

State of the Rule of Law in Europe in 2022

Reports from National Human Rights Institutions

Lithuania



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Seimas Ombudsmen's Office of the Republic of Lithuania

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

The Seimas Ombudsmen's Office of the Republic of Lithuania was accredited with A-status in March 2017 (1).

The SCA noted that the enabling law does not provide an explicit promotion mandate or a mandate to interact with the international human rights system and encourage ratification or accession to international human rights systems. Recognising that, in practice, the Lithuanian NHRI undertakes functions in these areas, the SCA encouraged it to continue doing so and to advocate for legislative amendments that would explicitly include a mandate for these activities.

Further, the SCA acknowledged the Ombudsmen's engagement with other Ombuds institutions and civil society in Lithuania and encouraged the NHRI to continue to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights.

Finally, the SCA noted that the enabling law is silent on whether and how many members enjoy functional immunity for actions taken in their official capacity in good faith. It recommended that the NHRI's legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity.

References

- (1) <https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20Final%20Report%20-%20March%202017-%20English.pdf>

Regulatory framework

The Lithuanian NHRI continues to function on a constitutional basis. The base for the establishment of the Seimas Ombudsmen's Office of the Republic of Lithuania is Art. 73 of the Constitution of the Republic of Lithuania.

The Principles for the Protection and Promotion of the Ombudsman's Institution note that one of the fundamental principles of the Ombudsman's institution is independence; the Ombudsman is an important institution within the State, based on democracy, the rule of law, respect for human rights and fundamental freedoms and good administration, which acts independently in the event of maladministration and suspected breaches of human rights and fundamental freedoms that affect natural or legal persons.

The Ombudsman's powers include the prevention of maladministration and the protection and promotion of human rights and fundamental freedoms. The Ombudsman shall not be instructed by the public authorities and shall not comply with any instructions from public authorities. The Ombudsman shall have the right to make individual recommendations to anybody or institution falling within the Ombudsman's competence. Moreover, states are invited to take all necessary steps to create the appropriate conditions for strengthening the Ombudsman's institutions and their capacity, independence and impartiality, in accordance with the spirit and provisions of the Venice Principles, in order to ensure the proper, timely and effective implementation of the Principles.

The Seimas Ombudsmen has the mandate to contribute to access to justice for individuals, in particular through complaints handling. The right to lodge a complaint with the Ombudsman is complementary to the right to access to a court.

According to the Law on the Seimas Ombudsmen when performing his/her duties, the Seimas Ombudsmen shall have the right to propose to the Seimas to apply to the Constitutional Court regarding the conformity of legal acts with the Constitution and laws of the Republic of Lithuania. However, the right of Seimas Ombudsmen to apply to the Constitutional Court directly is not established by the Constitution of the Republic of Lithuania. In 2017 the draft law on the amendment of the Constitution proposed to grant the constitutional right to apply to the Constitutional Court not only to individuals by submitting individual complaints, but also to the Seimas Ombudsmen. However, during the works on this draft law, the proposal to grant the Seimas Ombudsmen the right to directly apply to the Constitutional Court was not approved.

Two important changes in the regulatory framework governing the Institution's mandate and functions occurred in the reporting year are worth mentioning.

On 23 December 2021, the new Law on the establishment of the Intelligence Ombudsmen of the Republic of Lithuania was adopted and entered into force on 1 January 2022. The Law establishes the status of the Intelligence Ombudsmen of the Republic of Lithuania, the powers, the procedure for appointment and dismissal, and the accountability of the Intelligence Ombudsmen of the Republic of Lithuania, the relations with the subjects of

control of the activities of the intelligence institutions, as well as the status of the Intelligence Ombudsmen's Office and the foundations of the organisation of its activities. The Intelligence Ombudsmen will be public officials appointed by the Seimas, although a separate institution from the Lithuanian NHRI, and its main function is to supervise the legality of the activities of the intelligence authorities and to assess compliance with the requirements of the protection of human rights and freedoms.

Consequently, amendments to the Law on the Seimas Ombudsmen were also adopted on 23 December 2021 and entered into force on 1 January 2022, establishing that the Seimas Ombudsmen shall no longer investigate the activities of intelligence institutions.

