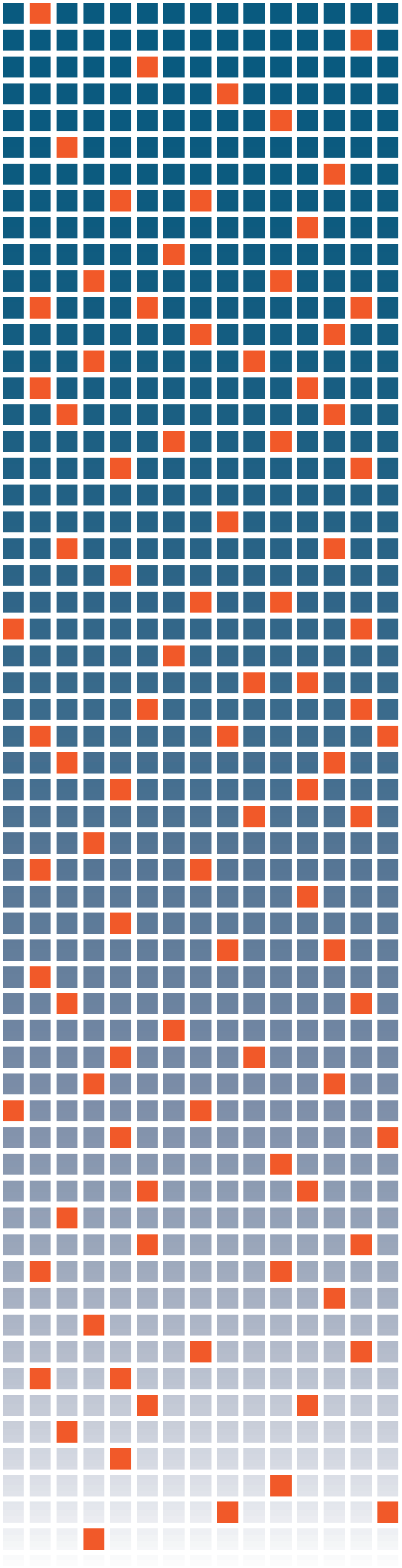

Annual report 2016/17

SUMMARY IN ENGLISH

JO RIKSDAGENS OMBUDSMÄN

THE SWEDISH PARLIAMENTARY OMBUDSMEN

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Elisabeth Rynning

Chief Parliamentary Ombudsman

The supervision in my area of responsibility comprises, among others, correctional care, defence and since 1 April 2017 healthcare. A number of smaller authorities, such as the Swedish Financial Supervisory Authority, the Office of the Equality Ombudsman and the Competition Authority also belong to this area of responsibility. Until 1 April, the supervision also comprised the social insurance area and cases on the application of the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS). The Opcat unit organisationally belongs to my area of responsibility, but the unit's inspections are carried out on behalf of the ombudsman who has supervision over the authority that is relevant to visit. A more detailed presentation of the Opcat unit's operations is provided at page 33.

I took office as the Chief Parliamentary Ombudsman on 5 September 2016 and then took over area of responsibility after former Chief Parliamentary Ombudsman Elisabet Fura. Accordingly, I have been responsible for the supervision in the area during the main part of the 2016/17 fiscal year.

My area of responsibility received nearly 1,800 complaint cases during the fiscal year, which is roughly the same number as the previous year. As in previous years, the majority of the department's work (around 70 per cent) concerned cases involving correctional care and social insurance. The latter group, the social insurance cases, increased substantially during the year and already surpassed the number of cases received in the previous year in the third quarter. During the fiscal year, a total of 1,757 cases were settled, of which around 25 per cent were settled by delegated heads of division.

Around 13 per cent of the settled cases were subject to a complete investigation and 7 per cent resulted in criticism. However, within the large group of dismissed cases that are settled after some investigation or only on the basis of

Areas of responsibility

- The Armed Forces and other cases relating to the Ministry of Defence and its subordinate agencies which do not fall within other areas of responsibility
- The National Fortifications Agency.
- Prisons and probation service, the National Prison and Probation Board and probation boards.
- Health and medical care as well as dental care, pharmaceuticals; forensic medicine agencies, forensic psychology agencies; protection from infection.
- Public procurement, consumer protection, marketing, price and competition within industry and commerce, price regulation, cases concerning limited companies and partnerships, trade names, trade registers, patents, trademarks, registered designs, and other cases pertaining to agencies subordinate to the Ministry of Industry, Employment and Communications which do not fall within other areas of responsibility.
- The Agency for Public Management; the National Financial Management Authority; the Legal, Financial and Administrative Services Agency, the National Appeals Board, the National Claims Adjustment Board; the National Agency for Government Employers, the Arbitration Board on Certain Social Security Issues; the National Property Board; the National Government Employee Pensions Board, the National Pensions and Group Life Insurance Board; the Financial Supervisory Authority, the Accounting Standards Board; the National Institute of Economic Research; Statistics Sweden; the National Disciplinary Offense Board.
- The Equality Ombudsman; the Board against Discrimination.
- Cases that do not fall within the ambit of the Parliamentary Ombudsmen; documents containing unspecified complaints.

what the complainant has submitted, there is a large number of cases where I nonetheless found reason to remind the authority of the provisions that apply, or where the dismissal occurred with reference to another case where the same issue was subject to investigation or had already led to criticism. As an example of the latter, it can be mentioned that some 80 dismissed cases during the fiscal year were against a case where Försäkringskassan's long processing times in reconsideration cases were subject to investigation (see below, ref. no. 3353-2016). Decisions of this type are also normally sent to the reported authority for information.

The number of inspections during the fiscal year amounted to a total of 18 within my areas of responsibility, of which 11 were within the scope of the Parliamentary Ombudsmen's mission as the national preventive mechanism according to the optional protocol Opcat to the UN Convention against Torture. I have personally conducted three ordinary inspections and two together with the Opcat unit. Another four inspections were conducted by a delegated head of division and nine by the Opcat unit. One visit to an authority was conducted during the year.

No charges were filed during the fiscal year. In one of the concluding cases at the department, a preliminary investigation regarding misconduct of office was closed. In another, not yet closed case, a preliminary investigation has been initiated regarding suspected data infringement and violation of the Secrecy Act.

The Swedish Prison and Probation Service is the operation that gives rise to the most cases within my area of responsibility. A certain decrease in the number of

complaints has, however, occurred compared with the previous year, from 988 to 906. The proportion of referred cases has decreased, as well as the proportion of critical decisions. It is difficult to make a statement with any certainty regarding the reasons for this. In this context, it can nonetheless be mentioned that the inspections at the Swedish Prison and Probation Service's own supervisory section got started during the year. The supervisory section presented its activities at a visit to the Parliamentary Ombudsmen in November 2016, when the Chancellor of Justice was also present. On the part of the Parliamentary Ombudsmen, we follow with interest the development of the supervisory section's work.

Among the four decisions concerning the Swedish Prison and Probation Service that were included in this year's annual report, I would like to particularly bring up two, both of which emphasise the importance that fundamental constitutional state principles must also be applied in relation to people who have been deprived of liberty due to crime. It is of course not acceptable that inmates in the Swedish Prison and Probation Service are subject to restrictions of liberty, compulsory measures or other restrictions to rights than those necessary to fulfil the purpose of the deprivation of liberty and have support in law.

The first decision pertains to an enquiry (ref. no. 6027-2015) that were initiated by my predecessor Elisabet Fura, due to what came forth in the review of a large number of isolation decisions in connection with an inspection of Skänninge correctional facility. A starting point for the activities in a correctional facility is that the inmates shall spend time together with other inmates, except in the cases that are especially regulated. Even a short-term lock-in without social contact entails isolation according to the sense of the Act on Imprisonment. The review of the decisions on isolation made at the Skänninge correctional facility indicated deficiencies in several respects. Some isolation placements had gone on longer than the applicable regulation allows, and in other cases, the wrong grounds were cited for the decision. The decision justifications were deficient in many cases, which made it difficult to discern why the inmate was placed in isolation and if there was adequate reason for the decision. In the decision, it is maintained that decisions on isolation constitute an invasive compulsory measure against the individual and that it therefore is important to ensure that adequate reason exists for the measure and that this can be checked afterwards. The Swedish Prison and Probation Service has also stated that isolation measures have been identified as a prioritised area and that several central efforts have been made and decided on to improve quality and achieve uniformity.

Placement in isolation from other people is a very invasive compulsory measure, which can ultimately bring to the fore the issue of a violation of fundamental human rights. It is therefore important that the exceptions from the main rule of the Act on Imprisonment regarding spending time together is clearly regulated and linked to adequate legal guarantees that are also applied in practice. In this context, I also want to mention that the above problem with inmates who spend time alone in a security ward, in practice constitutes a placement in isolation, without having to meet any of the Act on Imprisonment's exceptions from the

main rule. The issue has been addressed in several previous decisions by the Parliamentary Ombudsmen and has also become relevant in the past fiscal year, as well as in connection to my inspection of Kumla correctional facility in spring 2017 (see inspection report, ref. no. 2407-2017). Accordingly, I have reason to return with further statements in this matter.

The second decision in the annual report that I want to bring up also concerns an enquiry that was initiated by my predecessor regarding the Swedish Prison and Probation Service's individual assessments of security and risks in connection to inmates' transports to and stays at medical facilities (ref. no. 1088-2016). In an Opcat inspection of the Hinseberg correctional facility, it was noted, among other things, that inmates had been handcuffed in connection to a transport to a medical facility for childbirth and surgical abortion, respectively. Insofar as came forth in the subsequent review, no elevated risk of escape or freeing of an inmate was deemed to have existed. The invasive control arrangement that the inmates were subjected to – also including the presence of several guards during the childbirth work and the surgical procedure, respectively – appears to have been based on a static security assessment where neither the women's

medical condition nor the invasion of privacy were observed. In my decision in the case, it is stated that I am very critical of the deficient proportionality assessments. Also the inaccurate documentation regarding the actual outcome, as to the use of handcuffs and monitoring during the inmates' stay outside the correctional facility, constitutes a serious problem that needs to be addressed. I will follow up these issues and the supervisory work that is under way at the Swedish Prison and Probation Service.

Social insurance

Social insurance is as mentioned one of the areas in which the number of complaints has increased sharply. During the fiscal year, a total of 616 new cases concerning social insurance were registered at the Parliamentary Ombudsmen, which is an increase of more than 75 per cent compared with the previous year. As in earlier years, the complaints concern many different issues, but it is clear that the long processing times have been a major problem.

I want to especially mention one decision (ref. no. 3353-2016) regarding the processing times at Försäkringskassan's reconsideration units. In spring 2016, growing numbers of complaints of this type began coming in and during the investigation of the case now in question, it came forth that Försäkringskassan had since May 2016 regularly informed individuals that it could take around 20 weeks before their reconsideration cases were processed. In complaints received later, information came forth that the waiting times had increased further after the summer and in the latter part of the year were estimated at around 25 weeks. Försäkringskassan was well aware of the problem, which was said to be due to the number of requests for reconsideration having steadily increased since spring 2015. The authority, which in general guidelines states that decisions in reconsideration cases should be made within six weeks, had taken certain steps and planned further steps to address the processing times. However, in my decision, Försäkringskassan receive serious criticism for having failed in its responsibility to ensure that reconsideration decisions could be made within a reasonable amount of time. The requirement in Section 7 of the Administrative Procedures Act – that each case where any individual is a party shall be handled as simply, quickly and inexpensively as possible without compromising security – is especially poignant with regard to an operation that many individuals are dependent on for their support. Processing times of 20–25 weeks in Försäkringskassan's reconsideration cases, during which time the individual also cannot utilise his or her right to judicial proceedings, constitutes a serious problem of legal security in my opinion.

Since the issue of the long processing times was subject to investigation and decision in the case ref. no. 3353-2016, some 80 other cases regarding the same issue were dismissed during the fiscal year, in reference to the aforementioned case.

In another case that I want to call attention to (ref. no. 2031-2015), complaints were made against Försäkringskassan's action to request information from a bank during the investigation of a case of insurance affiliation. In the Parliamentary Ombudsmen review, it came forth that Försäkringskassan had

requested information with support of the wrong regulation, which gave the misleading impression that the bank was obligated to provide the requested information. The request also pertained to a long period of time beyond that covered by Försäkringskassan's investigation. It is naturally an important task for Försäkringskassan to ensure that incorrect payments are not made within social insurance, which presupposes that the authority checks and investigates cases where it may be suspected that an insured person has received or tried to receive compensation without having a right to it. At the same time, it is a given that these tasks must be carried out within the scope of applicable regulations and that no more material is obtained than is necessary to make a correct insurance assessment. In these considerations, the individual's justified interest in protection of his/her personal integrity must be observed. In the decision, I express serious criticism of Försäkringskassan's incorrect processing, which entailed an unmotivated integrity infringement, among other things, by the bank never deciding the extent to which the requested information should appropriately have been provided.

Support and service to those with disabilities

Activities according to the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) gave rise to 106 new cases at the Parliamentary Ombudsmen during the fiscal year. This case group, which over a few years has belonged to my area of responsibility, was returned to area of responsibility of Parliamentary Ombudsman Stefan Holgersson on 1 April. This now also includes social insurance, which now stands for the financing of certain support efforts for people with disabilities, as well as the social services' general supportive measures for individuals since before.

Two decisions concerning LSS were included in this year's annual report. I want to bring up one decision (ref. no. 2130-2015) that illustrates the more general issue of the conditions for an authority to be able to separate an application case from itself without a review of the matter, i.e. without deciding if the individual has a right to the requested benefit. The complaint related to a social care board in a municipality having decided to discontinue the commenced investigation in a case concerning efforts under LSS because there was a lack of documentation that confirmed that the applicant belonged to the circle of persons who may have a right to such efforts. According to general administrative law principles, certain circumstances can typically mean that an authority shall dismiss a case – for example when a revocation occurs – and others that the case shall be dismissed – for example when stipulated formal requirements are not met – but the authority cannot freely choose, but rather must carefully establish which detailed circumstances lead to a certain case's matter not being reviewed. If there are no conditions to reject or dismiss a case, the authority must decide on the individual's application, the authority also holds a responsibility to investigate the case to the extent necessary. Solely the circumstance that there is not enough documentation to grant the application does not accordingly mean that the authority can refrain from conducting an examination of the matter. In my decision, I criticise the board – which also failed in its obligations regarding service

and communication – for the deficient handling.

Public access and secrecy

Cases concerning the freedom of speech and freedom of the press, as well as public access and secrecy, especially complaints regarding the authorities' handling of requests to study public records are relatively common at all four of the supervisory departments. During the fiscal year, a total of 524 new cases were received, of which 61 were within my supervisory area. This case group also has the largest proportion of critical decisions at the Parliamentary Ombudsmen; around 17 per cent this fiscal year.

From my areas of responsibility, one such decision was included in the annual report (ref. no. 5883-2015). The case indicates the importance of the authorities' documents being registered in the prescribed manner and kept accessible so that the constitutional right to access public records shall not become illusory. The complaints pertained to the Swedish Maritime Administration's and the Ministry of Industry, Employment and Communication's handling of public records in connection with a procurement of rescue helicopters that came to draw extensive interest, not least from the mass media. In the complaint, information came forth that certain e-mails during the procurement had been sent to and from private e-mail addresses that belonged to officials at the Swedish Maritime Administration and the Ministry of Industry, Employment and Communication, and had not been registered or provided by the authorities upon request. The plaintiff had received the explanation from the Swedish Maritime Administration that the authority was "in an exceptional situation where the principle of public access to official documents was directly counterproductive". In the decision, I emphasise the seriousness in that correspondence about important circumstances, which related to the authorities' operations, had been handled entirely outside the regular system for registration of public records and therefore could not be provided upon request. The statement that the principle of public access to official documents was to have been directly counterproductive was of course entirely unacceptable and could give rise to suspicions that the authorities had intentionally tried to evade the constitutional requirement of access to public records by using private e-mail addresses. Such statements entail a significant risk of serious damage to public trust.

Lars Lindström

Parliamentary Ombudsman

The courts, the Swedish Enforcement Authority, the planning and building area, the land survey authorities, environmental and health protection, the Swedish Tax Agency, the chief guardians and the communication area belong to my area of responsibility. During the financial year, 1,763 complaint cases were received, which is an increase by 10 cases (0.6 %) compared with the previous year. 1,808 complaint cases were decided during the year. 598 of these cases were settled by delegated heads of division.

During the fiscal year, I inspected the Administrative Court in Växjö. Head of Division Håkansson has on my behalf inspected the Local Building Committee of Sotenäs Municipality and the Local Building Committee of the City of Västerås including the land survey authority. Head of Division Sjögren has on my behalf inspected the Chief Guardian Board of Nacka Municipality and the Chief Guardian Board of Järfälla Municipality. The inspection reports are available on the Parliamentary Ombudsmen website www.jo.se.

During the fiscal year, I began a preliminary investigation regarding suspected misconduct of office.

In the following, I highlight some of the decisions that are presented in this year's annual report and present certain other measures that I have undertaken during the fiscal year.

The processing of custody cases in the district courts

In my supervision of the country's district courts, I have had reason to criticise the courts several times for the processing of cases concerning the custody of children. This concerned slow case processing, which was ultimately due to the district court devoting time to getting the parties to agree without maintaining control of the process not becoming drawn out in time (see e.g. my decision of 3 April 2013, ref. no. 1814-2012). One variant of the same theme is slowness

Areas of responsibility

- Courts of law, the Labour Court; Ground Rent and Rent Tribunals; the National Courts Administration.
- Administrative courts.
- The National Legal Aid Authority and National Legal Aid Board, the Crime Victim Compensation and Support Authority, the Council on Legislation; the Data Inspection Board, petitions for mercy submitted to the Ministry of Justice; other cases concerning the Ministry of Justice and its subordinate agencies that do not fall within other areas of responsibility.
- Cases concerning guardianship (i.a. Chief Guardians and Chief Guardian Committees).
- The Enforcement Authority.
- Planning and building, land survey and cartography agencies.
- Communications (public enterprises, highways, traffic, driving licences, vehicle registration, roadworthiness testing).
- Income and property tax, value added tax, fiscal control, with the exception, however, of the Taxation Authorities Criminal Investigation Units as laid down in the Act on the Participation of Taxation Authorities in Criminal Investigations [1997:1024]); tax collection.
- Excise duties and price-regulating fees, road tax; service charges; national registration (including cases concerning names); other cases connected with the Ministry of Finance and its subordinate agencies which do not fall within other areas of responsibility.
- Environmental protection and public health; the National Environmental Protection Agency; the Chemicals Agency; other cases connected with the Ministry of the Environment and its subordinate agencies.
- Agriculture and forestry, land acquisition; reindeer breeding, the Sami Parliament; prevention of cruelty to animals; hunting, fishing, veterinary services; food control; other cases agencies subordinate to the Ministry for Rural Affairs and its subordinate agencies which do not fall within other areas of responsibility.

due to the district court getting help from a mediator who was given too free rein in their work (JO 2015/16 p. 38 and 86). I also criticised a court for, in several cases, making a decision in a custody case in conflict with applicable law (JO 2015/16 p. 86). In all of these cases, it is clear from the courts' statements to the Parliamentary Ombudsmen that the deficiencies in the processing were due to an effort to do what was best for the child. But it is of course clear that the court that handles a custody case must just as in other cases follow the law. "The best interest of the child" is not a magic formula that makes wrong right.

In this year's annual report, there is yet another example of judges, in their strive to do what is best for the child, handling the custody case in conflict with what is prescribed by law (ref. no. 2301-2016). The so-called, for civil cases, pursuant to Ch. 17 Section 2 of the Code of Judicial Procedure, means that the judgement shall be based on what has taken place in the main proceedings in the case. When I inspected a district court, I noted that two of the district court's judges, in custody judgements, wrote that the basis for the court's review was the documents or the file in the case and what otherwise came forth in the main proceedings. However, the implication of the principle of immediateness is that the material in the file may not form the basis for the judgement in the case if it has not occurred in the main proceedings. I therefore became suspicious and obtained a statement from the district court. It proved that both of these judges, by all judgements, handled custody cases in a manner that was not in agreement with the rules of the Code of Judicial Procedure. Moreover, the reason they cited was precisely that they were guided by what was best for the children involved in the cases. Of

course it is honourable to want to do what is best for the child, but it must take place within the scope of the law. The judges therefore received criticism.

