities

In its decision, JO makes a statement on the fact that a municipality sets a requirement of the need of e-identification to support proposals from inhabitants in the municipality, so called Nybroförslag (Nybro proposal). JO states that it is a basic requirement that routines and guidelines implemented by a public authority must comply with the general principle of objectivity in the Swedish constitution, moreover public authorities must be accessible to private citizens who are inexperienced with or distrusts digital services.

According to JO, there may be reason for the municipal board to consider actions that make it possible for private citizens who cannot or do not want to use e-identification to support Nybro proposals.

In its decision, JO also discusses the issue of the framework for JO's supervision of municipal activity.

When a private citizen visited the public service office to support a Nybro proposal, he did not receive the help he needed to protect his interests. JO criticises the municipal board for this. [Reg. no. 7393-2022]

Without having a legal basis, a municipality monitored and recorded individuals' personal circumstances in investigations into suspected incorrect financial assistance payments

The Parliamentary Ombudsman reviewed Norrköping Municipality's investigations in certain cases into suspected incorrect payments of financial assistance under the Social Services Act. The investigative methods reviewed included covert monitoring of individual beneficiaries by a hired security investigator. The security investigator's observations were documented in writing and in several cases also in photos. The Parliamentary Ombudsman's investigation focussed on the municipal executive board and the committee which used the services of the investigator.

In his review, the Parliamentary Ombudsman found that the daily routines of the persons observed had been documented in detail. In several cases, the monitoring took place over a longer period of time. According to the Parliamentary Ombudsman, these cannot be regarded as anything other than surveillance techniques, which are in principle reserved for the criminal investigative authorities.

The Parliamentary Ombudsman considers the investigative methods of covert monitoring and documentation entailed the surveillance and mapping of individuals' personal circumstances and constituted such a significant intrusion into personal integrity that they require a legal basis under the Instrument of Government. The measures taken also violated the protection of privacy guaranteed by Article 8 of the ECHR. Given the way in which the data was collected, there was no legal basis for the measures. They were therefore illegal.

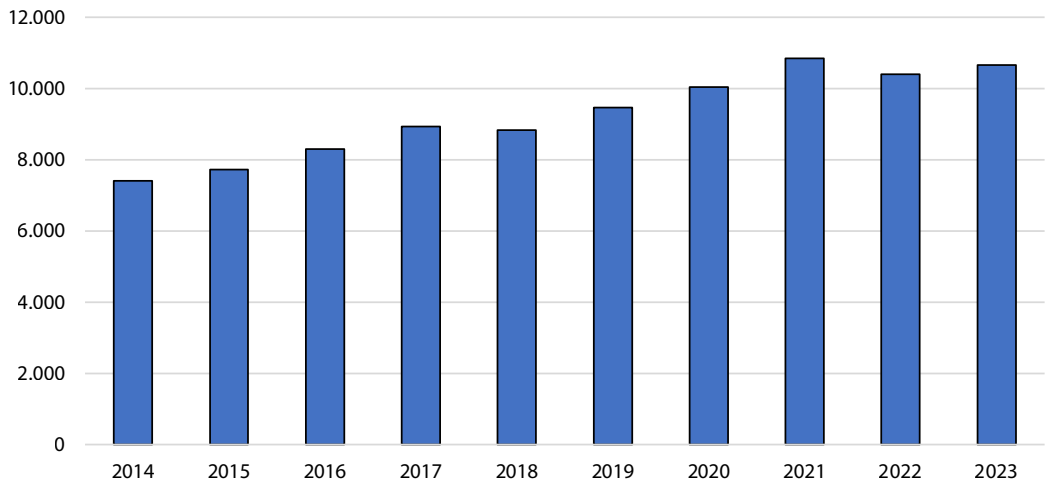
Furthermore, the Ombudsman has doubts as to whether the personal data processing that took place had the legal basis required by the data protection regulations.

The review shows that no proper consideration of the legal position took place before the investigative techniques began to be used. According to the Parliamentary Ombudsman, this is remarkable.