The Office of the Intelligence Ombudsmen of the Republic of Lithuania is expected to start performing the functions of Intelligence Ombudsmen on 1 July 2022. Until then, and after the Seimas Ombudsman has ceased to perform this function, in accordance with the amendments referred to above, the investigation of complaints regarding the compliance of intelligence activities with the requirements of the protection of human rights and freedoms has not been assigned to any institution.

Legislative initiatives concerning the Seimas Ombudsmen's Office, introduced in 2021, are pending adoption in the Parliament (the Seimas of the Republic of Lithuania). If adopted, proposed amendments risk undermining to a certain extent the principles of independence and autonomy of the Ombudsmen. In particular, the draft Law on Amending Articles 18 and 22 of the Law on the Seimas Ombudsmen No. VIII-950 seeks to set an imperative 6 month deadline for the examination of complaints, as well as to place restrictions on the Ombudsmen's right to mediate between a complainant and the institution whose actions are being complained of. The aim of this regulation, which is replicating the one abolished in 2004, is to apply similar rules to the Seimas Ombudsmen as those applicable to some other governmental institutions, responsible for monitoring the implementation of specific legal acts and providing public administrative services.

So far the independence of the Seimas Ombudsmen in investigating complaints has been ensured, among other things, by the possibility established in the Law on the Seimas Ombudsmen to extend the initial 3 month time-limit for the investigation of a complaint at its discretion, where the complexity of the circumstances, necessity to perform different investigative actions (conduct on-site visits, interview experts and witnesses, etc.), abundance of information and (or) continuity of the infringements being complained of necessitate thorough investigation. In these situations the aim of an investigation is not only to investigate all the circumstances of the complaint fully and thoroughly, but also to identify the causes of infringements (including relating to legal uncertainties, etc.) and to take action to remedy them. Internal Regulation of the Seimas Ombudsmen's Office

provides for a maximum 12 month extension for complex investigations. Thus, the introduction of a statutory 6 month time-limit for the examination of a complaint will restrict the powers of the Ombudsmen's to conduct, where deemed necessary due to public interest concerns, complex investigations, including the ones that are related to situations that sometimes last for years.

Representatives of the Seimas Ombudsmen's Office have repeatedly voiced concerns that these initiatives, that run counter to a general European trend, do not correspond to the Seimas Ombudsmen's mandate to choose working methods and tools, which are necessary to resolve maladministration, investigate thoroughly and communicate result. At the same time they might hinder the ability of the Seimas Ombudsmen to carry out their functions independently, properly and to the full extent.

Enabling and safe space

State authorities are well aware of the Seimas Ombudsmen's Office mandate to:

- provide recommendations, request immediate provision of information, material and documents required for the discharge of the Seimas Ombudsmen's functions;
- enter the premises of institutions and agencies (enterprises, services or organisations), and at any time of the day, if persons are kept in the premises for 24 hours or more, and unrestrictedly meet and interview persons present in the premises; request written or oral explanations from the officials whose activities are under investigation;
- question the officials and other persons; enlist the services of state or municipal institutions or agencies, state or municipal enterprises, public establishments whose member is the State or a municipality, as well as to ask them to submit conclusions within their remit;
- draw up a record of administrative violation of law for failure to comply with the demands of the Seimas Ombudsman or for interfering in any other with the fulfilment by the Seimas Ombudsman of the rights granted to him;
- recommend to the collegial body or official to repeal, suspend or amend the decisions which are contrary to the laws and other legal acts, or propose to adopt decisions the adoption whereof has been precluded by abuse of office or bureaucracy;
- recommend to the collegial body, head of the agency or a superior institution or agency to impose disciplinary penalties on the official at fault, etc. mainly the NHRI's

functions related to investigation of complaints and performance of the national prevention of torture.

However, the Lithuanian NHRI believes that state authorities might not be fully aware of some other functions of the Seimas Ombudsmen's Office as the national human rights institution. Moreover, the general public often misunderstands the Seimas Ombudsmen's Office role and status, often misunderstanding it as being part of the executive branch and an entity of public administration.