This year's annual report contains yet another example of incorrect processing of a custody case (ref. no. 1308-2016). It was a tragic case; a mother who was the sole guardian of a child was injured so badly in a traffic accident that she could not exercise custody of the child. The main rule according to the law in such a case is that the father should receive custody, but it is possible to appoint one or two other guardians if it is more appropriate. It is the district court that decides on this and the district court can pronounce a temporary (interim) decision on custody if the final decision may become drawn out over time. It is in the nature of the matter that the interim decision shall be pronounced as quickly as possible during the initial handling of the custody case since the child has no functioning guardian. However, in the case in question, it took more than seven months for the district court to decide on the request for an interim decision. In the district court's statement, reference is made to deep conflicts and a need to find solutions beyond the usual, as an explanation of the reasons why the processing of the case was drawn out in time. Nevertheless, from the investigation, it may be seen to be apparent that focus for the district court's processing was shifted from the review of the custody motion to other matters and that this shift is the main reason that the processing of the case took so long.

Lantmäteriet and Ch. 1 Section 9 of the Instrument of Government

In Ch. 1 Section 9 of the Instrument of Government, it is prescribed that courts, administrative authorities and others that perform public administrative tasks in their activities shall take into account that all are equal before the law and observe objectivity and impartiality. One of the main tasks of the Parliamentary Ombudsmen, according to their instructions, is to monitor compliance with the constitutional requirement. In an essay in the book "JO – lagarnas väktare" [Parliamentary Ombudsmen – guardians of the law], Lotta Lerwall discusses why the Parliamentary Ombudsmen rarely refer to Ch. 1 Section 9 of the Instrument of Government. The essay was written in 2009, and I believe that the rule is cited more frequently today.

One question that frequently recurs is how the authorities handle the constitutional regulation in conjunction to the service obligation, pursuant to Section 4 of the Administrative Procedures Act (see e.g. 2009/10 p. 191 and 2011/12 p. 267). It is important for the authorities to remember that the service obligation pursuant to Section 4 of the Administrative Procedures Act is subordinate to the constitutional rule. The assistance that an authority can provide to an individual must remain within the scope of what is permitted pursuant to Ch. 1 Section 9 of the Instrument of Government. This balance can naturally be particularly sensitive in cases with more than one party.

In this year's annual report, there are four decisions where land surveyors at the national Lantmäteriet were criticised for acting in conflict with Ch. 1 Section 9 of the Instrument of Government. In one of the decisions (ref. no. 2323-2016), the surveyor was to cancel a procedure due to a recall. In his decision, the surveyor made statements about the applicant's rights towards another stakeholder that conflicted with the requirements of objectivity and impartiality pursuant to Ch. 1 Section 9 of the Instrument of Government. In the other decision (ref. no.

3348-2016), it was a matter of the need for changes regarding a communal facility. The surveyor exchanged correspondence with two persons and made statements about deficient knowledge of the joint ownership association's board and about who should pay for potential future costs for a procedure. The surveyor received criticism because he had not observed the requirements of objectivity and impartiality pursuant to Ch. 1 Section 9 of the Instrument of Government. The third decision (ref. no. 4002-2016) is about a case regarding utility easement. In the case, consent was required from the Energy Markets Inspectorate. The surveyor applied for this consent on the applicant's behalf. In my decision, I note that the surveyor hereby provided assistance that clearly exceeds what is suitable and that an action of this nature can damage the trust in the impartiality of Lantmäteriet. The surveyor's actions were therefore not consistent with the requirement of impartiality pursuant to Ch. 1 Section 9 of the Instrument of Government.

These three decisions have in common that the surveyor clearly acted with the aim of providing service in accordance with Section 4 of the Administrative Procedures Act. Of the referral response from Lantmäteriet, in one of the cases, it is apparent that there has been an internal dialogue in recent years within the Cadastral Services division of Lantmäteriet that the authority has sometimes provided a service to the public that exceeded what can be required and that, according to the authority, there may be reason to be more restrictive in providing advice. From the perspective of the Parliamentary Ombudsmen, I welcome these, often difficult, considerations being discussed within the authority.

The fourth decision (ref. no. 4001-2016) does not concern the service obligation, but a different situation. A person applied for a change of the so-called betterment area for an already established communal facility. When the application came in, the surveyor sent a letter to the applicant and a number of other people. In the letter, the survey asked "If you were dissatisfied with the betterment area in the procedure, why did you not appeal the decision?" In my decision, I note that the reasons that the applicant and others had for not appealing Lantmäteriet's earlier decisions, must reasonably lacked significance when processing the new application and that the question therefore conflicted with the requirement of objectivity pursuant to Ch. 1 Section 9 of the Instrument of Government.

Chief guardians and chief guardian boards

In the asylum process, the asylum seeker's age is of significance. The Swedish Migration Agency makes an assessment where applicable of the applicant's age. The question of age is also of significance to chief guardians and chief guardian boards. Above all, a discussion has been conducted regarding what the chief guardian should do when the Swedish Migration Agency has deemed that a person who has said he or she was under the age of 18 in actuality is older. For anyone who is over the age of 18, there are namely no conditions to have a custodian under the Act on Custodianship for Unaccompanied Children (2005:429). In two decisions during the fiscal year, I settled complaints against chief guardians that more or less automatically had ended such custodianship after the Swedish Migration Agency had assessed that the asylum seeker had turned 18. I arrived at the conclusion that it was wrong to do so. The task of the chief guardian is to conduct its own age assessment when there is reason to do so in accordance with

the Act on Custodianship for Unaccompanied Children and make a decision subject to appeal if the assessment leads to the end of the custodianship. One of my decisions is included in the annual report (ref. no. 6894-2016).

Swedish Enforcement Authority

In the previous annual report, I reported observations regarding the Swedish Enforcement Authority. Judging from the influx of complaints, it appears as if the authority has certain problems. During 2015, the Parliamentary Ombudsmen criticised the authority in seven decisions and in 2016, the number of critical decisions was 13. In the first half of 2017, 11 critical decisions were pronounced. The number of received complaints during the 2015/16 fiscal year was 164 and during the 2016/17 fiscal year it was 265.

The majority of the complaints against the Swedish Enforcement Authority concern the same thing that I developed in the previous annual report, namely the authority's handling of received funds. I then pointed out that there were two problems for the Swedish Enforcement Authority in terms of the handling of funds. Firstly, it appears as if mistakes are made too often. And secondly, it often takes conspicuously long time before the individual receives back the money the authority mistakenly paid to somebody else. This year's annual report contains two examples of the authority's difficulties in taking care of the received funds in a correct manner. In one of the decisions (ref. no. 548-2016), a person who had been convicted of having committed a crime, had also been sentenced to pay damages to the victim of the crime. The victim turned to the Swedish Enforcement Authority and the convicted person ultimately paid the damages to the authority, which according to the rules should in turn pay the money to the victim.

This failed, however; the authority sent the money back to the person convicted. When the victim contacted the authority to find out where the money had gone, the authority realised that it had gone missing and sent out a collection letter to get it back. Unfortunately the collection letter was sent to the victim of the crime instead of the person convicted. The whole story ended with the victim receiving the money, but far too late. The Swedish Enforcement Authority received criticism of course.

During the fiscal year, I also criticised the Swedish Enforcement Authority in two decisions for slow case handling in cases concerning debt restructuring. One of these decisions is presented in the annual report (ref. no. 6973-2015). I have not previously seen any complaints of slow processing in the debt restructuring cases, but it comes forth from the investigation in both of the cases that the authority has had major difficulties that relate to the applications for debt restructuring increasing considerably in recent years. In 2009, 6,589 applications were received and the number of applications received in 2015 was 11,263.

One tragic case concerns the showing of a tenant-owner apartment for executive sale of the apartment. Between eight to ten prospective buyers came to the showing. When the showing took place, the tenant owner sat in the kitchen wearing only a nappy. The Swedish Enforcement Authority should not have conducted the showing under such circumstances, the Swedish Enforcement Authority received criticism.

Legislative referrals

Also during this fiscal year, I had occasion to answer a large number of referrals with proposals on statutory amendments. As previously, I have concentrated on answering the referrals that have closer connection to the central parts of my supervisory area. Notable among the referrals I have made a statement on were the memorandum (Ds 2016:17) Impermissible settlements, the interim report A strong penal protection against the purchase of sexual services and the exploitation of children through the purchase of sexual acts, etc. (SOU 2016:42), the interim report Penal measures against participation in an armed conflict in support of a terror organisation (SOU 2016:40), the report Fewer in detention and reduced isolation (SOU 2016:52), the ministry memorandum Questions on the 2009 reindeer husbandry convention (Ds 2016:27), the Media Constitutional Committee's report Changed constitutional media laws (SOU 2016:58), the report A stronger protection for sexual integrity (SOU 2016:60), the report A more modern enforcement procedure (SOU 2016:81), the Ministry of Industry, Employment and Communication's memorandum An activity requirement for the right to appeal certain decisions of leave, etc., the Swedish National Board of Housing, Building and Planning's report (2016:26) Limited obligation to notify and right to appeal according to the Planning and Building Act, the report See the child (SOU 2017:6), the interim report The framework of the penal process and the courts' decision basis in criminal cases – a better handling of major cases (SOU 2017:7), the interim report Regarding the presumption of innocence and the right to be present at the trial – Implementation of the EU presumption of innocence directive (SOU 2017:17), the report Strengthened order and security in court (SOU 2017:46) and the report New data protection act (SOU 2017:39).

Cecilia Renfors

Parliamentary Ombudsman

Police, prosecutor and customs cases, Aliens Act cases and certain issues concerning the Government Offices of Sweden and municipal operations belong to my area of responsibility. Until 1 April 2017, labour market issues also belonged to the area of responsibility.

During the fiscal year, 2,626 complaint cases were received and 13 initiatives (including inspections) were taken within my supervisory area. The number of cases received has continued to increase and is nearly 300 more than the previous fiscal year. During the fiscal year, 2,572 cases were concluded, which is somewhat more than the year before.

The number of answered referrals is mainly at the same level as before (36).

Complaints directed towards the Police Authority are usually most frequent. During the fiscal year, however, the amount of complaints directed towards the Police Authority was slightly fewer than previous year, and came to the amount of 901 complaints. Complaints directed towards prosecutors amounted to the same as the previous year (160 complaints). Complaints directed towards the Migration Agency are considerably more than foregoing years, and came to the amount of 918 complaints during the fiscal year, compared to the preceding year of 574 complaints.

It is above all complaints about long processing times that are behind the large increase in cases concerning the Swedish Migration Agency. Many complaints are also received about the agency's handling of age-determination of young asylum seekers. For a number of years, I have had attention directed at these issues and will return to them in the following.

During the fiscal year, I conducted inspections of the Police Authority, the Local Police Area of Gothenburg City and the Legal Department's Western Legal Unit

Areas of responsibility

- Public prosecutors; the National Economic Crime Authority; The Taxation Authority's Criminal Investigation Units as laid down in the Act on the Participation of Taxation Authorities in Criminal Investigations.
- The Police force; The Swedish Commission on Security and Integrity Protection.
- Customs authorities.
- The Swedish Arts Council, The Swedish National Heritage Board, Swedish National Archives; museums and libraries: The Swedish Broadcasting Authority; local music schools, other cases pertaining to the Ministry of Culture and agencies subordinate to it.
- Municipal administration not covered by special regulations.
- Cases involving aliens, not including, however, cases heard by migration courts; citizenship issues and cases relating to the integration of immigrants.
- Rescue services, applications of the regulations relating to public order; lotteries and gambling, licences to serve food or drink, car dismantling.
- Other cases dealt with by the County Administrative Boards that do not fall within other areas of responsibility.
- Housing and accommodation (supply of accommodation, home adaptation grants, accommodation allowances not included in the social insurance scheme); the National Board of Housing, Building and Planning; the National Housing Credit Guarantee Board.
- Cemeteries and burials, government grants to religious denominations.
- Government activities outside Sweden; the International Development Cooperation Agency; the National Board of Trade; the Swedish Institute; other cases pertaining to the Ministry for Foreign Affairs and agencies subordinate to it.
- The Riksdag Board of Administration, the Riksbank, the National Audit Board; general elections.
- Cases pertaining to the Prime Minister's Office and agencies subordinate to it which cannot be allocated to the areas of responsibility to which they pertain from the point of view of their subject matter.
- Other cases which do not fall within areas of responsibility 1–3

in Gothenburg, of the Swedish Prosecution Authority, the Office of the Public Prosecutor in Sundsvall, and the Swedish Migration Agency (asylum review in the Southern region and the Stockholm region). On my behalf, the Opcat unit conducted and concluded inspections at eight police detention centres and at two of the Swedish Migration Agency's custody facilities. Together with colleagues from the Opcat unit among others, I have visited the Police Authority, Development Centre East, which is responsible for development issues concerning detention operations.

Police and prosecutor authorities

The supervision over the police's use of compulsory measures against individuals is one of the most important tasks of the Parliamentary Ombudsmen in the police area. Complaints that concern such issues are also very common. The assessments the police must make are difficult and it is an important role for the Parliamentary Ombudsmen to contribute to the development of practice and to the practical application taking place within the limits of applicable rules. It is also important to prevent tendencies to use compulsory measures for purposes other than what they are intended for.

In this year's annual report, there are a number of decisions that concern these issues. Two of them address the issue where there was adequate grounds to take

persons into custody due to intoxication. It is normally difficult in an investigation to assess afterwards if there was adequate reason to place somebody in custody or if such reason was lacking. In these two cases, it was however possible to make an assessment afterwards and I had reason to criticise the Police Authority for incorrect interventions in both cases. In one case, the police checked vehicles outside a motorcycle club and were then confronted by two men who expressed displeasure with the police's presence there (ref. no. 3902-2015). The two men were taken into custody by the police with the justification that they were a danger to themselves and others due to the effect of alcohol. A recording of parts of the event showed, however, that the two men were not so intoxicated that there were grounds to take them into custody. There was reason for me to point out that solely the circumstance that a person acts aggressively is not enough to taken them into custody, and that the police may not allow themselves to be influenced by irritation and anger. In the second case, the police intervened against a woman who had been involved in an altercation with security guards (ref. no. 7422-2015). The police decided that she should be removed from the location pursuant to Section 13 of the Police Act and driven home. During the car drive, the woman was upset about the intervention and felt that the police had treated her improperly. It was then deemed that it was better that she should be in the detention centre than at home, where two children and her cohabitating partner were, and instead drove her to the police station. My investigation showed that the woman was not so intoxicated that it was necessary to take her into custody for that reason. It is of course not permitted to decide to take somebody into custody on the grounds of a personal opinion of what is appropriate. If the grounds for taking a person into custody are because the intoxicated person is a danger to others, that danger must also be concrete. This was not the case here.

The rules regarding taking somebody into custody due to intoxication do not allow the person to be taken into custody if he or she is encountered in his or her home. The background of this regulation is that the legislator considered it important to protect the individual's integrity and private life. After a complaint by a person who has been taken into custody a large number of times adjacent to his home, I had the opportunity to clarify when a person can be taken into custody. Stairwells and courtyards of multi-family dwellings cannot be considered to belong to the home and a resident can accordingly be taken into custody there. If the intoxicated person is encounter in his or her home, but leaves it to speak to the police, or is persuaded by the police to leave the home, he or she may not normally be taken into custody. In these cases, he or she cannot be considered to have abstained from the protection that the rule in question expresses.

Another important issue is how people taken into police detention due to intoxication or another reason shall be treated there. My supervision in this part is largely performed through the inspections made by the Opcat unit. However, there are also quite a few complaints about this, about which there is often reason to investigate further. The regular inspections at the police's detention centres show that there are deficiencies in several respects, which of course is very unsatisfactory. It is a matter, among other things, of the detention centre guards' competency, the lack of uniform, written routines and issues that concern access to healthcare for those who are detained in the centres.

The visit to the Police Authority, Development Centre East that I mentioned by way of introduction was about these issues. The visit was rewarding and I look positively on work being under way to prepare national guidelines for the training of detention centre guards and a handbook for the detention operations. However, much remains to be done in order for the operations at the country's detention centres as a whole to fulfil the requirements set in the legislation and in the authority's own regulations.

A couple of decision in this year's annual report indicate a worrying lack of understanding of the difficulties that are associated with a deprivation of liberty and the vulnerability of the individual that a deprivation of liberty entails. In one case, a woman who had been taken into custody for intoxication had asked to use the toilet, but was told to urinate in hole in the floor as nobody at the detention centre in question was to be taken out of the cell at night (ref. no. 4945-2015). For security reasons, she was not permitted to have anything but underwear on, which I did not have any objection to in itself. However, she was not offered any blanket or the like when she was cold. In the other case, a man who had been arrested for security reasons had to spend time in the detention cell in only underwear (ref. no. 2817-2015). Although he said that he was cold, he was not offered any blanket, and the reason for this was said to be that the blankets were intended for those who had been apprehended. The man was also interrogated wearing only underwear, which shows a lack of respect for his person and integrity. The Police Authority received criticism in both cases.

The police have as is known the right to use force in some cases and sometimes uses a dog. Even if police dogs are trained and drilled, there are major risks of injury when compulsion and force with the help of a police dog are used to arrest a suspect. In a decision that concerned this issue, I made the assessment that it was not proportionate to release a police dog and let it pursue a suspect if it concerns crime where the sanction is normally a fine (ref. no. 5188-2015). In this case, the suspicions concerned traffic violations and reckless driving. The police must also be restrictive in releasing the dog on several people if only one of them is suspected of a crime.

It is in some cases difficult for the police and prosecutor to assess how sensitive information shall be treated when a criminal investigation is concluded and the preliminary investigation report shall be compiled. These issues were current in last year's annual report and are also current in this year's annual report. In one case, the prosecutor had not included photographs from a photo confrontation in the report, in reference to the need for protection for individuals who appear on such photographs (ref. no. 7381-2015). In another case, medical record annotations in an assault case from several of the plaintiff's medical visits were included in the preliminary investigation report (ref. no. 741-2016). The preliminary investigation leader – a police inspector – said that she considered the information not to be as sensitive that it could not be included in the report. In both cases, there was reason for me to again emphasise that what is crucial for whether information from a criminal investigation shall be included in the preliminary investigation report is if it is of significance to the investigation. The preliminary investigation leader must be cautious that he or she does not select information that may appear significant from the defence's perspective. At the

same time, the preliminary investigation lead is responsible for taking appropriate measures to avoid sensitive information in a preliminary investigation report from being spread.

Labour market area

The labour market area belonged to my supervisory area until 1 April 2017. In the years that I had responsibility for these issues, I was able to confirm that there is a great need for training and development in the administrative law field, but also that the authority management is working on these issues and takes them very seriously.

The Public Employment Service disposes over certain sanctions for job seekers who do not fulfil their obligations to report what steps he or she has taken, including suspension of the right to compensation. Such a measure is invasive and affects the individual's daily life. It is of course important that the Public Employment Service does not notify a job seeker that it is considering levying such a sanction due to neglect if conditions do not exist for a sanction. This occurred on multiple occasions in one case (ref. no. 5700-2015). The cause of it was that the job seeker's activity reports were not registered on time and that the Public Employment Service has a system with automatic notifications about delayed reports to the unit responsible for reviewing the right to compensation. Reports from the Swedish Unemployment Insurance Board show that these deficiencies are not uncommon and that the Public Employment Service is reviewing the routines.

Another decision indicates deficiencies in routines and regulations in terms of job seekers with disabilities that affect the possibility of managing the activity reporting (ref. no. 6299-2015). The job seeker in the case had the impression that her administrator promised to take care of the reporting, but was suspended from the right to compensation on several occasions. I was able to note several deficiencies in the processing on the part of the Public Employment Service and noted with satisfaction that the authority had written to the Ministry of Employment and proposed that a possibility should be introduced to make exceptions from the requirement to register activities in a report.

Immigration law

The processing times at the Swedish Migration Agency continue to be a serious problem. A large number of complaints about this and about deficiencies in service and accessibility continue to arrive to the Parliamentary Ombudsmen. In a decision in June 2016, I made the assessment that the causes of the unacceptable situation were outside the agency's control and that the Swedish Migration Agency should not be criticised. As the utmost responsibility for ensuring the Swedish Migration Agency has the possibility to make decisions within a reasonable amount of time rests with the Government and the Swedish Parliament, I turned my decision over to the Ministry of Justice. In the 2016 budget bill, the Swedish Migration Agency received an increase in appropriations and in the public service agreement the Government decided on in December 2016, it is stated among other things that the processing times for applications for asylum shall be shortened considerably and that the times for application due to

relational ties, work and studies shall be as short as possible based on the nature of the cases. The Swedish Migration Agency was given the task of preparing action plans with concrete measures to shorten the processing in the latter case categories.

I am continuously monitoring the development and plan further meetings with the agency's management.