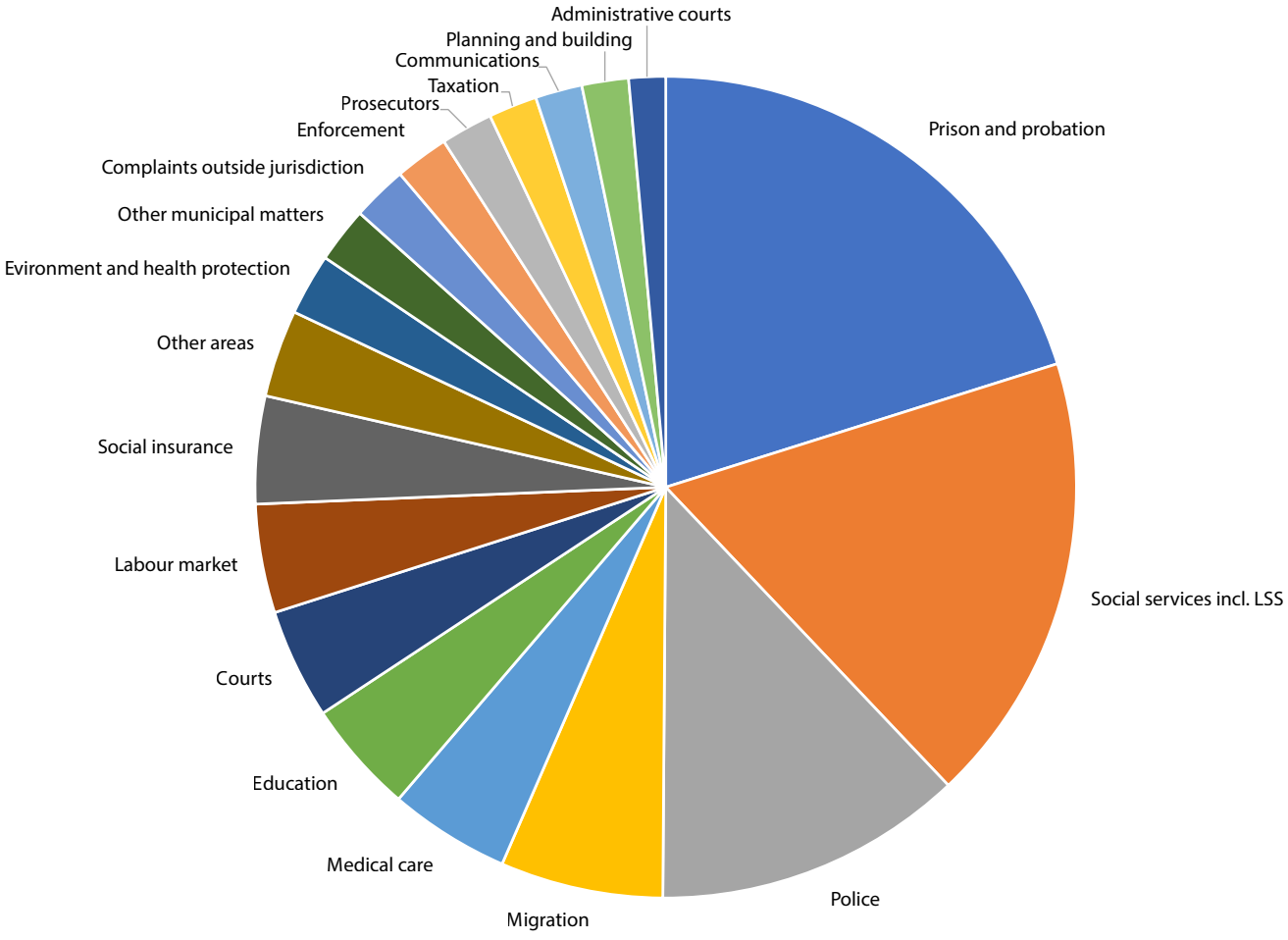
In conclusion, the Parliamentary Ombudsman is very critical of what emerged in the review. The municipal executive board and the committee concerned therefore receive severe criticism. Given that the decision relates to the processing of personal data, the decision is sent to the Swedish Authority for Privacy Protection for information. [Reg. no. 7507-2022]