When it comes to an implementation of the NHRI's recommendations, following subparagraph 3 of Article 20 of the Law on the Seimas Ombudsmen, a proposal (recommendation) of the Seimas Ombudsmen must be considered by the institution or agency, or official to whom this proposal (recommendation) is addressed, informing the Seimas Ombudsmen about the results of such consideration. The Seimas Ombudsmen has to be informed about the adoption of the decisions on measures to be taken in the light of the proposal (recommendation) of the Seimas Ombudsmen no later than within 30 days from the receipt of the proposal (recommendation). In 2021, most of the recommendations issued by the Seimas Ombudsmen were considered. This percentage includes the recommendations of the Seimas Ombudsmen, which were implemented immediately after their submission, as well as the cases when the implementation of the recommendations was repeatedly requested (such as by providing additional arguments, holding meetings with representatives of institutions, justifying the importance of the recommendations to the public).

Measures necessary to protect and support the NHRI against threats and harassment and any other forms of intimidation (including SLAPP actions) are not in place. The Law on the Seimas Ombudsmen is silent on whether and how NHRI's staff members enjoy functional immunity for actions taken in their official capacity in good faith. Thus, the Lithuanian NHRI believes that legislation should include provisions to protect NHRI's staff from legal liability for acts undertaken in good faith in their official capacity. Such a provision would promote:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

It is acknowledged that no office holder should be beyond the reach of the law and, thus, in certain exceptional circumstances, it may be necessary to lift immunity. However, in such

case the national law should provide for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures.

Concerning legal guarantees related to the Seimas Ombudsmen's independence, it should be noted that the current legislative framework provides for a possibility to remove a Seimas Ombudsmen from the office following, among other grounds, a parliamentary no-confidence vote. The latter ground might be seen as problematic, as according to the "Principles on the Protection and Promotion of the Ombudsman Institution" („The Venice Principles") adopted by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, ombudsmen should be removed from office only according to an exhaustive list of clear and reasonable conditions established by law.

The State must refrain from any action that would undermine the independence of the Ombudsman institution, or that would seek to impede, or have the effect of impeding, the effective functioning of the Ombudsman institution, and it must effectively protect it against any such threats.

Since 2014 the Seimas Ombudsmen have been carrying out the national prevention of torture by regularly visiting places of detention. However, the resources and staffing were not sufficiently strengthened and, as a result, there is a significant shortage of human resources, thus the Seimas Ombudsmen's Office cannot adequately and in full capacity perform all its mandates and additional competencies, such as work to promote and protect the rule of law. It is therefore necessary to strengthen the capacity of the Seimas Ombudsmen's Office so that it could promote and protect the rule of law in the Republic of Lithuania in such a way that other functions of the institution are not affected.

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

The Seimas Ombudsmen's Office raised the issues mentioned above and addressed recommendations to the Parliament (Seimas) to improve its functioning; however, no significant measures were taken to remedy the situation.

NHRI's recommendations to national and regional authorities

As mentioned above, the 2017 the draft law on the amendment of the Constitution proposed to grant the constitutional right to apply to the Constitutional Court not only to individuals by submitting individual complaints, but also to the Seimas Ombudsmen. However, during the works on this draft law, the proposal to grant the Seimas Ombudsmen the right to directly apply to the Constitutional Court was not approved. The Lithuanian NHRI strongly recommends the establishment of such a possibility, as this

would enable the Seimas Ombudsmen's Office to carry out its functions as national human rights institution more effectively, and in particular to seek the compatibility of national laws with international human rights standards and also with the Constitution.

The current legislative framework that provides for a possibility to remove a Seimas Ombudsmen from the office following, among other grounds, a parliamentary no-confidence vote, should be amended and an exhaustive list of clear and reasonable conditions defining when an Ombudsmen should be removed from the office should be established by law.

To ensure independent and effective functioning of the Seimas Ombudsmen's Office and to strengthen the mechanisms for the promotion and protection of human rights and the promotion of good governance and respect for the rule of law, it is also necessary to allocate sufficient financial and other resources to the Seimas Ombudsmen's Office so it could carry out its functions more widely and become more independent.

Human rights defenders and civil society space

Laws and practices negatively impacting on civil society space and/or on human rights defenders' activities

Freedom of assembly

Relevant developments in this area occurred during the reporting period concern the right to freedom of assembly.