Another recurring and current issue is the Swedish Migration Agency's handling of age determination of young asylum seekers. I receive a relatively large number

of complaints that concern this issue and I have reviewed the processing at the agency in this respect at two inspections during the fiscal year. The review at the Southern region indicated considerable deficiencies in the processing, and the assessment of an asylum seeker's age that was made by administrators and decision makers gave the impression in many case of arbitrariness. The inspection at the Stockholm region pleasingly did not indicate any deficiencies to the same extent.

As of 1 May 2017, a decision to change an applicant's age can be appealed during the processing of the case. For some time, the National Board of Forensic Medicine has also carried out medical age investigations. The situation is accordingly now partly new. However, there are still a number of legal security issues to monitor in terms of the assessment of an asylum seeker's age. I will continue my monitoring of these issues and of the application of the new regulations regarding age decisions.

In last year's annual report, I described three decisions that concerned deficiencies in the legislation in terms of the police's right to use force and compulsion when carrying out a refusal and deportation decision. I also mentioned the series of inspections of all border police sections and their enforcement work that was done during the autumn of 2015 and spring of 2016. The Police Authority has had the opportunity to make a statement on the results of the inspections and I announced my decision in the case in June 2017 (ref. no. 6758-2016).

In addition to the deficiencies in question regarding coercive measures that I already had established, the review indicated deficiencies with regard to documentation of enforcement investigations and of the check of any obstacles to enforcement. There was also a lack in several respects of established procedures for the work, including when new identity information regarding a person who was to be deported came forth. The Police Authority stated that steps were taken after the inspections in the form of training initiatives and that uniform procedures in some respects had already been introduced. The observations made at the inspections – which accordingly comprised all border police sections – gave a very clear view of the deficiencies that existed. That knowledge has been of great value to me, and as I have understood the matter, to the Police Authority as well in the work that needs to be done to improve the operations.

In conclusion, I would like to mention one more decision that concerns enforcement and where the Swedish Migration Agency took a person who was to be deported into custody even though the time he had been given to voluntarily leave the country was still running (ref. no. 2827-2015). This was incorrect as no coercive measures can be taken during the time a person has the right to leave the country on their own accord. After the person deported was released from custody, the Swedish Migration Agency turned the case over to the Police Authority with information that the case was enforceable. The time for voluntary departure was, however, still running and this was also accordingly incorrect as no compulsory enforcement could as yet take place. I am very critical to the agency's actions. This case illustrates the importance of handling issues of compulsion with great care, as well as the importance that an authority always establishes what legal conditions exist for compulsory measures in the individual case.

Objectivity and impartiality

The issue of how a public library handles a loan request was current in a few decisions (ref. no. 2654-2016 and 4650-2016). The public library has a difficult task and it is not my job to provide further instructions on how that task shall be done. In the two decisions where I address these issues, I decide whether the assessment grounds used in the cases in question were acceptable based on the objectivity requirement pursuant to the Instrument of Government and the content of the Library Act insofar as regards the public libraries.

Administrative authorities, including municipalities, shall observe objectivity and impartiality in their activities, pursuant to the Instrument of Government (Ch. 1 Section 9). Libraries that are a part of the public library system shall strive for the development of the democratic society by contributing to knowledge dissemination and opinion forming. In compliance to the Library Act, every municipality shall have a public library, the services of which shall be characterised by versatility and quality. When a public library plans purchases, one shall ensure that the range is not limited based on ideological, political or religious grounds. A library cannot of course provide all books; a selection must be made.

The circumstances in the two decisions were similar; two people wanted to borrow books with immigration-critical contents and the two libraries refused to purchase or remotely borrow the books. In one case, reference was made to the book in question being xenophobic and not meeting the requirements of the library's media place regarding values. The library had clear guidelines for purchases, where it was stated that the most important factor in the quality assessment was values, such as gender roles, xenophobia, racism and the like. In the other case, reference was made more generally to the library's intercultural action plan, operational plan and the administration's core values.

The objectivity principle pursuant to the Instrument of Government, as well as the Library Act and its preparatory works, give in my opinion clear information that it is not possible to refrain from a book purchase by referring to the views presented in the book, unless it involves criminal statements. However, one can take considerable to e.g. deficiencies in the scientific quality or fact errors and refrain from purchases. The libraries accordingly acted incorrectly when they referred to the books' values, and guidelines with such content are not in compliance with the Library Act or the objectiveness principle.

I do have some understanding for one at a public library reacting to conveying books with a content that is perceived as offensive. The task the public libraries have, however, includes not limiting the offering based on ideological grounds. In my opinion, it is not reasonable to extend one's responsibility for what people should read or have access to in the manner as occurred.

Freedom of speech means that views and claims can be presented that are not in agreement with the principle of the equal value of all people or other fundamental principles for a democracy as long as the statements are not criminal. The basic idea in a democracy is that statements of this kind can be met by those who have a different opinion.

Stefan Holgersson

Parliamentary Ombudsman

The issues that were within my supervisory area until 1 April 2017 were the social services, healthcare and the education system. From this date, social insurance, the labour market area and the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) were added, while healthcare was removed. I will focus on the areas that were under my supervision until 1 April 2017.

The number of cases in these areas generally increased during the fiscal year. As of 1 July 2016 to the end of 30 June 2017, 811 cases were received concerning child cases and the Care of Young Persons (Special Provisions) Act (1990:52), LVU. This was a sharp increase from the previous year's 653 cases. Cases concerning the social services amounted to 454 compared to the previous year of 435 cases. Healthcare cases remained at a level of around 330 cases while the education cases increased from 269 to 303 cases. Public access and secrecy decreased from 199 cases to 174. The number of new complaints at the department throughout the fiscal year increased from 1,925 in the previous year to 2,362. The number of new initiatives and inspections also increased from a modest 9 to 14. The number of closed cases increased from 1,982 to 2,206. The total of this is a certain increase in the balances.

Work during the year was affected by complaint cases being prioritised, the increased influx of cases and the case amount, as well as the investigation into the placement of unaccompanied minors, that I return to below. The space to conduct other efforts alongside of this was limited.

Areas of responsibility

- Application of the Social Service Act, the Act on Special Regulations on the Care of the Young (LVU) and the Act on the Care of Substance Abusers in Certain Cases (LVM).
- Application of the Act on the Provision of Support and Service for Certain Individuals with Certain Functional Impairments (LSS).
- The Children's Ombudsman.
- National insurance (health insurance, pension insurance, parental insurance and work injuries insurance, housing allowances and other income-related benefits, child allowances, maintenance advances etc.); the Social Insurance Inspectorate; the National Pensions Agency.
- Other cases pertaining to the Ministry of Health and Social Affairs and agencies subordinate to it which do not fall within other areas of responsibility.
- The Public Employment Service, the Work Environment Authority; unemployment insurance; other cases pertaining to the Ministry of Employment and agencies subordinate to it which do not fall within other areas of responsibility.
- The school system; higher education (including the Swedish University of Agricultural Sciences); student finance; the National Board for Youth Affairs; other cases pertaining to the Ministry of Education and agencies subordinate to it which do not fall within other areas of responsibility.

Social Services Act

Unaccompanied minors

In 2015, around 163,000 people applied for asylum in Sweden. Of them, more than 35,000 were unaccompanied minors. Of them, 26,000 came in the final months of the year. The number of asylum seekers exceeded by far the Swedish Migration Agency's forecasts and the handling of the refugee flows entailed a very large strain on affected authorities, which also include the social welfare boards that have a very large responsibility in terms of the reception and care of unaccompanied minors. In September 2016, I therefore decided to investigate how issues concerning unaccompanied minors are handled mainly by the social services (ref. no. 5565-2016). Within the scope of my investigation, eight social services departments were inspected and I also took into account information presented in a number of complaints. The complaints were often initiated by the children's custodians. The review was supplemented with talks with representatives of the concerned departments.

The investigation shows that the situation at most social services departments became chaotic during autumn of 2015 since the Swedish Migration Agency assigned significantly more children to the municipalities than they were prepared for due to the sharp increase in the refugee flow of unaccompanied minors.

Many social services departments appear to have resolved the acute problems of receiving the children early on. One reason for this succeeding appears to have been a very large commitment and extensive efforts by the staff involved. The clear "bottleneck" in the work was that there were not personnel resources

in many places to conduct adequate investigative efforts or arrange acceptable housing where the municipality could place the children.

In the decision, it was established that there were serious deficiencies in the placement of unaccompanied minors. The large influx of unaccompanied minors meant that the social welfare boards were forced to accept emergency solutions where there was no practical possibility to actually decide on the child's best interest, but rather it was mostly about arranging a roof over their heads. The extreme situation meant that the social services' initial placement was not done with the requirements of care that normally apply in a placement. In some cases, children were placed in homes that were directly inappropriate and in some cases, it was found that the private companies that were engaged did not conduct serious operations.

I also, among other things, confirmed deficiencies during the investigation of the children's needs and in the follow-up of the care. That there were deficiencies initially in light of the large number of children was not strange, but it was more concerning to find that some social services as late as autumn of 2016 had not yet gotten an overall grasp of their cases.

In the decision, certain statements were also made that concern the change in placement of unaccompanied minors and concern issues related to the age of unaccompanied minors.

In connection with this, I want to mention that the annual report also contains several decisions that concern the move of unaccompanied minors that were placed in a different municipality than the assigned municipality. In several cases, I could confirm that the board had not even been in contact with the children, who were over the age of 15, or the custodian, before relocation occurred.

Elderly care

Another decision of particular interest in the social services area concerns an employee at a private home-help service company, A., who during a time worked as a nursing assistant for an elderly person, I-L.E. (ref. no. 3237-2015). A. was subsequently sentenced to prison for three years for accepting bribes. In a complaint, I-L.E.'s plaintiff counsel questioned why the social services department did not make a police report although information had been submitted to the department that A. had committed improprieties.

A question that becomes current is if the so-called social services secrecy pursuant to Ch. 26 Section 1 of the Public Access to Information and Secrecy Act (2009:400) constituted an obstacle to disclosing the relevant information to the police and if in such a case there was any secrecy violation regulation in Ch. 10 of the Public Access to Information and Secrecy Act that can be applied.

The social services secrecy applies within the social services for information about an individual's personal circumstances if it is not clear that the information can be disclosed without the individual or a relative suffering harm. Information that a person has been granted assistance in the form of home-help services is typically such information that is covered by secrecy pursuant to Ch. 26 Section 1 of the Public Access to Information and Secrecy Act. Hence, the board cannot simply disclose the information to any outsiders.

However, in the case in question, it was a matter of filing a police report on a suspicion that I-L.E. had been subjected to a serious crime. In order for the police to be able to quickly investigate the matter, the police needed to know who the victim was of the suspected crime. The information about I-L.E. that the board would have had to reveal in a police report was limited to the, in the context relatively "harmless", information about her name and that she had efforts in the form of the home-help service. In my opinion, it is obvious that the information could have been revealed to the police without I-L.E. suffering harm. It is accordingly not on the grounds of the regulations on secrecy that there was any obstacle to the board to file a police report.

The reasons to file a police report were strong. The circumstances that came forth gave support for a serious crime having been committed against I-L.E. within the scope of an operation for which the board had the utmost responsibility. Since the private company that was responsible for the implementation of the assistance services had not or did not intend to file a police report and had also not taken any other more concrete steps to prevent or stop the crimes in question, the board should have filed a police report. In my opinion, the board neglected its obligations to act to protect I-L.E., and the board received criticism for its failure to file a report with the police about the suspected crime.

Another case that I want to bring up concerns an elderly woman at a home who was not allowed to make video calls on her tablet in the home's common areas (ref. no. 2447-2015). The decision did not lead to criticism, but may nonetheless be of interest.

The question in the case was whether the administration had reason to notify the woman that she was not permitted to use her tablet for video calls in the nursing home's common areas due to the rules of order that applied for the nursing home. When several people live in a housing unit, it may be necessary for several reasons to have certain rules of order regarding the common living environment, which among other things aim to create security and comfort for all who live there. I therefore see no inherent obstacle to certain rules of order being set up for common areas at a housing unit.

In the assessment of whether the administration had reason for its notice to the woman, one must take into account the woman's strive to live like anyone else to the furthest extent possible and her right to self-determination, as well as the justified interest of the respect for the integrity of other residents. Depending among other things on individual needs and wishes of the elderly and the structure of the premises, it should be possible to find practical solutions without disregarding any of the above interests.

In light of this, I doubted that the woman was entirely prohibited as a result of the municipality's rules of order from making video calls on her tablet in the nursing home's common areas. The administration should have reasonably been able to arrange the matter so that the woman could have made her calls without it entailing any conflict with other interests in the operations. However, I did not believe that there was adequate reason to express any criticism against the administration.

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

For several years, the Parliamentary Ombudsmen have monitored the placement situation at the National Board of Institutional Care (SiS), especially regarding youth homes and substance abuse homes. The placement situation has been strained for a long time. The situation is still problematic. SiS is working on the issue on several levels to resolve the problems, but I called the situation to the attention of the Ministry of Health and Social Affairs (ref. no. 1896-2017).

In two cases, I establish that a city district board in the processing of cases regarding unaccompanied minors made decisions to immediately place the child in care according to Section 6 of LVU even though there were no conditions for this (ref. no. 7730-2016 and 7731-2016). The decisions were made to resolve situations that in my opinion cannot form the basis of an application for care under LVU and in one of these cases, the police were also called to carry out the decision. Moreover, the board did not complete the process with an application for care under LVU or submit the decision to the administrative court in either of the cases. It is of course very serious that compulsory measures are decided on without there being grounds for this regardless of whether it is due to deficient competence at the authority or that one does not take the requirements in the legislation in question serious enough.

One case of unlawful deprivation of liberty concerns a social welfare board that continued to care for a young person at a lockable unit at a special youth home even though the administrative court had decided that the young person should be placed in care only with support of Section 2 of LVU and not Section 3 of LVU (ref. no. 4558-2015). The event was of such a nature that I initiated a preliminary investigation in the case.

Within the scope of its activities, the social welfare board often makes decisions that are very important for the individuals affected by the decisions. The social welfare board's staff shall have the knowledge and experience they need to make the right decisions and in order for the processing to be legally secure (see among others Ch. 3 Section 3 Paragraph 2 of the Social Services Act). These requirements are of particular significance in administrative deprivations of

liberty. What came forth in the case shows that several officials at the social services department have not understood the implications of the administrative court's decision. There is also a significant ambiguity about who had the actual responsibility for T's case being handled in a correct manner.

The Parliamentary Ombudsmen have also in earlier cases that concerned the processing of cases regarding compulsory care noted that the social welfare board's activities are conducted in such a manner that the stringent formal requirements on the processing of such cases is not always fulfilled. In my opinion, there is also reason to consider the need for measures to improve the social services departments' knowledge about the processing of measures for compulsory care.

Education

A recurring theme in many complaints is the issue of officials remaining objective and neutral in custody disputes. The Parliamentary Ombudsmen have in earlier decisions pointed out that staff at preschools and schools shall remain neutral in disputes regarding custody, etc. This is ultimately based on Ch. 1 Section 9 of the Instrument of Government, which prescribes that courts, administrative authorities and others that perform public administrative tasks in their activities shall take into account that all are equal before the law and observe objectivity and impartiality. It is important that a parent does not feel that the school takes a position for the one party in a dispute and that the child concerned does not feel that the staff is drawn into the parents' conflict, but rather that the school to the furthest possible extent shall be a protected place.

In the annual report, there are two examples of when the school has not acted neutrally. I have both criticised a school counsellor who during an on-going custody dispute held supportive talks with the one parent and accompanied the same parent to a meeting with the social services department (ref. no. 5135-2016) and a teacher who during a custody dispute in an e-mail made a statement about the other parent in a way that was not neutral (ref. no. 6930-2016).

A somewhat odd, but nonetheless interesting case concerns a headmaster's decision to prohibit the use of the Swedish flag at a school (ref. no. 6301-2015). I found that the decision was not justified by grounds of order and therefore entailed a restriction of the students' freedom of speech. Even if the message was removed within a day or so, I considered that the headmaster could not avoid criticism for the message.

Serious criticism was, however, made in a case against a headmaster at a school because she, among other things, had forwarded e-mail correspondence to a guardian's employer (ref. no. 1167-2017). The guardian had asked the school certain questions and the correspondence that was sent to the employer contained information about the guardian, his wife, the child's relationship to the school and the child's health. The e-mail correspondence also contained information that the guardian had requested certain public records. I found that the headmaster's actions, which appear remarkable, to not be in compliance with the requirement of objectivity pursuant to Ch. 1 Section 9 of the Instrument of Government and that it was also inappropriate with regard to the anonymity protection in the Freedom of the Press Act.

Healthcare

The issue of consent to examination measures in medication-assisted treatment against opiate dependence became current in one decision during the year (ref. no. 5818-2015). In the decision, I made certain statements in principle that take aim at how clinics should go about not unnecessarily violating the patient's integrity. From the complaint, it was apparent that at a number of clinics offer medication-assisted treatment against opiate dependence, it happens that the care provider, as a condition to undergo the treatment, demands that the patient consent to information about the patient being obtained from other authorities and from the patient's relatives and employer. I chose to ask the Regional Executive Committee of Östergötland and the County Council Executive Board of Dalarna to make statements on the complaint insofar as it concerned issues of secrecy.

In the decision, I stated among other things that the care facility shall ensure that consent is not more extensive than required for the examination and that it is inappropriate to use a form where the patient in advance consents to all potential investigation contacts that the care facility may conceivably have to make. The patient should instead be able to decide on the investigation contacts that the care facility considers to be necessary in the individual case. The care facility's proposal to consent should be individually adapted, i.e. restricted to the situation.

Special caution should be observed in investigation contacts with relatives and employers. I also stated that it is not appropriate that the information material gives the impression that consent to investigative contacts is a prerequisite in order for treatment to be an option.

In summary, the region was criticised because the information material gave the impression that the consent to information exchange was a prerequisite for treatment while the county council was criticised for the patient's consent having a significantly larger scope that is necessary for the treatment.

Lastly, under the heading of healthcare, I would like to acknowledge a case that received attention in an inspection by the Parliamentary Ombudsmen's Opcat unit (ref. no. 6694-2016). The case concerns a man who had been brought in for care pursuant to the Compulsory Psychiatric Care Act (1991:1128). In compliance to Section 9 of the Compulsory Psychiatric Care Act, the chief medical officer shall, within four week of the date of the decision on admission, apply to the administrative court for consent to continued compulsory care. This was not done, which is why the compulsory care ended. The hospital did not note this until two days after the end of the compulsory care. For two days, the patient was accordingly in a legal sense admitted for care on a voluntary and consensual basis. This means that there were no conditions to take any form of compulsory measures against him. In spite of this, he was held isolated for eight hours without legal support. The hospital received serious criticism for both having failed in the monitoring of the time limit and for having kept the patient isolated without legal support.

Opcat activities

During the fiscal year, Chief Parliamentary Ombudsman Elisabeth Rynning continued the work on a review of how the Parliamentary Ombudsmen performed their task as the national preventive mechanism (NPM) according to the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The on-going review focus on how the Opcat activities shall be conducted in the future. In this work, the screening that internal audit did in 2016 on behalf of the then Chief Parliamentary Ombudsman Elisabet Fura constitutes an important base. The changes that the review led to shall be mainly implemented in 2017.

As a part of the review, Chief Parliamentary Ombudsman Elisabeth Rynning invited the chair of the international committee established through Opcat, the Subcommittee on prevention of torture (SPT), to a meeting in the autumn. In addition, Chief Parliamentary Ombudsman Elisabeth Rynning visited the Norwegian Parliamentary Ombudsman to gather information on how the Opcat activities were organised and conducted there.

In 2016, it was recognised internationally that the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been in effect for ten years. In October, the Parliamentary Ombudsmen participated in a meeting in Vienna with some 30 NPMs from the OSCE region. At the meeting, SPT and the Association for the prevention on torture (APT) also participated.

The Opcat unit has continued to be involved in a regular exchange in specialist and method issues with the ombudsmen institutions in Denmark, Norway and Finland, which like the Swedish Parliamentary Ombudsmen all perform the task of being the NPM under Opcat. In addition, during the year, the unit participated in several European meetings and at a national level had contact with a number of volunteer organisations.

Opcat inspections during the fiscal year

In the past fiscal year, 26 inspections were carried out (of which 11 in the area of responsibility of Chief Parliamentary Ombudsman Elisabeth Rynning, five in the area of responsibility of Parliamentary Ombudsman Stefan Holgersson and ten in the area of responsibility of Parliamentary Ombudsman Cecilia Renfors). The theme for 2017 is the continuous supervision of persons deprived of liberty that the affected operations carry out with the aim of protecting the life and health of those deprived of liberty. Both the number of inspections and inspection days increased over the previous year. In total, 51 inspection days occurred during the fiscal year. The composition of the inspection team has varied and was mainly dependent on the visited institution's size, target group and possible security classification. For example, child and youth psychiatric services in Stockholm were inspected over five days, which included one weekend. It is valuable that inspections take place during every day of the week. During the year, 16 unannounced inspections were made, including all inspection of the Swedish Prison and Probation Service's detention centres.