Statistics

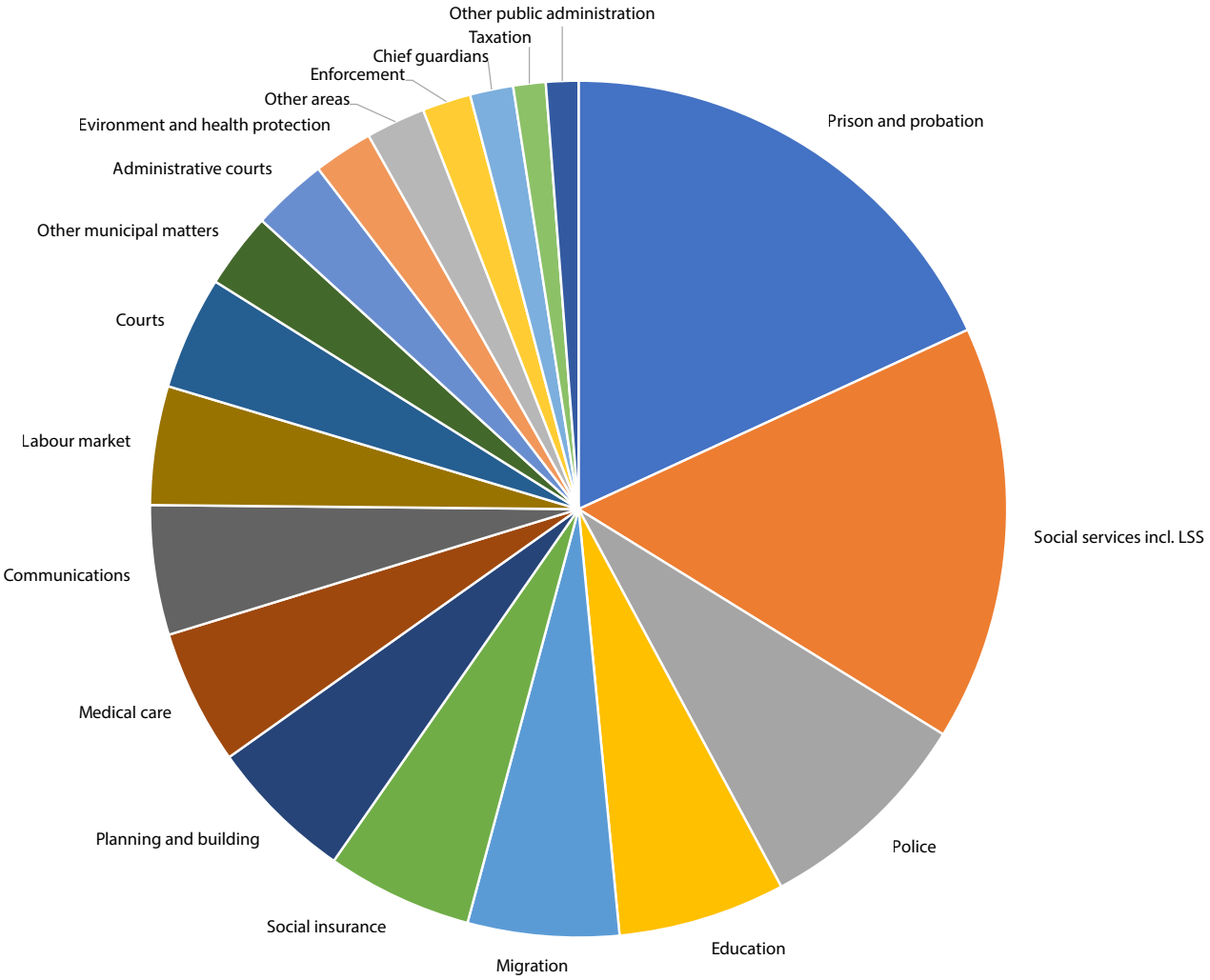
Development of complaints received and initiatives in the last 10 years



Registered complaints in 2023



Distribution of criticism 1 July 2022 – 31 December 2023



History in short

1809 The Office of the Parliamentary Ombudsmen was established in connection with the adoption of the Instrument of Government in 1809.

1810 The first Parliamentary Ombudsman (JO), Lars Augustin Mannerheim, were elected.

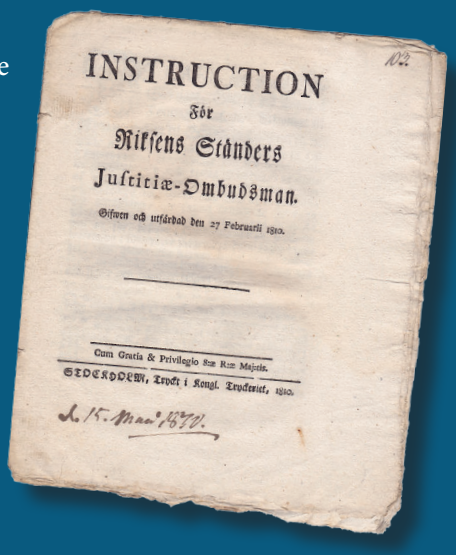
1915 A Military Ombudsman (MO) were established to supervise the military authorities.

1941 The election period for the Ombudsmen (JO & MO) were extended from one year to four years.
The rule that only men could be elected as ombudsmen were removed.

1957 The Parliamentary Ombudsmen was given the power to supervise local government authorities.

1967 The office of The Military Ombudsman (MO) were abolished and the number of Parliamentary Ombudsmen (JO) were increased to three.

1975 The number of Parliamentary Ombudsmen (JO) were increased to four.


INSTRUCTION
För
Rikets Ständers
Justitiæ-Ombudsman.
Gifwen och utfärdad den 27 Februarii 1810.
Cum Gratia & Privilegio Sæ Kgl Majestis.
STOCKHOLM, Tryckt i Kongl. Tryckeriet, 1810.

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