Initiatives to amend the Law on Assemblies were registered in the Seimas (Parliament) of the Republic of Lithuania. The drafters of legislation proposed to establish in the Law on Assemblies that the notice of the assemblies be coordinated by a person authorized by the Chancellery of the President of the Republic of Lithuania, the Seimas of the Republic of Lithuania and the Government of the Republic of Lithuania if the meeting is planned. If this proposal was to be approved, the procedure for organizing meetings scheduled in front of the buildings of the highest political authorities would be complicated, as potentially such meetings would need to be *de facto* authorized.

The drafters also suggested that the organizers of the assembly should submit a written notice of the assembly of more than 15 people to the municipal administration no later than 15 working days before the scheduled date of the assembly. According to the Seimas Ombudsmen, the proposed provisions would further restrict the right to peaceful meetings, as the current deadline of 5 working days before the scheduled date of the assembly to submit a written notice to the municipal administration would be extended to

three weeks. Such a requirement would significantly complicate the possibility of organizing meetings to respond promptly to current events.

In analysing such proposed amendments, the Seimas Ombudsmen observed a possibly disproportionate restriction on the freedom of assembly, and thus submitted an opinion suggesting possible improvements of these draft laws. The Seimas Ombudsmen also suggested to adopt legal provisions enabling individuals to opt for spontaneous meetings on particularly important issues without bureaucratic obstacles.

In addition, there was a number of court cases concerning the municipalities' refusal to authorise public assemblies in 2021, the most relevant of which are illustrated below by way of example.

A first case concerned the refusal by the Kaunas City Municipality to approve the Kaunas Pride march on Laisvės Avenue in support of the rights of LGBT+ people. Faced with such refusal, the organisers of the march appealed to the Regional Administrative Court. The Kaunas City Municipality justified its decision on the grounds that it may be unsafe to march along the city's central pedestrian street because of the ongoing renovation works and many cafes and bar tables set up on the street, which poses as a significant inconvenience for citizens. On 30 July 2021, the Regional Administrative Court ruled that the Kaunas City Municipality had violated the constitutional right of the applicant (the May 1st Trade Union) to peaceful assembly enshrined in Article 36 of the Constitution of the Republic of Lithuania. The local Kaunas government were obliged to agree on the route of the LGBT+ march on Laisvės Avenue in Kaunas by 1 September 2021, 11:00 a.m. The Kaunas City Municipality disagreed with this court decision and appealed to the Supreme Administrative Court of Lithuania, but the appeal was not upheld.

The Vilnius City Municipality also lost two court cases following the ban on the Lithuanian Family Movement from holding rallies in the city. The Vilnius City Municipality Administration refused to coordinate requests for the rally "The Great March in Defence of Families" to be held in front of the Seimas and the Government on 15-17 June 2021, arguing that it would endanger public safety and health, as in the authorities' opinion it would be difficult to control whether people are wearing protective masks. On 9 July 2021, the Vilnius Regional Administrative Court ruled that the decision of the Vilnius City Municipality Administration to refuse to approve the venue of the meeting in order to ensure public safety and health was disproportionate and restrictive of individuals' freedom of assembly. Also, the Vilnius City Municipality lost a court case when the Lithuanian Family Movement sought to hold a rally in front of the Seimas on 10 September. On 31 August 2021, the Vilnius City Municipality cancelled the previously agreed time and venue for the rally, stating in its decision that it was made after receiving

restricted information from the State Security Department on possible threats to state and public security and public order. The organisers of the rally appealed against this decision of Vilnius City Municipality to the court. On 28 October 2021, the Vilnius Regional Administrative Court upheld the appeal of the applicant the Lithuanian Family Movement and annulled the order of the Director of the Vilnius City Municipality Administration, which revoked the previous decision on the approval of the planned rally on 10 September 2021 at the Seimas. In this case, the court noted that the right to freedom of assembly is a fundamental right in a democratic society and may be restricted only when the aim is to prevent breaches of public order or crime or to protect human health or morals, or the rights and freedoms of other persons, and that such a restriction is necessary and that a hypothetical risk of a violation of public order does not constitute a legitimate ground for restricting the right to freedom of assembly.