The Opcat activities during the year followed up earlier decisions by the Parlia-

mentary Ombudsmen with regard to those in custody under the Aliens Act that are placed in detention centres and correctional facilities (JO 2014/15 p. 127, ref. no. 5529-2012) and carried out four follow-up inspections of the National Board of Institutional Care's substance abuse homes.

Opcat inspections of the Swedish Prison and Probation Service

On behalf of Chief Parliamentary Ombudsman Elisabeth Rynning, the Opcat unit inspected seven of the Swedish Prison and Probation Service's detention centres during the fiscal year, of which several were follow-up inspections where the Parliamentary Ombudsmen previously made statements and recommendations for measures, such as the detention centres in Huddinge, Kronoberg, Ystad and Gävle. In addition, two earlier Opcat inspections of the Östersund detention centre were followed up with an enquiry where Chief Parliamentary Ombudsman Elisabeth Rynning requested the Swedish Prison and Probation Service to submit a report no later than 17 July 2017 on what measures the authority had taken due to the Parliamentary Ombudsmen's statements (ref. no. 1387-2017).

Opcat inspections of in-patient psychiatric care and forensic psychiatric care

During the fiscal year, four psychiatric clinics were inspected. On behalf of Parliamentary Ombudsman Stefan Holgersson, Säter Forensic Psychiatry Clinic was inspected and on behalf of Chief Parliamentary Ombudsman Elisabeth Rynning, General In-patient Psychiatric Care at the Central Hospital in Karlstad, the Child and Youth Psychiatric Clinic in Stockholm and the General In-patient Psychiatric Clinic at Sunderby Hospital in Luleå were inspected. In addition, on behalf of Chief Parliamentary Ombudsman Elisabeth Rynning, a follow-up inspection was done of the National Board of Forensic Medicine, Forensic Psychiatric Investigation Department in Stockholm.

At the inspection of Säter Forensic Psychiatric Clinic, it came forth that the clinic regularly decides on isolation without any set time being given. In addition, it was confirmed that the physician assessments made during the time a patient is kept isolated are not documented. Parliamentary Ombudsman Stefan Holgersson requested that the clinic in Säter ensure that decisions on isolation are made in accordance with the legislation and that the physician assessments of isolated patients are documented. In addition, issues were raised about how the clinic's practical handling of long-term isolated patients related to applicable legislation and the living conditions of these patients with regard to what other alternatives for care and treatment the clinic considered. Parliamentary Ombudsman Stefan Holgersson recommended that the clinic bring in independent experts to ensure that the long-term isolated patients receive good care and also pointed out that this is also a recommendation that CPT made at its last visit in Sweden. Parliamentary Ombudsman Stefan Holgersson also believed there was reason for the Parliamentary Ombudsmen to continue to follow how the psychiatric clinics handle impermissible coercive measures and how the Health and Social Care Inspectorate (IVO) exercises supervision. A dialogue with IVO will be initiated (ref. no. 5526-2016).

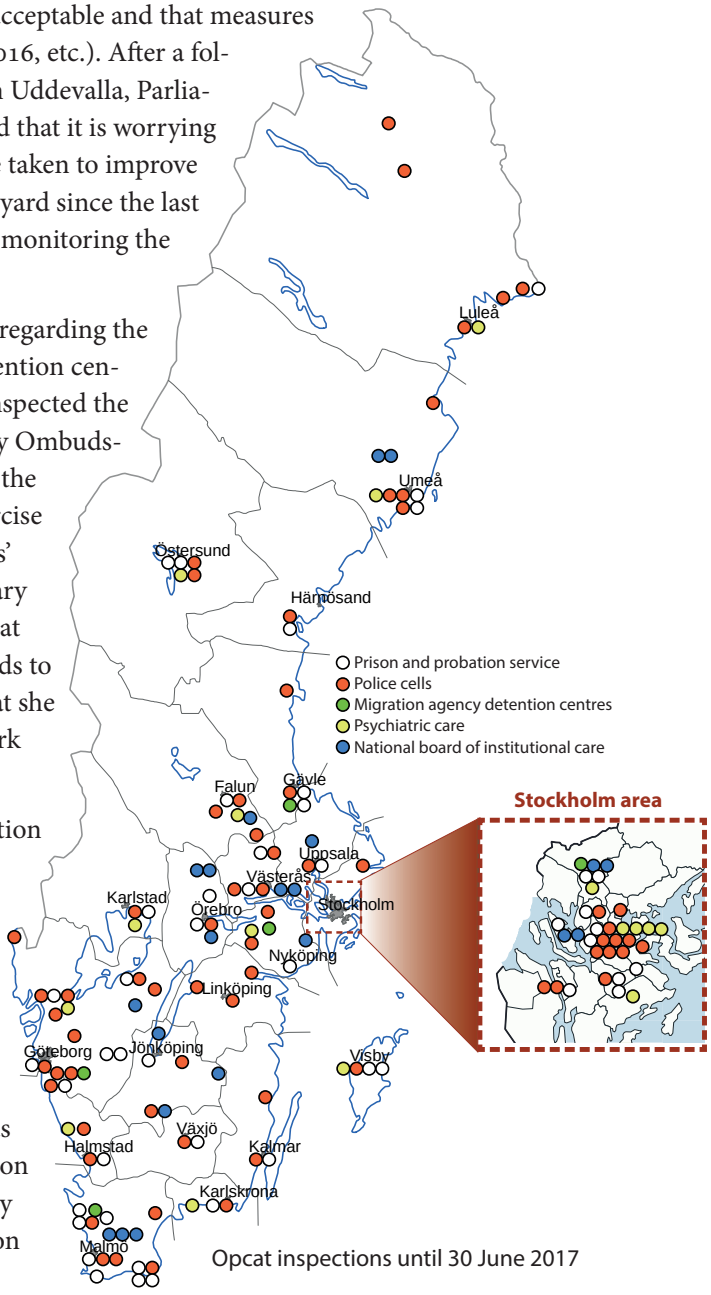
Opcat inspections of the police's detention centres and the Swedish Migration Agency's custody facilities

During the fiscal year, eight detention centres were inspected, of which two were follow-up inspections, and two custody facilities. In May, Parliamentary Ombudsman Cecilia Renfors visited the Police Authority's Development Centre East for a dialogue meeting about the police authority's detention operations.

At the inspections of all eight detention centres, Parliamentary Ombudsman Cecilia Renfors established that there is still a lack of routines that ensures compliance to the Police Authority's new regulations (PMFS 2015:7, FAP 102-1) on the turnover of information on the inmate's rights. Parliamentary Ombudsman Cecilia Renfors emphasises that this is not acceptable and that measures must be taken immediately (ref. no. 3902-2016, etc.). After a follow-up inspection of the detention centre in Uddevalla, Parliamentary Ombudsman Cecilia Renfors stated that it is worrying that nothing more than marginal steps were taken to improve the design of the detention centre's exercise yard since the last inspection and that she intends to continue monitoring the issue (ref. no. 4771-2016).

During the year, an enquiry was concluded regarding the possibility of outdoor time at the Umeå detention centre. The Parliamentary Ombudsmen have inspected the centre on three occasions and Parliamentary Ombudsman Cecilia Renfors welcomes the fact that the Police Authority has built a provisional exercise yard and that one can now meet the inmates' statutory right to outdoor time. Parliamentary Ombudsman Cecilia Renfors emphasises that the Police Authority as soon as possible needs to complete a permanent exercise yard and that she intends to stay informed about how this work progresses (ref. no. 3301-2015).

Due to the inspection of the Swedish Migration Agency's custody facility in Gävle, Parliamentary Ombudsman Cecilia Renfors stated that the need identified earlier for a legal regulation of the review of so-called security placements of those in custody remains. A copy of the report was therefore turned over to the Ministry of Justice. In addition, the Swedish Migration Agency was requested to complete the written information on rights that the Swedish Migration Agency gives to those in custody with information on access to healthcare (ref. no. 4831-2016).



Opcat inspections until 30 June 2017

International cooperation

One of the Parliamentary Ombudsmen's objectives for the operation is to promote the international spread of the idea of legal control through independent ombudsmen institutions. In the work towards this goal, the Parliamentary Ombudsmen have conducted the following activities during the fiscal year:

The Parliamentary Ombudsmen received 13 visits in connection with which the Parliamentary Ombudsmen provided information about their activities. One of the visits was from the ombudsman institution in Montenegro, within the framework of a project financed by the Council of Europe and the European Union. The delegation was particularly interested in the Parliamentary Ombudsmen's supervision of the courts and the supervision of institutions where young people are held in detention. During the visit, which lasted two days, SiS youth home Bärby was also visited, which provides care of young people with special care needs. Another longer visit was from the Office of the Chancellor of Justice in Estonia. The visit was focused on the Parliamentary Ombudsmen's supervision of the Swedish Migration Agency's custody facilities and the situation for unaccompanied minors. In addition to talks and information by and with the Parliamentary Ombudsmen's employees, visits were made to the Swedish Migration Agency's custody facilities in Märsta and the detention centre in Storboda, which has a special ward for those in custody.

In addition, the Parliamentary Ombudsmen and the employees at the Office of the Parliamentary Ombudsmen actively participated in foreign conferences and seminars. Among other things, Chief Parliamentary Ombudsman Elisabeth Rynning, Parliamentary Ombudsman Cecilia Renfors and International Co-ordination Director Charlotte De Geer Fällman participated in the International Ombudsman Institutes' (IOI) world conference in Bangkok, held by the ombudsman in Thailand and IOI. Noteworthy among the topics discussed were: A human rights-based perspective to the ombudsman's work and ombudsmen who work with several different tasks, "multiple jurisdictions". Parliamentary Ombudsman Cecilia Renfors and International Co-ordination Director Chalotte De Geer Fällman participated in a conference in Tirana on the theme Challenges for Ombudsman Institutions with respect to mixed migratory flows, held by the ombudsman in Albania, among others. Here, Parliamentary Ombudsman Cecilia Renfors held a presentation on the situation for the Swedish Migration Agency in autumn 2015 in connection with the large number of refugees arriving in Sweden at the time.

Parliamentary Ombudsman Cecilia Renfors, Parliamentary Ombudsman Stefan Holgersson, Head of Secretariat Agneta Lundgren and International Co-ordination Director Charlotte De Geer Fällman participated in the Nordic ombudsman meeting in Bornholm, held by the Parliamentary Ombudsman in Denmark. At the meeting, issues of common interest were addressed, including issues of what the ombudsman should do when the authorities do not follow the ombudsman's decision, the interaction between politicians and officials and how the ombudsman should communicate with the public.

Lastly, it can be mentioned that Chief Parliamentary Ombudsman Elisabeth Rynning, Head of Secretariat Agneta Lundgren and International Co-ordination Director Charlotte De Geer Fällman participated in the Baltic-Nordic Ombudsmen meeting in Helsinki, held by the Parliamentary Ombudsman in Finland. At the meeting, the issue of methods to achieve optimal effect in the handling of complaints was addressed, among other things.

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

Communications

Grave criticism of the City Building Committee in Haninge municipality for incorrect processing of cases concerning the removal of vehicles

In two prior cases, the Parliamentary Ombudsmen has directed criticism towards the city building committee in Haninge municipality for their incorrect processing of cases concerning the removal of vehicles. The Parliamentary Ombudsmen now directs grave criticism towards the city building committee. When processing two cases concerning the removal of vehicles the board has neglected to notify the owner of the vehicle about the decision to remove the vehicle. Furthermore, the board decided on immediate execution of the decisions, without having had support for it. (3978-2016)

Chief guardians

Criticism of Committee of Chief Guardians in Uppsala County for its handling of a case concerning the termination of the guardianship of an unaccompanied minor

The Committee of Chief Guardians terminated the guardianship of an unaccompanied minor after the Swedish Migration Agency had assessed that the minor was in fact 18 years of age.

In its decision, the Parliamentary Ombudsman criticizes the Committee of Chief Guardians for not having carried out its own independent assessment of the age of the minor, and subsequently making its own appealable decision that the guardianship should be terminated. (6894-2016)

Courts

Public courts

Criticism of two district court judges at Eksjö District Court for the wording of a judgment in a custody of children case, etc.

During the Parliamentary Ombudsman's inspection of Eksjö District Court from 5 to 7 April 2016, seven civil case judgments concerning the custody of children etc., were noted. In these judgments, the court had stated that the basis for the judicial proceedings was comprised of documents or files in the cases and what had otherwise emerged during the main hearings.

In its decision, the Parliamentary Ombudsman directs criticism at the two district court judges who were responsible for the judgments for the wording of the grounds for the decision being misleading in relation to the principle of immediateness in Chapter 17 Section 2 of the Code of Judicial Procedure, because the judges give the impression that the Court has based its judgments on more than what had emerged during the main hearings. (2301-2016)

Criticism of a district court judge at Blekinge District Court for, during an ongoing family case, having sent a document that one party had submitted in the case to the Swedish Police Authority

In a family case at Blekinge District Court, one of the parties submitted a document to the court in which an SMS message with a potentially criminal content. The judge responsible for security at the District Court sent the document to the Swedish Police Authority for information and eventual action. In its decision, the Parliamentary Ombudsman comments that this action was inappropriate. Criticism is therefore directed at the judge. (6446-2016)

Criticism of a judge at Malmö District Court for the formulation of an interim judgement in a child custody case

Pursuant to chapter 1, section 9 of the Instrument of Government, a court shall observe objectivity. During the processing of a child custody case at Malmö district court the child's mother brought the child to Columbia. In an interim judgement, the district court wrote that the mother probably managed to acquire a passport for the child by forging the father's signature or by using other false documents.

In the decision, the Parliamentary Ombuds-

men notes that the district court had no basis for such speculations and that the court lacked reasons to make a statement regarding the matter. The Parliamentary Ombudsmen directs criticism towards the judge responsible for the interim judgement, as he failed in his obligation to observe objectivity, pursuant to the Instrument of Government. (2544-2016)

Enquiry initiated by the Parliamentary Ombudsmen regarding the authorization of district court law clerk's when processing criminal cases pursuant to chapter 34 of the Penal Code

During an inspection of Södertörn district court in December 2015, the Parliamentary Ombudsmen observed three criminal cases regarding circumstances regulated in chapter 34 of the Penal Code, i.e. when the defendant prior to receiving a new judgment, has received a judgment that has not yet been executed or revoked. The three cases had been settled without a main hearing by a district court law clerk and the three defendants were issued daily fines.

In the decision, the Parliamentary Ombudsmen states whether it was appropriate that a law clerk settled the three criminal cases. According to the Parliamentary Ombudsmen, processing criminal cases pursuant to chapter 34 of the Penal Code requires a certain experience by a judge and therefore it is not appropriate that criminal cases pursuant to the provision are determined by law clerks.

The Parliamentary Ombudsmen directs criticism towards the district court for allowing a law clerk to settle the three cases. (499-2016)

Criticism of Malmö District Court for the processing of an interim claim concerning the transfer of custody of a child pursuant to chapter 6, section 8 a second paragraph of the Children and Parents Code

A mother, who was the sole guardian of her child, was severely injured in a traffic accident. Her injury resulted in an incapability to care for the child. Malmö City Community Board 'Innerstaden' therefore claimed, to the district court, pursuant to chapter 6, section 8 a second paragraph, that the child's father should receive custody of the child. The board also claimed that the district court in an interim judgment should transfer the custody of the child to the father, during the case's processing time.

The district court did not respond to the claim regarding the interim judgment for seven months. This is, according to the Parliamentary Ombudsmen, an unreasonably long processing time, which can not be considered compatible with the best interests of the child. The district court is therefore criticised. (1308-2016)

Criticism of a former Chief Judge at Göteborg District Court for the handling of information concerning a lawyer that was represented on the District Court's lists of, among others, defence counsellors assigned by the court

Göteborg district court appoint public defence counsellors according to a system of lists of lawyers assigned by the court. Due to critic towards one lawyer represented on the district court's lists, the chief judge at the district court decided to remove the lawyer from all of the so-called lists of appointed lawyers.

In the Parliamentary Ombudsmen's decision, criticism is directed towards the chief judge for the handling of information concerning the lawyer. If the chief judge found that the critic against the lawyer was of substance he should have verified the critic and so forth handed the information over to the district court's employees responsible for assigning public defence counsellors. They had then had the possibility, as they conduct their screening of defence counsellors pursuant to Chapter 21 Section 5 of the Code of Judicial Procedure, to consider the information. (7527-2015)

Education and research

Some criticism of the Department of Law at Stockholm University for giving out misleading information in the course description

According to the course description for legal history, at the Department of Law at Stockholm University, students were able to demand a re-examination of their exam, within a certain time span. The re-examination meant that the examiner conducted a new material assessment of the exam. When the time limit for the re-examination had expired, the student could request a review of the exam, if, according to the course description, it was based on formal grounds. In a complaint to the Parliamentary Ombudsmen a student declared that the university limited students' right to receive a full review.

The Parliamentary Ombudsmen states that there is no evidence to support that a student need to submit a review within a certain time span and that the course description gives the impression that the review only includes correction. In the decision, the Parliamentary Ombudsmen holds that the information may lead to students not exercising their right to request a material review when the time limit has expired.

In the present case Stockholm University can not escape criticism for giving out misleading information in their course description. (7014-2015)

Criticism of the heads of Söndrum school in the municipality of Halmstad for a ban on the use of the Swedish flag at the school

A pupil used the colours of the Swedish flag in a way that the school administration perceived as offensive. This led to the school's heads stating in a message addressed to the school's pupils among others that it was not permissible for pupils to use the Swedish flag at school. The message was deleted after a day or so.

The question of whether a school may prohibit pupils from using a flag is fundamentally a question of freedom of expression. Whether a ban on the use of the Swedish flag at a school is acceptable or not should be assessed on the basis of the same principles as for marks and symbols generally. This means that the school administration may prohibit the use of the Swedish flag at the school only if this is justified for reasons of maintaining order. In all other cases, the ban contravenes freedom of expression.

The current ban was not justified for maintaining order. The ban therefore constituted an unlawful restriction on the pupils' freedom of expression. Even if the message was deleted after a day or so, it is the opinion of the Parliamentary Ombudsman that the heads of the school cannot avoid criticism for this message. (6301-2015)

A measure of criticism is directed at the headmistress of Västra hamnen school and the headmistress of Stapelbädd school in the municipality of Malmö for the wording of a decision to ban two parents from visiting the schools. Also statements on the power to make decisions in the matter of denying access

The two headmistresses decided on two separate occasions to ban two parents from visiting the schools, except for the purposes of performance appraisals and parent-teacher meetings.

According to the Parliamentary Ombudsmen, it is the task of the responsible authority, through the agency of the responsible board, to make decisions in the matter of denying access. The right to decide on denying access may be delegated to the headmaster or headmistress.

In the case at hand, the board had delegated to the headmistresses the power to make decisions in matters concerning the working environment. According to the Parliamentary Ombudsman, this delegation of power does not include to a sufficiently specific degree the right to decide on denying access. The headmistresses were therefore not competent to make these decisions. In view of the fact that the issue of competence may have been perceived by the headmistresses as difficult to assess, and because even the responsible authority was of the opinion that it was the responsibility of the headmistresses to decide in these matters, there are not sufficient grounds for criticizing the headmistresses for having made these decisions despite the fact that they were not competent to do so.

However, the headmistresses cannot avoid criticism for the first decision not having included a time limit. (7209-2015)

Serious criticism of the headmistress of Pershagen school in the municipality of Södertälje for having forwarded certain email correspondence to an individual's employer. The headmistress is also criticized for her handling of a disclosure matter

N.N. complained about a headmistress's handling of questions and requests for access to public documents, and that the headmistress had forwarded certain email correspondence to N.N's employer. The Parliamentary Ombudsman notes that there was no objective reason for the headmistress to forward email correspondence to N.N's employer. The actions of the headmistress have thus not been in keeping with the requirement of objectivity in Chapter 1 Section 9 of the Instrument of Government. By forwarding the email correspondence, the headmistress has also forwarded information that N.N. had requested certain documents. This action was therefore also inappropriate with reference to the anonymity protection afforded by Sweden's Freedom of the Press Act. The Parliamentary Ombudsman directs serious criticism at the headmistress for this action. (1167-2016)

Criticism of a school welfare officer who held counselling sessions with one parent during an ongoing custody dispute and accompanied the same parent to a meeting at the social services department

A custody dispute was ongoing between the parents of a girl born in 2007. Due to the custody dispute, the girl met the school welfare officer for counselling once per week for a few weeks. During the same period, the school welfare officer held counselling sessions with the mother of the girl to support her in her parental role. This was during an ongoing child protec-

tion investigation. When the mother was to be notified of the result of the investigation at the social services department, the school welfare officer accompanied her and was present at the meeting.

The Parliamentary Ombudsman has previously stated that staff at pre-schools and schools are to remain neutral in disputes on custody and visitation rights, etc.

The starting point must be that a school welfare officer who has been tasked with holding counselling sessions with a pupil because of an ongoing dispute or conflict between his/her parents should not hold counselling sessions with the parents – not one or both – with the purpose of supporting or guiding the parents in their role or situation. That the parents may need to be involved in the support given to the child is another matter.

The Parliamentary Ombudsman criticizes the school welfare officer for offering the parents counselling sessions concerning their parental role, and also for holding such sessions with one of the parents. The actions of the social welfare officer entailed a great risk that she would be drawn into the parents' custody dispute.

The Parliamentary Ombudsman also considers that it was totally inappropriate for the school welfare officer to accompany one of the parents to the meeting at the social services department. The other parent rightly perceived this as the school welfare officer being biased. The school welfare officer is also criticized for her actions in this regard. (5135-2016)

Criticism of a teacher who, during an ongoing custody dispute, expressed an opinion about the other parent in an email to one of the child's parents in a way that was not neutral

During an ongoing custody dispute, a teacher sent an email to pupil N.N.'s father. In the email, the teacher inter alia expressed an opinion about N.N.'s mother. The Parliamentary Ombudsman has previously pronounced that staff at pre-schools and schools are to remain neutral in the event of custody disputes, etc. That a teacher has email contact with one parent is a natural element of the pre-school's activities. Special care ought to be taken therefore when there is a custody dispute between the parents of a pupil.

The Parliamentary Ombudsman criticizes the teacher for expressing an opinion about N.N.'s mother in an email in a way that was not neutral. (6930-2016)

The Enforcement Authority

Criticism of the Swedish Enforcement Authority for its delay in recording a payment received in a debt recovery case, and in paying out a surplus amount to the debtor

On 3 June 2016, a debtor paid her debt to the Swedish Enforcement Authority. The payment was not recorded in the Authority's accounts until ten days later. On 4 June 2016, the Swedish Enforcement Authority decided to seize the debtor's excess tax. The excess tax was refunded to the debtor three weeks after her payment of the debt was recorded. For these shortcomings in the management of funds, the Swedish Enforcement Authority is criticized.

The Parliamentary Ombudsman states in its decision that it is important that the Swedish Enforcement Authority records payments in its accounts speedily and in a proper manner. Where the Swedish Enforcement Authority's bookkeeping is behind in the registration of payments for some reason, this must be brought to the attention of the organisation, and the necessary steps to ensure that individuals are not negatively impacted by this must be taken without delay. Clearly, the Swedish Enforcement Authority's shortcomings must not impact debtors who do the right thing. (4024-2016)

Criticism of the Swedish Enforcement Authority for having conducted a viewing of an owner-occupied flat when the owner-occupier was sitting in the kitchen wearing only an adult diaper

The Swedish Enforcement Authority conducted a viewing of an owner-occupied flat prior to an enforced sale of the flat. Between eight and ten prospective buyers attended the viewing. At the time that the viewing took place, the owner-occupier was sitting in the kitchen wearing only an adult diaper.

In the decision, the Swedish Enforcement Authority is criticized for having conducted the viewing. (3437-2016)

Criticism of the Swedish Enforcement Authority for, inter alia, transferring money to the debtor instead of the applicant, in an enforcement case

In a criminal case judgement Göta hovrätt obligated the defendant to pay SEK 9,100 above interest to the injured party. The money was transferred to the Enforcement Authority when the injured party applied for enforcement. However, the Enforcement Authority payed the defendant instead of the injured party by mistake.

When the Enforcement Authority discovered the mistake, the authority sent a claim regarding the payment to the injured party instead of the defendant. The Parliamentary Ombudsmen directs criticism towards the Enforcement Authority for these incorrect measures.

When the injured party finally received the money, more than two months had passed from when the injured party acknowledged that he had not received the payment. Because of this, the Enforcement Authority is also criticised for their slow processing. (548-2016)

Criticism of the Enforcement Authority for slow processing in a case on debt clearance

More than seven months passed before the Enforcement Authority began processing a case on debt clearance. The Parliamentary Ombudsmen directs criticism towards the authority for not meeting the statute-regulated requirements for these cases to be processed speedily. (6973-2015)

Environmental and health protection

Criticism of the Urban Development Board in the municipality of Alingsås for a condition in a decision to allow a derogation from the rules for a nature reserve

The Urban Development Board granted a derogation from the provisions for a nature reserve and imposed a number of conditions on the derogation. One of these conditions aimed to secure the municipality's expansion plans in an area that lies outside the nature reserve. The condition was thus not imposed in order to achieve the objective of the nature reserve, and the Board is criticized for having breached the requirement of objectivity in Chapter 1 Section 9 of the Instrument of Government by inserting this condition. The Board is also criticized for the condition not being justified in the decision. (3911-2016)

Health and medical care

Criticism of the County Council in Dalarna County for the formulation of a consent form used prior to medication-assisted treatment of opiate addicts. Also some criticism of Region Östergötland for the formulation of informational material

Prior to opiate addicts' medication-assisted treatment (so-called methadone withdrawal programmes) clinics generally need to collect data concerning the patient from other authorities as well as, among others, the patient's family members and employers. The data that the clinic collects is of a sensitive and personal nature and often classified, because of this the patient need to give his or her consent to access the information. In the decision, the Parliamentary Ombudsmen puts forward specific statements of principle emphasising the importance of the individual's right to personal integrity. Clinics need to ensure that the patient's consent does not extend further beyond what is necessary for an accurate investigation. The Parliamentary Ombudsmen also states that it is incorrect by clinics to hand out informational material or consent forms that give the impression that the patient's consent to access personal data is a prerequisite for treatment.

The Parliamentary Ombudsmen directs criticism towards the County Council in Dalarna County for the formulation of a consent form used prior to medication-assisted treatment. Region Östergötland cannot escape criticism for using deficient informational material. (5818-2015)

Criticism of the County Council in Värmland for giving out inaccurate information, when scheduling appointments for an initial visit

Dental care for children and teenagers is free of charge. However, the county council may impose a charge if the patient does not attend a scheduled visit. An appointment to a child's initial visit to the dentist includes a scheduled time, but this does not entail that the county council and the legal guardian has entered into an agreement on a scheduled visit. The county council in Värmland can not escape criticism for informing patients that failure to attend a scheduled appointment will be charged to the patient. (2127-2016)

Criticism of Helsingborg's hospital in Region Skåne for not stopping a patient under an order for care pursuant to the Care of Abusers Special Provisions Act (LVM) from leaving the hospital

Compulsory care pursuant to the Care of Abusers Special Provisions Act (LVM) will in some cases commence at a hospital (section 24, first paragraph, the Care of Abusers Special Provisions Act (LVM)). If the addict wishes to leave the hospital the head of operations there shall, among other things, prevent the addict from leaving the hospital for the time period that is needed to secure that the addict can be transferred to a so-called LVM home (section 24, third paragraph, the Care of Abusers Special Provisions Act (LVM)).

A patient that was under an order for care pursuant to section 13 of the act, at Helsingborg's hospital, started acting threatening and violent. A doctor issued a certificate for institutional psychiatric care according to the Compulsory Psychiatric Care Act (LPT) and decided, in compliance with the act, that the patient should be detained at the hospital and momentarily strapped with a belt. Following the release from this measure the patient spent a few additional hours in the hospital. Two doctors then addressed possible reasons for committal pursuant to the Compulsory Psychiatric Care Act (LPT) but decided to release the patient from the hospital.

According to the Parliamentary Ombudsmen only in exceptional cases may a patient that is under an order for care pursuant to the Care of Abusers Special Provisions Act (LVM) leave the hospital, for instance, if the patient might jeopardize the safety of other patients or the staff. When the doctors in this case decided to release the patient he had stopped acting out and behaving threatening. However, the patient refused to accept care and wanted to leave the ward. When it became clear for the head of operations at the hospital that there were no prerequisites for care pursuant to the Compulsory Psychiatric Care Act (LPT) the head of operations should have decided on an order for compulsory care according to section 24 of the Care of Abusers Special Provisions Act (LVM). The hospital cannot escape criticism for releasing the patient. (7300-2015)

Enquiry in relation to the Forensic Psychiatry Clinic in Säter, Dalarna County Council, concerning a missed deadline pursuant to Section 7 of the Compulsory Mental Care Act (LPT), etc.

A man had been taken into compulsory care under the LPT. According to Section 7 of the LPT, an application to the Administrative Court granting permission for a continuation of compulsory care is to be made by the chief medical officer within four weeks from the date of the initial decision on compulsory care. However, no such application was made to the court within that time frame because the hospital failed to monitor the deadline.

Compulsory care of the patient ceased automatically in that no application for permission for a continuation of compulsory care had been made. This was first brought to the attention of the hospital two days after the deadline had expired. The hospital then decided that the voluntary care of the patient would be converted to compulsory care (termed conversion).

Consequently, in legal terms for two days the patient was a voluntary patient for psychiatric care. This means that during that period there was no legal basis for any form of compulsory care of him. Despite this, during one of these days, the patient was kept isolated for eight hours.

Very serious criticism is directed at the hospital in this case for having failed to monitor the deadline pursuant to Section 7 of the LPT, and for having kept the patient isolated for eight hours without any legal basis for doing so. (6694-2016)

Labour market authorities/ institutions

Criticism of the Public Employment Service for informing a jobseeker, on a number of occasions, that he risked having his benefits withdrawn, without having had support for it

The investigation reveals that the Public Employment Service, at three occasions, informed a jobseeker that the authority considered to withdraw the jobseeker's benefits, as he had not handed in his activity reports in time or attended a scheduled meeting, when the jobseeker had in fact fulfilled his commitments. The Public Employment Service had neglected to register the jobseeker's activity reports and visits, and disregarded to look into whether or not he had followed up on his commitments. The Public Employment Service is criticised for these shortcomings.

According to the Parliamentary Ombudsmen's understanding, an authority should not inform an individual about a possible withdrawal of benefits when there is no support for the withdrawal. Such a procedure damages the authority's credibility and goes against the statute-regulated requirements on objectivity as well as the insurance that authorities only hand out accurate information. The Parliamentary Ombudsmen's investigation into complaints and reports from the Unemployment Insurance Board reveals that jobseekers, on a regular basis, receive letters about a possible withdrawal of benefits, in spite of the fact that the grounds for the withdrawal are missing. The Public Employment Service need to review their routines to avoid this from occurring.

In the decision, the Parliamentary Ombudsmen also makes certain statements concerning the Public Employment Service's routines when

an employment officer due to illness is unable to take part in a scheduled meeting with a job-seeker. (5700-2015)

Statements regarding the requirement to conduct activity reports, for persons living with certain types of disability etc.

U.H. participated in the Public Employment Service's programme 'Job and development guarantee' and received activity benefits. Due to U.H.'s disability, she found it difficult to conduct an activity report. U.H.'s case officer at the Public Employment Service was aware of this and U.H. and her family members were under the understanding that the case officer managed U.H.'s activity reports. The Public Employment Service decided, on several occasions, to withdraw U.H.'s entitlement to benefits. In U.H.'s complaint to the Parliamentary Ombudsmen U.H. stated that she was not aware of what she had done wrong.

In the decision, the Parliamentary Ombudsmen holds that unemployed, enrolled at the Public Employment Service as job seekers, are obligated to conduct an activity report and that there can be no exceptions from this requirement. Reports from the Unemployment Insurance Board reveal, however, that employment officers and job seekers at times agree that there is no need for the job seeker to hand in an activity report, in accordance to what the regulation prescribe. Because of this and due to U.H.'s perception of her own situation the Parliamentary Ombudsmen holds that a case officer should not extend their service obligation as far as to release a job seeker from their statute-regulated obligations.

The Parliamentary Ombudsmen further notes that the investigation of the case and reports from the Unemployment Insurance Board prove that regulations covering activity reports are not accurately adapted to persons living with certain types of disabilities. In relation to the fact that the Public Employment Service recently has suggested, to the Ministry of Employment, that the authority should be able to announce exceptions from the requirement to account for job seekers activities, the Parliamentary Ombudsmen does not make any further statements regarding this matter.

In the decision, the Parliamentary Ombudsmen also states that the Public Employment Service failed in their obligation to communicate and notify the job seeker, pursuant to the Administrative Procedure Act, when deciding to withdraw U.H.'s entitlement to benefits and also when giving U.H. incomplete information. (6299-2015)

The Swedish Public Employment Service is criticized for inter alia having delayed answering a question concerning activity reporting and for not having fulfilled its duty to communicate and inform

N.N. was assigned to the jobs and growth guarantee programme (an employment measure) and obliged to submit an activity report each month. At the end of May 2016 when she visited her local Public Employment Service office to change office, she provided her contact details to the new office and stated that she had been granted protected identity status. It subsequently emerged that this information had not been dealt with correctly. A few weeks later, N.N. emailed her employment officer asking how she should submit her activity reports now that she had a protected identity. N.N. did not receive a reply to her question until 30 August 2016. When N.N.'s activity reports for May, June and July were not submitted on time, the Public Employment Service decided to cut her off from her right to an allowance. The decision that the Public Employment Service sent to N.N. concerning the activity reports she had failed to submit was sent to her previous address. A number of letters were returned to the Public Employment Service without any action being taken.

In its decision, the Parliamentary Ombudsman directs criticism at the Swedish Public Employment Service for having delayed answering N.N.'s question, and for not having fulfilled its duty to communicate and inform under Sweden's Administrative Procedure Act. The Swedish Public Employment Service is also criticized for not having registered N.N.'s activity report for the month of July when it arrived at the Public Employment Service's office.

This case demonstrates the importance of a job seeker's contact details being registered, and that they are correct. For a job seeker who has a protected identity, it is of course particularly important that letters to the job seeker are not sent to any other addresses than the job seeker's address. (5254-2016)

Migration

Specific statements on how a supposed parent acting as legal representative for a child in a case

concerning residence permit based on family ties should be treated in accordance to procedural rights

Questions regarding legal representation for minors in cases concerning resident permit based on family ties are complex, which depends on, among other things, that the assessment of the legal representative's authorization to appear for the minor coincides with the assessment of the actual case. In the decision the Parliamentary Ombudsmen address the question of legal representation in cases related to family ties concerning parents and children that come from countries where it is difficult or impossible for applicants to prove their identity with recognized means of proof.

The Parliamentary Ombudsmen holds that the one that makes it probable that he or she is parent to a minor applicant should be presumed legal representative of the minor and accordingly authorized to appear for the minor. The Parliamentary Ombudsmen also points out that once the presumption is made all communication in the case should go via the legal representative. In the decision the Parliamentary Ombudsmen also address the question of when an application by a supposed legal representative should be rejected or examined, and state that the legal representative, in all cases, should be notified of the decision.

According to the Parliamentary Ombudsmen the Migration Agency's legal standpoint regarding authorised legal representatives for children in cases concerning resident permit (SR 08/2015) comply with the rule of law, also when taking into account that there are some uncertainties about the procedure. (6839-2014)

Criticism of the now defunct Police Authority in Dalarna for the processing of an enforcement case

A women had received a rejection on her application for asylum and was going to be expelled from Sweden. The Police Authority was responsible for enforcing the expulsion decision. The woman, who was sick and not able to speak the language nor had knowledge about the legal system, had hired a legal representative to assist her in her communication with the police. The woman and her legal representative requested all communication should go via the legal representative and that the legal representative should be informed on an ongoing basis about the Police Authority's measures. On two occasions, when the police needed to obtain the woman's consent on certain procedures, the police contacted the woman without informing the legal representative. The legal representative also requested to access the case documents on a number of occasions.

In the decision the Parliamentary Ombudsmen ascertains that the right to be represented by a legal representative pursuant to section 9 of the Administrative Procedure Act not includes enforcement cases where the Police Authority's processing is limited to actual measures to enforce an already legally binding expulsion decision or decision to refuse entry, e.g. make travel arrangements. The purpose of the Administrative Procedure Act's regulations is, among other things, to establish an adequate administration and a procedure in compliance with rule of law, motivates however that the regulations are still applied. According to the Parliamentary Ombudsmen the outset for the police, when communicating with an individual in an enforcement case, should be to go via the legal representative and that the police informs the legal representative about the actions taken.

Furthermore, the Parliamentary Ombudsmen points out that the regulation on party insight pursuant to section 16 of the Administrative Procedure Act is not applicable if the Police Authority's processing in enforcement cases are limited to actual measures. Naturally this does not prevent the fact that there may be good reasons for an individual to access documents and information in a case. When dealing with a request to access documents the authority must also consider the individual's rights pursuant to the regulations on the disclosure of public documents.

In the decision the Police Authority is criticised for, among other things, not informing the legal representative before contacting the woman and for inadequate processing of the legal representative's request to access documents. (7291-2014)

Criticism of the Migration Agency for giving out inadequate information about a decision and for not observing with sufficient accuracy if an appeal was filed in time

The Parliamentary Ombudsmen has examined the Migration Agency's routine to send the first page of a decision in cases concerning resident permit based on family ties to a reference person (i.e. the person in Sweden the applicant has a family tie to) for knowledge. The Parliamentary Ombudsmen notes that a dispatch to a refer-

ence person that does not have a power of attorney to represent the applicant can be considered an act of service. The act can aid applicants in making the most of their legal rights. However, the Parliamentary Ombudsmen express uncertainty when it comes to dispatching incomplete documents as it, among other things, may lead to misunderstandings. If the Migration Agency keep this routine the dispatch should include information of the fact that it only contains the first page of the decision and that it is sent to the reference person for knowledge.

In the decision the Parliamentary Ombudsmen also directs criticism against the Migration Agency for using data based on a notification concerning a decision from an embassy to determine if an appeal was filed in time, despite there being circumstances in the case that proved that there were reasons to be hesitant about the data. The Parliamentary Ombudsmen holds that it is the Migration Agency's responsibility, as they determine if an appeal is filed within the correct timeframe, to decide when the party to the appeal could access the decision and to conduct an independent assessment of all available facts. (1374-2015)

Criticism of the Migration Agency for, among other things, detaining a person that had been expelled from Sweden despite the fact that the time limit for voluntary return had not expired

The Migration Agency decided to refuse a man's application for asylum and expel him to the United States. The Migration Agency's expulsion order stated that the man was granted a voluntary return of four weeks from the date the decision entered into legal force. Before the time limit expired the man was detained by the Migration Agency.

In the decision the Parliamentary Ombudsmen accounts for the legal regulations that cover a granted time limit for voluntary return in decisions concerning refusal of entry or expulsion, and for the legal preparatory work that these regulations were based upon. According to the Parliamentary Ombudsmen the one that has been granted a time limit for voluntary return has the right to single-handedly leave the country until the time limit has expired or been annulled. The legislation does not allow, according to the Parliamentary Ombudsmen's understanding, implementing coercive measures against the individual to secure the execution of the return during the existing time limit. According to the Parliamentary Ombudsmen it was therefore wrong by the Migration Agency to take the man into detention.

Following the man's release from the detention centre the Migration Agency handed the case over to the Police Authority for execution with instructions to execute the man's expulsion decision. However, the time limit for voluntary return had not yet expired when the Migration Agency handed the case to the police and because of this the expulsion decision could not be enforced. The transfer of the case to the police was consequently incorrect. It also led to the man being detained one more time during the granted time limit for voluntary return.

The Parliamentary Ombudsmen is in summary very critical towards how the Migration Agency handled this case. (2827-2015)

Review of the Swedish Police Authority's processing of execution of court order cases

In recent years, the Parliamentary Ombudsman has noted shortcomings in the border police's work of executing refusal of entry and deportation orders. The Swedish Police have executed these orders in spite of the existence of impediments to their execution, and doubts have been raised about the Swedish Police's use of coercive measures. In light of this, in 2015 and 2016 the Parliamentary Ombudsman inspected the Swedish Border Police operations in all police regions in the country. This review also revealed shortcomings inter alia in the use of coercive measures. In June 2016, the Parliamentary Ombudsman submitted three supervision decisions concerning the Swedish Border Police's use of force to the Ministry of Justice, stating that the legislation concerning police powers to use force in the execution of refusal of entry and deportation orders ought to be clarified. As a result of these decisions, the Swedish Government has recently proposed amendments to Sweden's Aliens Act.