Criminalisation of humanitarian assistance

Another worrying development worth reporting of concerns the treatment of volunteers providing humanitarian assistance to migrants. At the end of 2021, a group of volunteers provided direct humanitarian assistance to migrants crossing the Belarusian border who were in a life-threatening situation. The volunteers provided the migrants with warm food, clothes, sleeping bags and assisted them in reaching to the European Court of Human Rights for them to get protection and avoid being sent back to Belarus. However, a pre-trial investigation into the smuggling of human beings was launched as a result of this voluntary action. The prosecutor's office terminated the pre-trial investigation because the actions of volunteers could not be considered as active acts of concealment of persons committed with intent. Nonetheless, this situation has shown that the efforts by civil society organisations to help migrants in critical situations are not always welcomed positively; on the contrary, authorities try and deter them from providing help, including by threatening them with pre-trial investigations because of their voluntary actions.

NHRI's role in promoting and protecting civil society space and human rights defenders

The Seimas Ombudsmen's Office maintains close relations with civil society organisations, including NGOs. In particular, it engages in both bilateral and multilateral meetings, inter-institutional discussions, consultations and joint initiatives such as joint visits to the accommodation facilities for foreigners aimed at monitoring the human rights situation of migrants. On this basis, we believe that our cooperation with the civil society remains a positive one.

However, due to insufficient funding and resources, which result in significant shortage of staffing and scarce capacities to effectively carry out all the three mandates of the Seimas Ombudsmen's Office, the Seimas Ombudsmen has not taken any particular initiatives to address the developments mentioned above.

Checks and balances

NHRIs as part of the system of checks and balances

In 2021 the Constitutional Court of the Republic of Lithuania reaffirmed the importance of the institution of the Ombudsman as part of the system of checks and balances. In its ruling of 9 November 2021, the Court stated that, according to Article 73(1) of the Constitution, the Seimas Ombudsmen is an independent and autonomous institution which exercises control over state and municipal officials (except judges). This way, the Seimas Ombudsmen helps to ensure the implementation of the imperatives of responsible governance, accountability to the public, and the protection of human rights and freedoms, which are based on the constitutional rule of law, also exercising a function of control over the performance of state and municipal officials, in order to protect human rights and freedoms from arbitrariness, abuse, or bureaucracy by state and municipal officials.

In the exercise of this function, during the reporting year, the Seimas Ombudsmen's Office assessed, within its competence:

- The Draft Law No XIII P-5306 Amending Articles 18 and 22 of the Law No VIII-950 on the Seimas Ombudsmen of the Republic of Lithuania, and by its letter of 5 January 2021, provided an opinion on the legal regulation proposed by this draft. The comments highlighted the threats to the independence of the Seimas Ombudsmen's Office posed by the proposed regulation.
- In its letter of 16 March 2021, the Seimas Ombudsmen's Office presented its key insights and comments on the concept of the Law on Intelligence of the Republic of Lithuania, which had been submitted for coordination.
- The Draft Law No XIV P-338 Amending Articles 18, 26 and 40 of the Law No I-1553 on the Prevention and Control of Infectious Diseases in Humans, and submitted its opinion on the proposed legal regulation regarding the ensuring of human rights and freedoms in its letter of 17 March 2021.
- The Draft Law 20-15062 (2) Amending the Law the Protection against Domestic Violence of the Republic of Lithuania No. XI-1425, and on 1 June 2021, expressed its

opinion and proposals on the improvement of the legal regulation proposed by this draft legal act.