In its decision, the Parliamentary Ombudsman sets out the other observations made during the inspections. The Parliamentary Ombudsman noted that there is a lack of documentation and registration, particularly when it comes to coercive measures, execution controls and other measures taken to plan and implement the execution of these orders. The Parliamentary Ombudsman has previously criticized the Swedish Police for similar shortcomings and states in its decision that it is striking that these shortcomings are now so widespread.

The Parliamentary Ombudsman also found great variation in how the Swedish Police inform the Swedish Migration Agency and

the individual when new identity information emerges during the execution of these orders. The Parliamentary Ombudsman emphasises that, as a rule, the Swedish Migration Agency and the individual ought to be informed and given the opportunity to respond to this information.

The Parliamentary Ombudsman notes that it is clear that there is a need for uniform national procedures for the Swedish Police Authority's execution of these orders, and that it is important that the Authority ensures that those employees who process these cases are aware of the procedures that apply for their processing, and that the Authority monitors compliance with these procedures.

The Swedish Police Authority has commenced efforts to develop uniform procedures for border police activities, and training efforts will be implemented during 2017. In light of the fact that the Swedish Police's improvement efforts have not yet been implemented in full, the Parliamentary Ombudsman will monitor the steps taken. (6758-2016)

Other municipal matters

Criticism of the Board for Sports and Recreation in Västerås municipality and a Head of Department for the lack of documentation of two contracts

In complaints to the Parliamentary Ombudsmen criticism has been put forward against the handling by Västerås municipality of a transfer of operations of a guest marina to a private company and a concession of an area used for wakeboarding activities to a non-profit association.

The Parliamentary Ombudsmen's investigation prove that the head of department of the administration for culture, sports and recreation on the 28th of April 2014 reached a verbal agreement with the company concerning the operations of the guest marina, from the 15th of March to 31st of December 2015. Not until the 8th of December 2014 a contract was signed by the partners. The investigation further proves that the concession of an area used for wakeboarding activities was based on a verbal agreement between the head of department and the non-profit association, during 2014.

The Parliamentary Ombudsmen holds that there are several explicit reasons why an administration should document a business transaction, like the one in this case. A written contract is the principle evidence of reaching a settlement, it specifies which conditions the partners have agreed upon and which obligations the partners have committed to. The lack of documentation in this case has also led to unjustified restrictions of transparency and control of the municipal operations. Criticism is directed towards the head of department as well as the Board for sports and recreation in Västerås municipality. (6705-2014)

Criticism of the Cultural and Recreational Activities Committee in the municipality of Botkyrka for Tumba library having handled requests to borrow two books in a manner that is in breach of Sweden's Library Act and Chapter 1 Section 9 of the Instrument of Government

A person requested to borrow the book *Invandring och mörkläggning – en saklig rapport från en förryckt tid* (roughly; "Immigration and cover-up – an objective report from a crazy time") at Tumba library. The library had decided to neither purchase nor remotely borrow the book, with reference to deficiencies in quality, particularly with regard to objectivity and referencing, but also with reference to the book contravening on a number of points the municipality's intercultural action plan. Later, the person requested to borrow the book *Muhammeds flickor: våld, mord och våldtäkter i Islams hus* (roughly; "Mohammad's girls: violence, murder and rape in the house of Islam"). With general reference to its business plan and the values of the administration, the library decided not to purchase or remotely borrow this book.

The Parliamentary Ombudsman finds that a public library neither can nor should supply all books and that a selection must be made. That selection is to be made based on the democratic mission of the public library, which means that by means of a balanced range of quality books, public libraries are to contribute to the dissemination of knowledge and the free formation of opinion without restrictions based on ideological, political, or religious points of view.

The Parliamentary Ombudsman declares that in their selections, public libraries obviously do not need to remain neutral in relation to shortcomings in the quality of research in a book, or in relation to actual factual inaccuracies in a book. On the other hand, as long as an opinion is not in breach of the law, there is no scope for a public library to take into account the values and views expressed therein. A selection made on such a foundation is in direct contravention of the Library Act's requirements concerning balance and free opinion formation, and is not

either compatible with the principle of objectivity in Chapter 1 Section 9 of the Instrument of Government.

The Parliamentary Ombudsman notes that the reasons that the library has given concerning the book *Muhammeds flickor* indicate that its assessment took into account the opinions put forward in the book; and that the reasons that the library has given concerning the book *Invandring och mörkläggning* give the impression that the library has taken into account the opinions in the book. The library has thus not complied with the requirements of objectivity in the Library Act and the Instrument of Government in its handling of these loan requests. The Cultural and Recreational Activities Committee is therefore criticized for this. (2654-2016)

Criticism of the Cultural and Recreational Activities Committee in the municipality of Falköping for its handling of a loan request at Falköping library and for guidelines which contravene Sweden's Library Act and Chapter 1 Section 9 of the Instrument of Government

A person requested to borrow the book *Världsmästarna: när Sverige blev mångkulturellt* (roughly; "World champions: when Sweden became multicultural") at Falköping library. The library decided to neither purchase nor remotely borrow the book with reference to the book being xenophobic and its lack of authenticity. The person applied then to the Cultural and Recreational Activities Committee in the municipality of Falköping. The Committee referred the person to the library's media plan and explained that the Committee had full confidence in the staff at the library to decide on what to purchase and borrow remotely. The media plan states among other things that values are the most important factor when assessing the quality of a book. In its a statement to the Parliamentary Ombudsman, the Committee argued that the reason why such great importance was attached to values in the guidelines was to ensure that borrowers' human rights would not be violated by reading literature borrowed from the library.

The Parliamentary Ombudsman finds that a public library neither can nor should supply all books and that a selection must be made. That selection is to be made based on the democratic mission of the public library, which means that by means of a balanced range of quality books, public libraries are to contribute to the dissemination of knowledge and the free formation of opinion without restrictions based on ideological, political, or religious points of view.

The Parliamentary Ombudsman declares that in their selections, public libraries obviously do not need to remain neutral in relation to shortcomings in the quality of research in a book, or in relation to actual factual inaccuracies in a book. On the other hand, as long as an opinion is not in breach of the law, there is no scope for a public library to take into account the values and views expressed therein. A selection made on such a foundation is in direct contravention of the Library Act's requirements concerning balance and free opinion formation, and is not either compatible with the principle of objectivity in Chapter 1 Section 9 of the Instrument of Government. The Parliamentary Ombudsman states furthermore that freedom of expression means that opinions and claims may be expressed that do not accord with the principle concerning the equal worth of all people, or other fundamental principles for a democracy, provided that these statements do not break the law. That a library supplies a book with such content cannot in any legal sense be deemed to have violated the human rights of its borrowers or any others. The fundamental idea of a democracy is that statements can be countered by those who hold a different opinion.

The Parliamentary Ombudsman notes that the decision to reject the loan request with reference to inter alia values, and what is stated in the guidelines about values being taken into account when assessing the quality of a book, are not compatible with the Library Act and the requirement of objectivity in the Instrument of Government. The Cultural and Recreational Activities Committee is therefore criticized for this. (4650-2016)

Planning and building

Criticism directed at a surveyor as a result of the wording of a decision to cancel a cadastral procedure

In a decision, a surveyor cancelled a cadastral procedure on the grounds that the applicant had withdrawn their application. In the statement of reasons for his decision, the surveyor expressed his opinion concerning an easement about which there were differing opinions. Criticism is directed at the surveyor inter alia for having acted in breach of the objectivity and impartiality requirements in the Instrument of Government. (2323-2016)

Criticism of a cadastral surveyor for not having complied with the objectivity and impartiality requirements in Chapter 1 Section 9 of the Instrument of Government

A surveyor was contacted by two property owners on a matter concerning a joint facility. In his reply, the surveyor expressed his opinion about the lack of expertise on the board of the association that managed the joint facility, and about who ought to pay for any future costs for a cadastral survey review. The surveyor is criticized for not having complied with the requirements of objectivity and impartiality in the Instrument of Government. (3348-2016)

Criticism of a cadastral surveyor for not having complied with the objectivity requirement in Chapter 1 Section 9 of the Instrument of Government

A decision on the establishment of a joint facility came into force and was registered in 2011. In February 2014, an application for a change in the real property area which the joint facility serves (båtnadsområde) was received by Lantmäteriet (the Swedish mapping, cadastral and land registration authority). The cadastral surveyor sent a letter with questions to the applicant and to a number of other persons. One of the questions was: "If you were dissatisfied with the båtnadsområde when it was established, why didn't you appeal the decision?"

The Parliamentary Ombudsman notes that what reasons the applicant and others might have had for not appealing the earlier decision must reasonably have lacked relevance for the processing of this new application. Consequently, according to the Parliamentary Ombudsman, the question was contrary to the objectivity requirement in the Instrument of Government and directs criticism at the cadastral surveyor. (4001-2016)

Criticism of a surveyor for processing of an application for a type of easement

A case concerning the right to use land belonging to another for the special purpose of constructing a wire or cable system (a type of easement) required the consent of the Energy Market Inspectorate. The cadastral surveyor applied for this consent on behalf of the applicant. The Parliamentary Ombudsman notes that the surveyor, by preparing and submitting the application for consent, had assisted far beyond what can be deemed appropriate. According to the Parliamentary Ombudsman, this kind of behaviour can undermine confidence in the impartiality of Lantmäteriet (the Swedish mapping, cadastral and land registration authority), and the surveyor's actions were therefore not compatible with the impartiality required under the Instrument of Government. Criticism is directed at the surveyor. (4002-2016)

Cases involving police, prosecutors and custom officers

Criticism of the Police Authority, region Mitt, for apprehending two persons pursuant to the Care of Intoxicated Persons Act, without having had support for it

In connection to a police surveillance operation on vehicles at a property linked to a motorcycle club the police were confronted by two persons that asked them to leave. The police officers concluded, as the two persons were under the influence of alcohol, that they posed a danger to themselves and others, and apprehended them pursuant to the Care of Intoxicated Persons Act.

In the decision, the Parliamentary Ombudsmen states that an apprehension based upon intoxication can constitute a significant invasion of privacy. The Parliamentary Ombudsmen puts forward that the police may use their powers only when the prerequisite for the police's jurisdiction is met and only when based on good judgement, adding that a police officer must never be affected by irritation or anger. The Parliamentary Ombudsmen also states that someone that is under the influence of alcohol and aggressive does not meet up to the required conditions for an apprehension pursuant to the Care of Intoxicated Persons Act. To apprehend a person pursuant to the Care of Intoxicated Persons Act the intoxication must be as severe that the person in question needs to be taken care of.

In this case, the Parliamentary Ombudsmen had access to a film that shows parts of the apprehension. Based on what is shown in the film the Parliamentary Ombudsmen has come to the conclusion that the apprehended persons did not pose a danger to themselves or others pursuant to what is provided in section 1 of the Care of Intoxicated Persons Act. The police officers assessment in this case is not acceptable, which is even more evident when considering the constraints on apprehension in a private area. The Parliamentary Ombudsmen directs criticism towards the Police Authority for conducting an apprehension pursuant to the Care of Intoxicated Persons Act, without having had support for it. (3902-2015)

Criticism of a police officer at the Police Authority, region Väst, for apprehending a person pursuant to the Care of Intoxicated Persons Act, without having had support for it

E.H. had been in a dispute with security guards. The police decided to take E.H. to her home, pursuant to section 13 of the Police Act. During the transport to E.H.'s home E.H. questioned the police's actions, the responsible police sergeant then decided to apprehend E.H. pursuant to the Care of Intoxicated Persons Act. In the report concerning the apprehension it was written that the decision to apprehend E.H. was based upon the severity of E.H.'s intoxication, and that she posed a danger to herself and others. During the Parliamentary Ombudsmen's investigation of the case the police sergeant declared that E.H.'s irritation increased during the transport and that he therefore believed it was inappropriate to take E.H. home to her partner and two children, the police sergeant also explained that the thought of taking E.H. to her home gave him a bad feeling. A guard that was involved in the transport described in a questioning how they concluded, because of the way E.H. was acting out, that it was better for E.H. to be in custody, than at home with her children.

In the decision, the Parliamentary Ombudsmen states that an apprehension based upon intoxication can constitute a significant invasion of privacy. The Parliamentary Ombudsmen puts forward that the police may use their powers only when the prerequisite for the police's jurisdiction is met and only when based on good judgement, adding that a police officer must never be affected by irritation or anger. The Parliamentary Ombudsmen also states that a police officer can not allow their personal opinion about what is appropriate or not affect an intervention. If a person is apprehended due to intoxication, the intoxicated person must pose a danger to themselves or others.

Based on the information that has been collected, E.H.'s intoxication did not indicate that she was not capable of taking care of herself, or would pose a danger for her children or her partner, if she had been taken to her home. The police sergeant's decision to apprehend E.H. because of intoxication had therefore no legal basis, the police sergeant is criticised for his actions. (7422-2015)

Criticism of the Police Authority, region Nord, for apprehending a person for intoxication, in the person's home

The police can not apprehend a person for intoxication if the person is at home. In the present compliant case the Parliamentary Ombudsmen has examined cases concerning the apprehension of intoxicated persons in an inner courtyard of a block of flats, and also in a stairwell of a block of flats. According to the Parliamentary Ombudsmen, neither an inner courtyard nor a stairwell belongs to a private home, pursuant to the provisions concerning apprehension based upon intoxication. For this reason, there is no prohibition against apprehending a person for intoxication on these premises.

The purpose of prohibiting an apprehension of an intoxicated person in a private home is to protect the person's right to personal integrity and privacy. The Parliamentary Ombudsmen has observed that a person was apprehended after stepping out of their home into the stairwell, to talk to the police. The Parliamentary Ombudsmen holds that an intoxicated person has not waived the right prohibiting the apprehension of an intoxicated person in a private home, when the person step out of their home to talk to the police, due to, for example, the reason that there are other people in the home. The same applies in situations when the police has not met the intoxicated person in the person's home but asked the person to leave the home to talk to them. In situations like these, there are no preconditions to apprehend a person for intoxication, according to the Parliamentary Ombudsmen.

The Police Authority is criticised for conducting the apprehension in a stairwell. (5583-2015)

Criticism of the Police Authority, Bergslagen police region, because a person under arrest is not offered a blanket when he was cold in his cell and because an interrogation was held with him when he was only wearing underwear

A person was arrested by the police and for safety reasons was placed in a detention cell without any clothes on other than his underwear. According to the decision, the Parliamentary Ombudsmen have no objections to a procedure that means that clothes with strings or cords are not allowed in a cell due to the risk of suicide even if such an actual risk was not confirmed in this individual case. Such a procedure simplifies searches and is also in the interest of the detainees. Anyone who for safety reasons may not keep his or her clothes should, however, normally be offered a blanket or something similar.

The Parliamentary Ombudsmen criticise the Police Authority because the detainee was not offered a blanket when he was in the cell and when he was interrogated. (2817-2015)

Criticism of the Swedish Police Authority inter alia for a woman who was taken into custody for intoxication not being permitted to use the toilet during the night, and for the woman not being offered anything to cover herself with

A woman had been taken into custody for intoxication and asked to use the toilet. The staff in the police jail directed her to pee in a hole in the floor which had no possibility of flushing afterwards. The primary reason for this was a local procedure at the jail according to which detained persons are normally not taken out of the cells for toilet visits between 10 p.m. and 7 a.m. In its decision, the Parliamentary Ombudsman stated that such a procedure is unacceptable and is also incompatible with how a person taken into custody in a police jail ought to be received and treated. The Parliamentary Ombudsman criticizes the Swedish Police Authority for directing the woman to relieve herself in a hole in the floor when she had asked to use the toilet.

The Parliamentary Ombudsman also states that the right of a detained person to use a toilet may need to be restricted in some circumstances, for example if the detained person's condition is such that he or she cannot be taken to a toilet, and that it is acceptable that a detained person may sometimes have to wait to visit the toilet if this is necessary for security reasons, or due to the workload of the jail guards. However, the Parliamentary Ombudsman emphasises that the manning in a jail must be dimensioned in such a way that it is possible to allow detained persons to visit a toilet within a reasonable period of time at all hours of the day and night.

The Parliamentary Ombudsman also directs criticism at the Swedish Police Authority for allowing the woman to keep only her underclothing on in the jail, and not offering her a blanket or other similar means to warm and cover herself. (4945-2016)

Criticism of a police officer for using his police dog in a way that is not defensible, and of the Police Authority for delaying to report an apprehension to the prosecutor

A police released a police dog on three individuals that ran from a car that the police had followed. The dog caught up with one of the passengers and bit her in the back.

In the decision, the Parliamentary Ombudsmen note that using a police dog as assistance in a violent situation can lead to serious personal injuries. A police officer should proceed with caution before he or she use their dog in a similar situation. According to the Parliamentary Ombudsmen, it is not proportional to use a police dog in a way that may injure the one that the intervention is for, to further examine a crime where the probable sanction is daily fines. The Parliamentary Ombudsmen also emphasise that a police officer should observe an even greater restrictiveness when releasing a police dog on several individuals when only one of them is the possible perpetrator, as this will expose innocent individuals to injury.

The Parliamentary Ombudsmen declare that the intervention occurred without there being any suspicions regarding any other crimes other than traffic offences and carelessness in traffic, and therefore holds that it was not proportional to release the police dog. The police officer's assessment is not defensible, he is therefore criticised. (5188-2015)

Criticism of the Police Authority, Stockholm police region, for the handling of a deceased person's passport

In connection with the police encountering a deceased person in her home, her passport was taken into custody. The passport was thereafter turned over to the police's passport unit where it was cancelled and destroyed.

In the decision, the Parliamentary Ombudsmen state that, like what otherwise applies when the police take actions with a private person's property, there must be an explicit support in applicable regulations for the police to be able to cancel the passport of a person who has died. No such support existed in this case. Nor were there conditions to take the passport into custody in the home or to destroy it.

According to the Parliamentary Ombudsmen, it is a fundamental requirement that no actions are taken with a deceased person's property that do not have support in applicable regulations. The Police Authority is criticised for how the passport was handled. (5351-2015)

Criticism of two police officers for agreeing to take part in a photo during official business

The police were called to a man's home following a report of unlawful threat. After speaking to a woman outside the home the police officers concluded that they were going to mediate in a conflict between the man and the woman, concerning personal belongings. When the police officers entered the man's home the man asked if he could be photographed with one of the police officers as they had played football together when they were children. The other police officer photographed the two of them using the man's mobile phone. The man then posted the photo on Facebook and Instagram.

The Parliamentary Ombudsmen stress that it is essential that a police officer acts objective and impartial. A police officer that agrees to take part in a photo, in connection to official business, together with an individual that is involved in the case, creates a situation that may lead to a third party questioning the police's impartiality. If the police officer knows an individual from before this is particularly important and regardless if there is a circumstance that constitutes disqualification or not.

When the police officer agreed to be photographed with the man, the police officer overlooked the requirements that are put on the police. The police officer is criticized for his actions. The police officer that took the photograph can not escape criticism.

According to the Parliamentary Ombudsmen there may be situations in which a police officer can be photographed with the public or with an individual that is connected to a case, without having his or hers objectiveness or impartiality questioned. The Parliamentary Ombudsmen emphasises, however, that a police officer that agrees to take part in a photo, in most cases, is unable to control how a third party use the photograph. Therefore, when a third party asks to have their photograph taken with the police, he or she should carefully consider if the photograph can risk that the police officer's impartiality is questioned or of it can harm the public's trust in the police. (6011-2015)

Criticism of the Police Authority, region Syd, for taking cash into possession when conducting an intervention etc.

The police is able to hand over classified information regarding property, following a balance of interest in the individual case, to the Enforcement Authority, in support of the so-called general clause of the Public Access to Information and Secrecy Act. For the police to be entitled to retain attached property pursuant to the Enforcement Authority's notice on prohibition, based on the information that has been submitted by the police, the property must be in the police's possession in accordance to a provision supporting this measure.

In the decision, the Parliamentary Ombudsmen makes specific statements on how the general clause is applicable when in contact with the Enforcement Authority.

The Parliamentary Ombudsmen directs criticism towards the Police Authority for taking cash into possession on behalf of the Enforcement Authority without having had support for it. The Police Authority is also criticised for neglecting to register, or later being able to establish, what specific information the police handed over to the Enforcement Authority, or that the hand over was preceded by a true balance of interests pursuant to the general clause. (4197-2015)

Criticism of the Police Authority, region Mitt, for the lack of documentation when disclosing classified information to the Enforcement Authority

The police is able to hand over classified information regarding property, following a balance of interest in the individual case, to the Enforcement Authority, in support of the so-called general clause of the Public Access to Information and Secrecy Act. For the police to be entitled to retain attached property pursuant to the Enforcement Authority's notice on prohibition, based on the information that has been submitted by the police, the property must be in the police's possession in accordance to a provision supporting this measure.

In the decision, the Parliamentary Ombudsmen makes specific statements on how the general clause is applicable when in contact with the Enforcement Authority. The Parliamentary Ombudsmen also states that a possession pursuant to Chapter 2 Section 12 of the Act on Detention stipulates that property be within the police's possession according to the Enforcement Code.

In the decision, the Parliamentary Ombudsmen also outline requirements on documentation and directs criticism towards the Police Authority for disclosing information on the possession of cash during a police intervention without documenting the contact with the Enforcement Authority, nor the information that was handed out, or what circumstances that had been taken into account when conducting a balance of interests. (6112-2015)

Criticism of the Police Authority, region Stockholm, for, inter alia, proceeding with a house search in a home where there were only minor children present

The police searched the premises of a private home without contacting the tenant of the apartment. In the apartment the tenant's two minor children were present.

The general principle holds that the one that is subject to a house search, or resides in a home that is being searched, should have the opportunity to be present when the search is conducted. To be able to safeguard the rights of a person that is subject to a house search, when he or she

is not able to be present, the person that is present need to be an adult, according to the Parliamentary Ombudsmen. In a situation when only minor children are present, the police should be obligated to contact the tenant, similar to a situation when there is no one at home.

To make sure that the principal rights of the concerned person is not perceived as ostensible, it is significant, according to the Parliament Ombudsmen's understanding, that he or she that is subject to a house search will be informed.

In the decision, the Parliamentary Ombudsmen directs criticism towards the Police Authority for proceeding with a house search without informing the tenant and in spite of the fact that there were only minor children present. (263-2016)

Complaint against the Swedish Police Authority and the Swedish Prosecution Authority for having obtained sensitive information from a patient's medical records and used it without consent

The information in a patient's medical records normally falls within the scope of privacy. With some exceptions, medical record notes may not be obtained by the police or prosecutors during a preliminary enquiry without the consent of the person protected by privacy. In its decision, the Parliamentary Ombudsman expresses its opinion on how obtaining consent ought to be handled, and how oral consent ought to be documented.

Whether a piece of information is to be included in a preliminary enquiry report is determined by whether it is material to the investigation. If it is, there is no legal scope for refraining from including it in the report. Such information must therefore be included in the report, and may be used in evidence, even if the necessary consent to obtaining it has not been obtained. However, the Parliamentary Ombudsman emphasises that information of a private nature may not be obtained without consent where such consent is required for this to occur.

Furthermore, the Parliamentary Ombudsman stresses that both the police officer leading the preliminary enquiry and the prosecutor have a responsibility to take appropriate steps to avoid information of a sensitive private nature from being disclosed to third parties. (741-2016)

Criticism of a public prosecutor for photographs used in photo confrontations not being included in the preliminary enquiry report

In a preliminary enquiry, several interrogations were held where photo confrontations were used. Documentation from the interrogations was included in the preliminary enquiry report, but not the photographs. The reason for this is that the prosecutor did not plead the photo confrontations in evidence, and that he considered the photographs to be covered by privacy.

A preliminary enquiry report should give a faithful picture of what has occurred during the preliminary enquiry and what is material to the case. In its decision, the Parliamentary Ombudsman states that what is to be included in the report should be chosen with regard to the objectivity principle, and the prosecutor must be vigilant in ensuring that he or she does not leave out what might be significant to the defence. A photo confrontation is normally relevant to the investigation, regardless of the result of the confrontation. It is scarcely possible for the defence counsel to assess the outcome of a photo confrontation without having access to the photographs used. When the photographs are relevant to the investigation, there is no legal scope for refraining from including them in the report, regardless of whether they are covered by privacy.

The prosecutor is criticized for not including the photos in the preliminary enquiry report.

In the Parliamentary Ombudsman's investigation, it emerged that the Swedish Prosecution Authority has no guidelines on how a photo confrontation is to be reported. The Parliamentary Ombudsman presumes that work has begun work to put in place uniform procedures for the whole of the Swedish Prosecution Authority. (7381-2015)

Prison and probation service

Enquiry initiated by the Parliamentary Ombudsmen of decisions concerning the placement of inmates in isolation at Skänninge prison

Following observations during an inspection of Skänninge prison, where a large number of decisions concerning the placement of inmates in isolation were reviewed by the Parliamentary Ombudsmen, an enquiry was initiated with purpose to investigate specific issues related to such decisions.

In the Parliamentary Ombudsmen's decision grave criticism is directed towards Skänninge prison for their implementation of the Prison Act's provisions concerning the placement of inmates in isolation, and for inadequate justification of the decisions.

The Parliamentary Ombudsmen has observed that many inmates are placed in isolation pursuant to chapter 6, section 5 of the Prison Act for longer periods than would normally fit under the provision. According to the Parliamentary Ombudsmen a large part of these decisions could instead be based upon assessing the individual's circumstances pursuant to other provisions in the act.

In the decision the Parliamentary Ombudsmen also puts forward that the prison has decided on placement of inmates in isolation due to inmates acting violent or intoxicated, without considering the individual's case. The Parliamentary Ombudsmen is critical towards the fact that inmates that show signs of being intoxicated by, for example narcotics, constitute reason for isolation, according to the Swedish Prison and Probation Service's handbook, which Skänninge prison applies.

The Parliamentary Ombudsmen also notes that the grounds for the decisions concerning the placement of inmates in isolation, on a regular basis, are very short and includes only a reference to the provision the decision is based upon. According to the Parliamentary Ombudsmen this is deeply unsatisfactory. (6027-2015)

Enquiry concerning the Swedish Prison and Probation Service's individual assessments of security and risks associated with the transport of prisoners to and stays in hospitals

In the context of an Optional Protocol to the Convention Against Torture (OPCAT) inspection of the Hinseberg prison, it was noted that prisoners were subjected to extensive security arrangements in connection with transport and stays outside the prison. An enquiry was started in order to further investigate certain issues concerning the prison's assessments of security and risks in such situations.

The enquiry deals inter alia with the security arrangements in connection with the transport of prisoners to and stays in hospitals. The Parliamentary Ombudsman's decision directs criticism at the prison for its risk assessments not having been made on the basis of individual and immediate/current factors to a sufficient degree, and instead having been based on standardised security assessments. A situation that the Parliamentary Ombudsman notes in particular is when a female prisoner has begun labour and is to be transported to hospital to give birth.

In its decision, the Parliamentary Ombudsman emphasises that planned visits to health and medical care services ought to be planned in advance so that a satisfactory level of security can be maintained without unnecessary violations of the prisoners' privacy and dignity. The Parliamentary Ombudsman notes that the Swedish Prison and Probation Service is faced with an important job to do in ensuring that risk assessments are more individualised and that security arrangements during transport and stays outside the prison are better suited to the prisoner's current status and situation. The Parliamentary Ombudsman intends to follow up on these issues. (1088-2016)

Criticism of the Swedish Prison and Probation Service, Hinseberg prison, for the treatment of an inmate, in connection to a urine sample

In connection to a urine sample a female prisoner was asked to remove her sanitary product, in the shape of a tampon, in front of the personnel. In the decision, the Parliamentary Ombudsmen states that there may be adequate reasons to request that an inmate remove their tampon before a urine sample. However, it can not be considered proportional that the removal itself occurs in front of the personnel. The Parliamentary Ombudsmen directs criticism against the prison for their treatment of the inmate in connection to the urine sample.

In the decision, the Parliamentary Ombudsmen also encourage the Prison and Probation Service to raise a discussion on guidelines concerning urine tests on female interns, to make sure that the procedures are performed in a uniform manner and in compliance with the rule of law. (2716-2016)

Enquiry in relation to the Swedish Prison and Probation Service and Hällby prison; question relating to the examination of prisoners' oral cavities after taking medical products

The Parliamentary Ombudsman has reviewed whether the Swedish Prison and Probation Service has the right to visually inspect prisoners' oral cavities to check that medicines prescribed by a doctor have been swallowed. In its decision, the Parliamentary Ombudsman notes that a visual examination of a prisoner's oral cavity constitutes an intimate body search and that such may only be conducted pursuant to the law. There are no legal grounds for conducting an intimate body search in the situation in question. The Parliamentary Ombudsman directs severe criticism at the Swedish Prison and Probation Service which has routinely conducted intimate body searches without legal grounds. (3236-2016)

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

Statements about the content of an e-mail, sent by the now defunct head of the Police Authority's communications department, and how it relates to the freedom of speech

In a preliminary investigation into a child pornography crime, a head of the police authority was under investigation. When the preliminary investigation closed Aftonbladet newspaper published an article that included information from the preliminary investigation, and the personnel errand that followed. It appeared that Aftonbladet's information came from the Police Authority. Due to the article in the newspaper, the now defunct head of the Police Authority's communication department, sent an e-mail to approximately twenty employees. According to Aftonbladet's sources the e-mail was perceived as an attempt to silent the employees that had spoken to the media.

In the decision, the Parliamentary Ombudsmen note that the information given to Aftonbladet exposed facts about a private individual's sex life. To reveal such information is something that can constitute a significant invasion of privacy. For this reason the information was classified pursuant to chapter 21, section 1 of the Public Access to Information and Secrecy Act. In accordance with the provision the information in this case was not covered by the freedom to communicate information, the Parliamentary Ombudsmen thereby holds that the e-mail sent by the head of communication did not breach the so-called ban against taking retaliatory action.

The Parliamentary Ombudsmen also makes a statement about the content of the e-mail, and if it was inappropriate in light of the freedom of speech. This assessment is based on the outset that the e-mail, both from the perspective of the sender and receiver, addressed how the preliminary secrecy limits the possibilities to disclose information from a withdrawn preliminary investigation to a third party. The Parliamentary Ombudsmen states that the freedom to communicate information has no bearing in this e-mail and it gives a misleading image of what is actually relevant, namely, that an employee at the Police Authority holds the power to disclose, even classified information, to the media. Furthermore, the e-mail includes emotional expressions that in turn enhance the impression that the freedom of speech is much more limited than it actually is which gives the impression that the authority holds a negative approach to employees exercising their freedom to communicate information.

The Parliamentary Ombudsmen emphasise that a person in a leading position need to inform their employees in an adequate and accurate manner about the secrecy that is applicable within the operation, in compliance to relevant secrecy provisions and in correlation to how the provisions comply to the freedom to communicate information. The Parliamentary Ombudsmen stress that it is essential that the one that sends an e-mail to a limited group of receivers need to adjust the content of the e-mail according to the consideration that an e-mail may come to have a wider spread than was intended. (149-2016)

Criticism of the Urban Development Board in the municipality of Alingsås for having disposed of documents in spite of the fact that an appeal regarding the right to access some of these documents was being adjudicated by a court at the same time

A person had submitted a request to the Urban Development Board to obtain copies of public documents. The Board rejected his request and then disposed of the documents. The rejection decision was appealed, but the Administrative Court of Appeal dismissed the appeal because the documents were no longer in the possession of the Board. The Parliamentary Ombudsman notes that it would appear obvious that documents may not be destroyed before the time for an appeal against a rejection decision has expired. If the decision is appealed, it is equally obvious that the documents must be retained until such time as the appeal has been finally adjudicated. Criticism is directed at the Board. (3434-2016)

Severe criticism of an official at the Urban Planning Committee in the municipality of Täby for its treatment of an individual in email correspondence with that individual

A building inspector expressed himself in a way that is not acceptable in two email messages to an individual. The Parliamentary Ombudsman notes that the building inspector's action was contrary to the requirement of objectivity set forth in Chapter 1 Section 9 of Sweden's Instrument of Government and the building inspector is severely criticized. (6153-2016)

Complaint to the Parliamentary Ombudsman concerning social services in all city district

administrations in the municipality of Malmö and the Swedish Police Authority, Border Police Section in Region South

In November 2016, the border police sent a request to social services for the addresses and contact details of a number of named individuals who were the subject of deportation orders. Social services disclosed the requested details that they had access to.

According to the Parliamentary Ombudsman, the provision in Chapter 17 Section 1 of Sweden's Aliens Act that permits breach of privacy is clearly worded and leaves no scope for social services to make their own assessments concerning the best interests of the child in any individual case. Provided that the Swedish Police Authority requests access to information that is needed for the execution of a deportation order, the Social Welfare Board is obliged to disclose this information.

There is no obligation on, nor any formal impediment to, social services, on their own initiative, informing persons whose address and contact details have been requested by or provided to the border police. If an individual requests information on the matter, such a request ought to be processed in the same way as other requests for access to information held by a government agency.

What has emerged gives no reason for the Parliamentary Ombudsman to take any further investigative action. (565-2017)

Criticism of Hässelby-Vällingby District Council in the Municipality of Stockholm for slow processing of a request for photographs and videos

A parent complained about the District Council's processing of her request to receive copies of photographs and videos containing images of her son, which had been taken and recorded at her son's pre-school.

The Parliamentary Ombudsman notes in its decision that photographs and videos recorded as part of a preschool's activities can often be deemed to have been created in the sense described in Sweden's Freedom of the Press Act right at the time that they are taken/recorded. Such documents are therefore deemed official and a request for access to them is to be processed in accordance with the provisions of Sweden's Freedom of the Press Act.

The District Council is criticized in the decision for not having dealt with the parent's request to obtain copies of the documents with the promptness that the Freedom of the Press Act requires. (3197-2016)

The Parliamentary Ombudsmen directs grave criticism towards the Swedish Maritime Administration (SMA) and the Ministry of Enterprise and Innovation for, inter alia, neglecting to register public documents

A reporter on the Swedish public service broadcaster (SVT) news programme 'Uppdrag granskning' requested to access documents from the Swedish Maritime Administration (SMA) and the Ministry of Enterprise and Innovation concerning the procurement of medical helicopters. In the Parliamentary Ombudsmen investigation of the case it became clear that the officials at the authorities, in some cases, used their private email for communication, and so forth neglected to register the case's public documents, the Parliamentary Ombudsmen is very critical towards this fact. The authorities are further criticised as their management led to restricting the disclosure of public documents.

The Parliamentary Ombudsmen is also critical towards the Swedish Maritime Administration for stating that the principle of public access in a certain situation would be "directly counterproductive". Statements that can lead to the apprehension that an authority intentionally avoids the constitution's requirements on the disclosure of public documents, significantly risks, according to the Parliamentary Ombudsmen's understanding, damaging the authority's credibility.

The Swedish Maritime Administration is also criticised by the Parliamentary Ombudsmen for handing out public documents without conducting a confidentiality assessment. (5883-2015)

Social insurance

Grave criticism of Försäkringskassan for requesting to access background information from a bank to process a case on insurance affiliation and also for including a time span to the request that was irrelevant for the investigation of the case

In a complaint to the Parliamentary Ombudsmen questions were raised concerning Försäkringskassan's request to access background information from a bank to process a case on insurance affiliation.

In the Parliamentary Ombudsmen's review of the case it became clear that Försäkringskassan requested to access information from a bank with reference to the regulations on the obligation to give information, pursuant to Chapter 110, section 31 and 33 of the Social Insur-

ance Code, despite the fact that the regulations were not applicable in this case.The request for information also included a time span that went beyond the relevant time frame for the investigation.

In the Parliamentary Ombudsmen's complaint case questions arose concerning Försäkringskassan's authorization to request information from other than one party. The Parliamentary Ombudsmen emphasise the importance of making an accurate assessment in every separate case between the need to investigate and the individual's right to personal integrity, the focus of the investigation must be to request only the information that is necessary for an accurate assessment.

In the decision the Parliamentary Ombudsmen notes that Försäkringskassan's request to access background information from a bank with reference to Chapter 110, section 31 and 33 of the Social Insurance Code gave the impression that the bank was obligated to disclose the information, and as a result of this the necessity of the request was never examined. The Parliamentary Ombudsmen holds that the individual's right to personal integrity was therefore overlooked. Furthermore, the Parliamentary Ombudsmen notes that Försäkringskassan's measure to request bank statements for a time span that went beyond the relevant time frame for the investigation resulted in an unjustified violation of personal integrity. Grave criticism is directed towards Försäkringskassan for their incorrect processing of this case. (2031-2015)

A written document that is received by the Social Insurance Agency within the two-month review request period should be presumed to be a review request as soon as there are signs suggesting that the document was sent in response to the decision

The Swedish Social Insurance Agency rejected M.J's application for an activity grant. Before the two-month period for requesting a decision review had elapsed, M.J. handed in two letters which, inter alia, showed that he wished to read the source documentation for the decision, and that he required more time so he could read and evaluate the documentation. The letters were addressed in the manner required for a request for a review. It was not until the ombudsman began the investigation that the Social Insurance Agency noted M.J.s intentions to request a review, and it was only then that he was sent all the documentation that he had requested. The ombudsman criticises the Social Insurance Agency for these delays and argues that M.J's request for more time, i.e. for a respite, should have led to M.J's letter being treated as a request for a review. The fact that the letters had also been addressed within the review request period means that they should have been treated as such a request anyway. In the ombudsman's view, when a written document arrives at the authority within the two-month review request period, the authority should presume that the individual will request a review as soon as there are signs suggesting that the document was sent in response to the decision. (3833-2015)

Enquiry initiated by the Parliamentary Ombudsmen of Försäkringskassan's activity and sickness compensation in regards to what constitutes a documented decision on compensation, and when the date for the decision is set

The decision holds, among other things, that when Försäkringskassan makes a record of taking a decision, without recording the content of the decision, it is not the record of the decision, but the decision sent to the concerned individual that is the documented decision. The date for the decision is accordingly set when the decision is dispatched, and so forth established. The investigation of the case prove that Försäkringskassan has failed in their routines when documenting and dating decisions concerning cases on activity and sickness compensation. The Parliamentary Ombudsmen directs criticism towards Försäkringskassan for these shortcomings. (2927-2016)

Severe criticism of Försäkringskassan for slow processing of cases concerning re-examination

In spring of 2016 a large number of complaint cases arrived to the Parliamentary Ombudsmen where the complainant raised concerns regarding Försäkringskassan's unit for re-examination, saying the unit's processing times were far too long. When the Parliamentary Ombudsmen conducted an investigation into one of the cases it appeared that Försäkringskassan, since May 2016, on a regular basis, has handed out information stating that the processing time for cases concerning re-examination could come to be approximately twenty weeks. According to the authority, this assessment was due to the current job situation at the re-examination units. During the Parliamentary Ombudsmen's investigation it was revealed that Försäkringskassan was well aware of the issue and that the authority had taken measures as well as planned further measures to shorten the processing time.

In the decision the Parliamentary Ombuds-

men notes that Försäkringskassan's measures has not yet led to any results as the Parliamentary Ombudsmen continues to receive complaints regarding processing times of around twenty to twenty-five weeks. In the decision, the Parliamentary Ombudsmen emphasise that social insurance benefits are, generally, essential for an individual's support and the need for sufficient processing, in compliance with the rule of law, is therefore particularly important when processing cases concerning such benefits. The Parliamentary Ombudsmen stress the importance of Försäkringskassan's need to process cases concerning re-examination within six weeks. In this context, the Parliamentary Ombudsmen also notes that a prolonged re-examination process delays the individual's entitlement to judicial proceedings, which, according to the European Convention on Human Rights, should occur within a reasonable period.

The Parliamentary Ombudsmen directs grave criticism towards Försäkringskassan for failing to process cases concerning re-examination within a reasonable time limit. (3353-2016)

Social services

Social Services Act

An investigation of some social services' handling of matters concerning unaccompanied minors

In September 2016, the Parliamentary Ombudsmen decided to investigate how issues concerning unaccompanied minors are handled within the social services, among others. Within the scope of their investigation, the Parliamentary Ombudsmen inspected eight social service administrations and took into account information that was presented in reports to the Parliamentary Ombudsmen. In the decision, the Parliamentary Ombudsmen confirm that there were serious shortcomings in the placement of unaccompanied minors and shortcomings, among other things, in the investigation of the children's needs and in the follow-up of their care. The Parliamentary Ombudsmen also make certain statements that concern the change in placement of unaccompanied minors and concern issues related to the age of the unaccompanied minor. (5565-2016)

Criticism of Älvsjö City District Board in Stockholm municipality for the processing of a case concerning the move of an unaccompanied minor from a supported housing in Uppsala municipality to a housing for unaccompanied minors in Stockholm municipality

The Migration Agency assigned an unaccompanied minor to Älvsjö City District Board in Stockholm municipality. The minor was placed in Uppsala municipality, in a so-called supported housing, run by a private consultant. The board later concluded that the housing was not suitable for the minor and terminated the accommodation. The board notified the minor and the minor's custodian that the minor had acquired a new accommodation in a housing for unaccompanied minors in Stockholm.