- The Draft Law No. XIVP-719 Amending Articles 5, 71, 76, 77, 79, 113, 131, 136, 138, 139 and 140 of the Law on the Legal Status of Aliens No. IX-2206 and Supplementing it with Chapter IX¹, and by its letter of 12 July 2021, it submitted its opinion on the improvement of the proposed legal regulation in the context of the guaranteeing of human rights and liberties.
- The Draft Law No. 21-27768 Amending Articles 60, 129, 135, 138, 169, 170, 170¹ and 170² of the Criminal Code of the Republic of Lithuania from the perspective of guaranteeing human rights and freedoms, and by its letter of 27 July 2021, provided its conclusions on the draft legal act.
- The Draft Law Nr. XIVP-673(2) on the Intelligence Ombudsman of the Republic of Lithuania, the draft Law Nr. XIVP-674 Amending Articles 16¹, 23 of the Law on the Intelligence Ombudsman of the Republic of Lithuania No. VIII-1861 and Supplementing it with Article 22¹, and the draft Law No XIVP-677 Amending Articles 11 and 12 of the Law on the Seimas Ombudsmen of the Republic of Lithuania No VIII-950, and by its letter of 16 September 2021, provided its opinion on the improvement of the legal regulation proposed by these drafts in terms of ensuring human rights and freedoms.
- The Draft Law No. 21-29207(2) Amending Articles 2, 3, 5, 26, 32, 40, 50, 53, 62, 67, 69, 71, 76, 77, 79, 98¹, 113, 125, 126, 130¹, 136, 138, 139, 140 of the Law No IX-2206 on the Legal Status of Aliens of the Republic of Lithuania, Repealing Chapter IX¹ and Supplementing with Chapter X², and by its letter of 21 October 2021 provided its comments on the incompatibility of the planned legal framework with international human rights standards and presented proposals for its improvement. The Seimas Ombudsmen's Office also disagreed with the proposal to provide for the possibility to restrict the freedom of movement of foreigners for an indefinite period of time, as this could not be compatible with proper implementation of the principles of legitimate expectations and proportionality.
- The Draft Law No XIIIIP-5306 amending Articles 18 and 22 of the Law on the Seimas Ombudsmen of the Republic of Lithuania No VIII-950, and in its letter of 16 November 2021, provided its opinion on the legal regulation proposed by this draft.

The Seimas Ombudsmen's Office also drew the attention of responsible authorities to the need to take measures to ensure that a comprehensive vulnerability assessment of all persons is carried out in reception and detention facilities in accordance with clearly

defined procedures and that foreigners can exercise their rights without discrimination on the basis of their sexual orientation, gender identity or the violence they have experienced, including the right to assistance in line with their special needs and to safe accommodation conditions.

While these examples show the Seimas Ombudsmen commitment to effectively contribute to the system of checks and balances, it is, however, to be noted that the NHRI's resources and staffing are currently not sufficient, in particular in terms of a significant shortage of human resources. Thus, the Seimas Ombudsmen's Office cannot adequately and in full capacity perform all its mandates and additional competencies, and is obliged to prioritise and/or address only the most concerning issues that come to its attention.

Functioning of the justice system

One issue to be reported about in relation to the functioning of the justice system is the treatment of cases concerning the declaration of the incapability of persons to exercise their legal capacity. Taking into account the data available to the National Courts Administration on such cases (including cases concerning the review of relevant court decisions declaring persons incapable of exercising their legal capacity rendered prior to 1 January 2016), it is evident that such cases are being dealt expeditiously, with most of the cases taking an average of six months to be processed. On this basis, it seems arguable that a delay in the review of court decisions rendered before 1 January 2016 declaring persons to be incapacitated is not due to the length of proceedings relating to such cases before the courts, but rather to a failure by the municipal administration to file a timely application for review of the decisions with the district court of the place of residence of the person declared incapacitated, and/or for other reasons beyond the control of courts.

Taking into account the above-mentioned considerations, the Seimas Ombudsmen's Office addressed a letter to the Government to draw attention to the persisting failure to adequately implement provisions of Article 72(2) of the Law on Amendments to the Civil Code, The Article 72(2) of the Law on Amendments to the Civil Code came into force already in 2015. It states that "Judgments rendered before the entry into force of this Law and under which the persons have been declared incapacitated, shall be reviewed within two years from the date of entry into force of this Law in accordance with the procedure established by the Code of Civil Procedure of the Republic of Lithuania. Within one year from the date of entry into force of this Law, a guardian of a person who has been declared incapacitated shall apply to the district court of the place of residence of the person declared incapacitated for the recognition of a person to be capable or partly capable. Other persons specified in Paragraph 4 of Article 2.10 of the Civil Code of the

Republic of Lithuania set out in Article 5 of this Law may also apply to the court. If, within one year from the date of entry into force of this Law, the persons referred to in this Part do not apply for a review of a judgment declaring an incapacitated person to the district court”.

The Seimas Ombudsmen’s Office also alerts about other gaps in the legal regulation of the institute of restriction of legal capacity and its practical implementation by reference to the decisions taken by courts. Indeed, these are problematic because they can potentially disproportionately expand the areas where a person is recognised as legally incapacitated, such as the person’s ability to apply to court and public administration institutions, to exercise electoral rights and to act in areas of property and personal non-property relations, raising concern over compliance with the provisions of the Convention on the Rights of Persons with Disabilities.

Another concern relates to the legal aid system. As highlighted in the Report on ensuring human rights and freedoms of foreign nationals in the Kybartai foreigners registration centre (No. NKP-2021/1-4 of 24 January 2022), the Seimas Ombudsman has raised concern about the failure to provide foreign nationals with detailed information on the procedure for providing state-guaranteed legal aid; the unclear procedure for informing foreign nationals about the state-guaranteed legal aid provider (lawyer) appointed to them; and by the low frequency of visits paid by lawyers to the Kybartai centre. In this respect, the Seimas Ombudsman observes that the right of foreign nationals to genuinely and effectively benefit from state-guaranteed legal aid, and to receive necessary and timely information about the possibilities of exercising this right, is not properly guaranteed in the Kybartai centre.

Role of the NHRI in contributing to the effective functioning of the justice system

It should be emphasised here that following clause 2 of Article 12 of the Law on the Seimas Ombudsmen, ‘the activities [...] of judges of the Constitutional Court and other courts, [...] are outside the Seimas Ombudsman’s powers of investigation. Moreover, clause 4 of the same article states that “The Seimas Ombudsmen shall not investigate complaints arising from the labour legal relations and about the legality and validity of court decisions, judgments and rulings.’

However, it is worth noting that, in 2021, monitoring visits to places of deprivation of liberty were resumed and a total of 24 visits were carried out - to places of detention of foreigners, a psychiatric hospital and the Lithuanian Criminal Police Bureau. In order to raise the level of knowledge and awareness of detention facilities employees in the area of protection of human rights and freedoms and the national prevention of torture, three

information and consultation seminars were held remotely for employees of social care institutions and correctional facilities. In-person meetings were also held with representatives of the European Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CPT), the European Union Agency for Fundamental Rights (FRA), and the international humanitarian organisation *Doctors without Borders*, discussing relevant issues relating to the protection of human rights and freedoms and the prevention of torture in places of deprivation of liberty.

Impact of measures taken in response to COVID-19 on the national rule of law environment

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

In 2021, the Seimas Ombudsmen Office did not detect major issues in relation with the impact of the COVID-19 outbreak on rule of law and human rights protection. Nonetheless, a few cases concerning alleged human rights violations in the context of the COVID-19 pandemic were analysed. For example, as emphasised by the Seimas Ombudsmen's Office in one of its responses to a citizen complaint, one issue the Institution devoted particular attention to during the COVID-19 pandemic concerned the importance for convicted persons to be provided with the opportunity to maintain contact with their family members.

The Seimas Ombudsmen also observes that the long-lasting COVID-19 pandemic increased mental health risk factors and led to a deterioration in public mental health. Data shows that during the pandemic, there was an increase of about 10% in the number of people seeking treatment for depression, anxiety and reactions to severe stress. Compared to the pre-pandemic period, the overall level of stress in the society doubled, while feelings of anxiety, anger and sadness increased 1.5 times. Thus, personal mental health is one of the most important areas of recent years and has been the focus of considerable attention in 2021, conducting various research in this field and initiating actions aimed at improving mental health.

References

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NHRI's recommendations to national and regional authorities

Following the NHRI's monitoring conducted in 2020, which revealed that Covid-19 restrictions were introduced without sufficient consultations with the society and in a hasty manner, the Seimas Ombudsmen recommended relevant authorities to ensure that, in all situations, even in the event of a state of emergency, or other special management regime, decisions restricting certain rights of individuals are conducted in accordance with human rights standards: measures restricting human rights and liberties shall be justified, and should not restrict the rights and freedoms of the individual beyond what is necessary to achieve legitimate and socially important objectives and also to ensure timely consultation with general public and cooperation with human rights experts in light of any introducing any measures restricting human rights.