The Parliamentary Ombudsmen note that the minor, who was over 15 years old, had the right to express his views about the new accommodation. When the board decided to terminate the minor's placement and take a decision on a new placement without notifying the minor or the custodian they overlooked their entitlement to take part in decisions concerning the minor. The Parliamentary Ombudsmen further questions if the board, when neglecting to contact the minor and the custodian, had sufficient knowledge to assess the necessary requirements observed when choosing a new accommodation and if the housing was suitable for the minor, or if the board was capable of conducting an assessment and a determination regarding the best interest of the child. The Parliamentary Ombudsmen directs criticism towards the Social Welfare Board for putting aside the Social Services Act's general provision regarding how to process cases concerning minors placed in housings pursuant to the provision. (2170-2016)

Criticism of the Social Services Committee of Gällivare Municipality for the handling of matters regarding decisions that two unaccompanied minors would be moved from foster homes in other municipalities to a home for care and housing (known as a HVB home from the Swedish abbreviation) in Gällivare

The Swedish Migration Agency assigned two unaccompanied minors to Gällivare Municipality. The Social Services Committee in Gällivare temporarily placed the children in foster homes in other municipalities because there was no suitable place in Gällivare Municipality. Once the municipality had opened an HVB home in Gällivare, the Social Services Committee wanted to "bring home" the children. Prior to the decisions that the children in question, both of whom were over the age of 15, would be offered a place in the HVB home, the children were not given the opportunity to express their opinions in the matter. Nor were any discussions held with the legal representatives of the children prior to the decisions.

The social services' efforts for an unaccompanied minor who has turned 15 years of age shall be formulated and carried out together with the child and the child's legal representative. Where a child shall be offered housing shall furthermore be determined based on what is best for the individual child. A child is also entitled to be given an opportunity to express his or her opinions in issues that concern him or her.

Since the children were not given the opportunity to express their opinions in the matter, the Social Services Committee in the Parliamentary Ombudsmen's opinion did not have a basis for making an assessment of the child's best interests in the individual case. The Social Services Committee receives criticism for having disregarded the fundamental provisions of the Social Services Act regarding how matters concerning children that are placed with the support of the Social Services Act shall be handled. (1985-2016, 2531-2016)

Report against the Care and Nursing Administration of Karlstad Municipality that an elderly woman at a nursing home was not permitted to make video calls on her tablet in the nursing home's common areas

A woman, born in 1937, was granted assistance in the form of a nursing home with home-help service. She lived in her own apartment at the nursing home in accordance with a special rental contract. The rental contract was accompanied by a right to spend time in the nursing home's common areas. The question in the Parliamentary Ombudsmen's case is whether the administration had reason to notify the woman that she was not permitted to use her tablet for video calls in the nursing home's common areas due to the rules of order that applied for the nursing home.

When several people live in a housing unit, it may in the view of the Parliamentary Ombudsmen be necessary for several reasons to have certain rules of order regarding the common living environment, which among other things aim to create security and comfort for all who live there. The Parliamentary Ombudsmen therefore see no inherent obstacle to certain rules of order being set up for common areas at a housing unit.

In the assessment of whether the administration had reason for its notice to the woman, one must take into account the woman's strive to live like anyone else to the furthest extent possible and her right to self-determination, as well as the justified interest of the respect for the integrity of other residents.

The Parliamentary Ombudsmen state that, depending among other things on individual needs and wishes of the elderly and the structure of the premises, it should be possible to find practical solutions without disregarding any of the above interests.

In light of this, the Parliamentary Ombudsmen doubt that the woman was entirely prohibited as a result of the municipality's rules of order from making video calls on her tablet in the nursing home's common areas. The administration should have reasonably been able to arrange the matter so that the woman could have made her calls without it entailing any conflict with other interests in the operations. However, the Parliamentary Ombudsmen do not consider there to be adequate reason to express any criticism against the administration. (2447-2015)

Criticism of Älvsjö District Council in the municipality of Stockholm for having failed to report to the police their suspicion that an employee of a private home help service provider had committed a crime against a person who was receiving the home help service through the agency of the District Council

An employee of a private home help service provider, A., worked for a time as a nurse's aide at the home of I-L.E. A. was subsequently sentenced to a prison term of three years for, inter alia, taking a bribe, serious offence. In a complaint to the Parliamentary Ombudsman, I-L.E's plaintiff counsel questioned why the social services department had not reported this to the police, despite the fact that the department had received information that A. had committed fraud in relation to I-L.E. In its decision, the Parliamentary Ombudsman has addressed the question of whether the social services department ought to have reported the matter to the police.

The Parliamentary Ombudsman begins by stressing that all efforts within social services are to be of good quality, and that the decision-making body (the District Council in this case) remains responsible, regardless of whether a party other than the District Council itself is charged with implementing the effort. If a suspicion arises that an individual has been the victim of a crime in connection with the performance of an effort, it is therefore quite natural in all cases that the District Council should contemplate whether there are reasonable grounds and sufficient evidence for reporting the matter to the police.

Based on what has emerged, the actions of the District Council were not founded on an adequate analysis of the legal basis for reporting the matter to the police. According to the Parliamentary Ombudsman, the District Council board failed to fulfil its obligations to act to protect I-L.E. The Parliamentary Ombudsman is of the opinion that the District Council ought to have reported the matter to the police and criticizes the District Council for its failure to do so. (3237-2015)

Criticism of the Education and Social Care Board in the municipality of Bollebygd for having placed three children in a foster home without the foster home's suitability having been investigated, or a decision on care in the foster home in question having been made by the board

A child may not be received into a foster home without the social welfare board having made a decision regarding care in the foster home in question. Before the social welfare board makes a decision regarding foster care, the individual home and the conditions for care in that home must have been investigated by the board. This is pursuant to Chapter 6 Section 6 first and second paragraphs of Sweden's Social Services Act (SFS 2001:453) (SoL).

In its decision, the Parliamentary Ombudsman elaborates on its view concerning when a social welfare board is required to initiate an investigation into the suitability of a foster home and make a decision regarding care in a foster home. The Parliamentary Ombudsman is of the view that, when it becomes apparent that a placement is going to become permanent, a social welfare board must take these steps. Furthermore, the Parliamentary Ombudsman states that a decision made by the Chair of a social welfare board on placement in care pursuant to Section 11 of the Care of Young Persons (Special Provisions) Act (SFS 1990:52) (LVU) cannot be deemed to constitute a decision on care that the social welfare board shall make pursuant to Chapter 6 Section 6, first paragraph of SoL. The Parliamentary Ombudsman directs criticism at the Education and Social Care Board in the municipality of Bollebygd for not having investigated the suitability of the foster home or made a decision on care in the foster home in question. (3728-2016)

Complaint against the social services department in the municipality of Gävle concerning the processing of a case of social assistance in the form of what is termed a training flat (a halfway house)

The Social Welfare Board granted social assistance to a man in the form of accommodation in a training flat. The assistance was time-limited, and after the set period had ended, the social services department informed the man that he needed to move. The man handed in the flat key to the social services officer and moved to other accommodation that he had been granted social assistance for. The man complained to the Parliamentary Ombudsman stating that his "eviction" from the training flat had not been conducted as it should.

The Parliamentary Ombudsman notes that it is relatively common that a Social Welfare Board makes decisions concerning social assistance in the form of different types of care and supported accommodation, for example by granting accommodation in a training flat. If a Social Welfare Board enters into a contract with an individual which entails the Board granting the right of use of the dwelling in return for payment, a tenancy may arise between the Board and the individual.

In its decision, the Parliamentary Ombudsman emphasises how important it is for Social Welfare Board that provides housing to clearly differentiate between when this is based solely on a public law decision to provide social assistance, and when the Board enters into a tenancy agreement with the individual. This is because, in the latter case, the rules governing rent in Chapter 12 of the Land Code (JB) may be applicable. These rules mean inter alia that the Social Welfare Board, as the landlord, may not unilaterally decide to take away the individual's right of use of the dwelling.

The Parliamentary Ombudsman notes that in this case the training flat had been let by means of a public law decision on social assistance and not by means of a civil law agreement. The provisions of Chapter 12 of the Land Code concerning rent were therefore not applicable to the relationship between the Social Welfare Board and the recipient of the social assistance. The man's right to reside in the flat should thus be assessed according to the public law rules governing social assistance.

In light of this, the Parliamentary Ombudsman is of the opinion that in this case the social services department did not act incorrectly in relation to the man in not allowing him to keep on residing in the flat. (416-2016)

Criticism of the health and social care department in the municipality of Trosa for inter alia having made an unannounced home visit as part of a case concerning its home help service

The Social Welfare Board had granted social

assistance to a man with a leg injury in the form of the home help service for a certain period. As a result of anonymous complaints to social services that the man had been seen driving a car and walking without crutches, an officer of the department made an unannounced home visit to the man. The home visit took place during the period for which the man had been granted the assistance. The purpose of the visit was to talk to the man and gain clarity on whether the allegations were true or not.

According to the Parliamentary Ombudsman, there was reason for the department to contact the man to talk to him about the allegations and to clarify whether his needs had changed. Contact with an individual from social services can be effected in many ways. What is appropriate may be determined from case to case.

The Parliamentary Ombudsman has no objection to the department having made a home visit to the man. However, the activities of social services are to be based on respect for privacy. This means inter alia that the Social Welfare Board must weigh up the invasion of privacy that a measure from the Board's side entails against the interests that the Board as a government agency is required to look after. In light of this, it is the opinion of the Parliamentary Ombudsman that the department ought to have contacted the man before the home visit was to take place by phone for example. The social services department is criticized for having conducted an unannounced home visit in the situation that arose. (6502-2015)

Criticism of Spånga-Tensta City District Board in Stockholm municipality for the management of an application on financial assistance

On several occasions a man contacted the reception unite at Spånga-Tensta City District Administration and declared that he intended to apply for financial assistance. A case officer told the man to return, as he did not fulfil the requirements to receive financial assistance.

In the decision, the Parliamentary Ombudsmen states that an individual that approaches an administration may not always seek ways to apply for financial assistance, perhaps the approach is merely an enquiry regarding how to be eligible for financial aid. In previous decisions the Parliamentary Ombudsmen has held that an individual's enquiry regarding financial assistance, shall, even if it is perceived as unclear, be interpreted as an application for financial aid and so forth settled by a formal decision.

In the present complaint case, the case officer observed, during a phone call with the man, that he wanted to apply for financial assistance. In the decision, the Parliamentary Ombudsmen states that there can not have been any uncertainty regarding the fact that the man did apply for financial assistance, the approach was not merely a request for information. His phone calls to the administration should therefore have been handled as an application for financial assistance, and the board should accordingly have examined his entitlement to assistance and taken a formal decision. The Parliamentary Ombudsmen is critical towards how the City District Board handled this case. (3121-2016)

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

Serious criticism of the Social Welfare Committee in of Härryda for caring for a young person in a lockable ward despite the fact that he had not been taken into care on the grounds specified in Section 3 of the Care of Young Persons Act (LVU)

Serious criticism is directed at the Social Welfare Committee in the municipality of Härryda for continuing to care of a young person at a lockable ward at a special youth home despite the Administrative Court having decided that the young person was to be detained pursuant to Section 2 of LVU and not Section 3 of LVU. (4558-2015)

Criticism of the Childcare and Education Committee in Bjuv for not providing children being cared for pursuant to the Care of Young Persons (Special Provisions) Act (LVU) with sufficient help in maintaining contact with their cultural origins

Four Roma children being cared for pursuant to LVU had lost their language and their Roma culture after they had been placed for two years with a foster family.

The Committee has a responsibility to find ways to work for children being able to maintain contact with their cultural origins. The Childcare and Education Committee is criticized for not taking sufficient action in this matter. (3664-2015)

Criticism of Älvsjö District Council in the City of Stockholm for the handling of a matter regarding an unaccompanied minor; a question of whether there were conditions for a decision to immediately take the minor into care under Section 6 of the Care of Young Persons (Special Provisions) Act

An unaccompanied minor had been placed in a foster home with support of the provisions in the Social Services Act. Because the housing unit at which the child lives was to be renovated,

the child needed to move. The child refused to move from the foster home and said that he would become a homeless child at a meeting with the administration where the matter was discussed. He thereafter left the meeting. The council's chairperson then made the decision to immediately take the child into care with support of Section 6 of the Care of Young Persons (Special Provisions) Act. According to the decision, taking the child into care was necessary since it was likely that the child would need to be given care with support of Sections 1 and 3 of the Care of Young Persons (Special Provisions) Act.

A decision to immediately take the child into care due to the young person's own behaviour shall be based on there being probable reason that the child needs to be given care through the misuse of addictive substances, criminal activities or some other socially destructive behaviour. According to the Parliamentary Ombudsmen, the statement that the child would become a homeless child cannot in itself be considered to constitute such a socially destructive behaviour as referred to in the provision. It was thereby not probable that the child needed to be given care under the Care of Young Persons (Special Provisions) Act. The Älvsjö District Council receives criticism for having made a decision to immediately place the child in care without conditions therefore existing. (7730-2016)

Follow-up of the places situation at the Swedish National Board of Institutional Care's special residential homes for young people and LVM homes

The Parliamentary Ombudsman's investigation shows that the number of places at special residential homes for young people and Care of Substance Abusers (Special Provisions) Act (LVM) homes has been stretched over a long period of time. In its decision, the Parliamentary Ombudsman states that it is very worrying that the situation remains problematic, especially with regard to the Swedish National Board of Institutional Care (SiS) being able to rapidly provide young people with a place at a special residential home for young people. However, the Parliamentary Ombudsman is pleased to see that SiS is giving priority to the issue and is actively working on several plans to rectify the problems. The Parliamentary Ombudsman has taken only the further action of sending an information copy of its decision to the Ministry of Health and Social Affairs. (1896-2017)

Family law

Criticism of a case officer at the Care and social services administration in Mjölby municipality for not informing a custodian about a talk that was held with the custodian's child, before a main hearing in a child custody dispute

By order of the district court, regarding a child custody dispute, the social services handed in two statements to the court. The statements included records of two talks held with the child at the time when the child was 13 years of age. The social services' case officer was summoned to the district court to be heard as a witness at the main hearing. To confirm that the child kept to the information the child had given in previous talks the case officer held a third talk with the child before the main hearing. The talk took place in the mother's home. The boy's father did not receive any information about the talk until the main hearing.

The Parliamentary Ombudsmen states that the boy had reached such an age and maturity that he himself was able to decide if he wished to speak to the social services or not. Because of this, the father's consent was not necessary. However, it is important that a case officer acts impartial; under no circumstances shall neither party in a dispute perceive a case officer as bias. If one custodian, first at the main hearing, receives information about a new talk with the child, it can lead to the custodian questioning the case officer's impartiality; this can damage the trust in the case officer. The case officer should have informed the father before the main hearing about the content of the talk. (5044-2015)

Support and service for persons with certain functional impairments (LSS)

Criticism of the Social welfare board in Södertälje municipality for closing investigations pursuant to the Support and Service for Person with Certain Functional Impairments Act (LSS) in lieu of examining the applications

In a complaint case to the Parliamentary Ombudsmen complaints arose against the social welfare board in Södertälje municipality for neglecting to process an application pursuant to the Support and Service for Person with Certain Functional Impairments Act (LSS). The board made a decision to close all investigations concerning an applicant as they found no evidence to support that the provisions in the act applied

to the individual.

In the case the Parliamentary Ombudsmen accounts for the circumstances under which an authority can refrain from proceeding, or is obligated to proceed, with an application.

In the decision the Parliamentary Ombudsmen holds that the Support and Service for Person with Certain Functional Impairments Act (LSS) does not contain any explicit requirements on handing in supplementary documents along with the application. The mere fact that there is not enough evidence to grant an application cannot justify that an authority refrains from proceeding with an application.

The Parliamentary Ombudsmen notes that the social welfare board closed the investigations without having had support for it, and further states that the authority did not meet the statute-regulated requirements on service and duty to investigate. It was also wrong by the board to refrain from giving out certain information. (2130-2015)

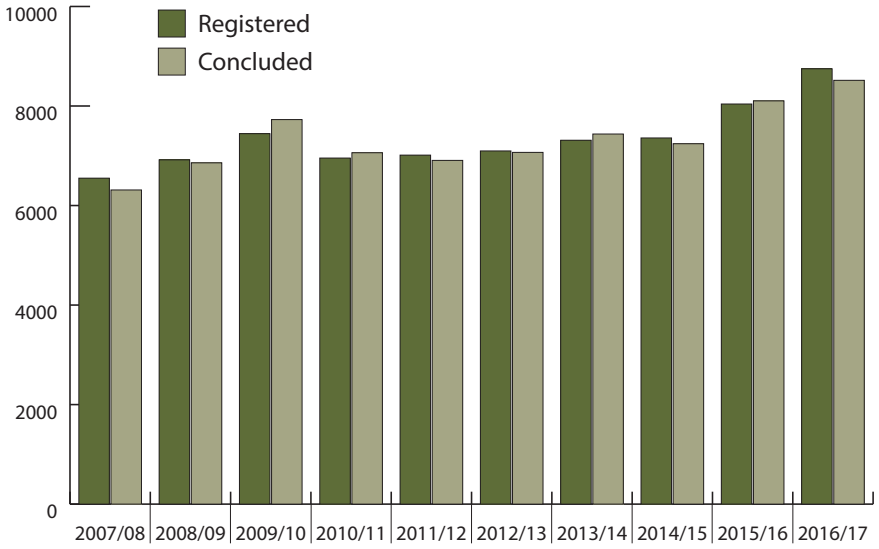
Municipal boards have the possibility to choose between the legal representative or the client as the recipient of a service but should, as a general rule, choose the legal representative

In section 15 of the Service Process Act it is provided that if the one being served has a legal representative authorised to receive the document the legal representative is also a recipient of the service. If an authorised legal representative exists and the client receives the document, the legal representative should be notified, pursuant to the same section. The Social Care Board in Södertälje municipality served a client with a decision and sent a copy of the decision to the legal representative. The board did not notify the legal representative of the fact that the client had received the board's decision and because of this the decision was not appealed in time. According to the Parliamentary Ombudsmen's understanding both legislative history as well as the purpose of having a legal representative should result in authorities, as a general rule, choosing the legal representative as the recipient of the service. The Parliamentary Ombudsmen does not direct criticism towards the board for choosing the client as the recipient of the service. The board cannot, however, escape criticism for not notifying the legal representative of the fact that the client had been served. (7218-2015)

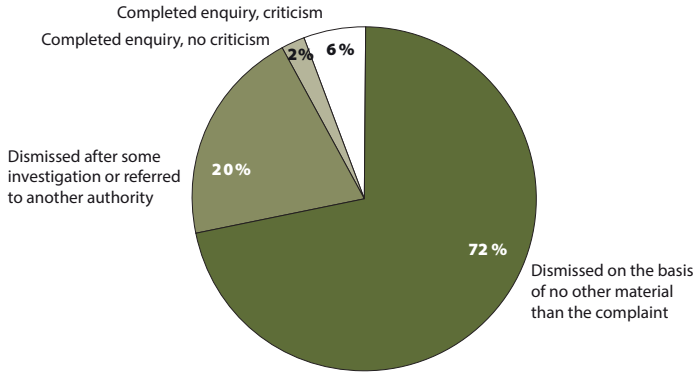
Statistics

Statistics

Evolution of the number of complaints and initiatives in the last 10 years



Decisions in complaints and initiatives 2016/17, total 8,364



Most complaints 2016/17

Area	Complaints
Social welfare	1,277
Migration	911
Police	901
Prison and probation	854
Social insurance	569
Access to public documents	524
Public courts	363
Health and medical care	322

Most criticized 2016/17

Area	Criticism	Percent
Access to public documents	89	17 %
Prison and probation	58	7 %
Social welfare	47	4 %
Police	42	5 %
Planning and building	37	15 %
Social insurance	30	5 %
Education	20	7 %
Enforcement	17	7 %

Inspections 2016/17

Regular inspections

Institution	Amount
Chief guardians	2
Courts of law	1
Migration	2
Municipalities, environment/planning	2
Municipalities , social welfare boards	8
Police	2
Prison and probation	5
Prosecutor	1
Social insurance	2
Inspections sum	25

Opcat inspections

Institution	Amount
Care of substance abusers	4
Police cells	8
Prison	0
Migration Agency detention centre	2
Psychiatric wards	5
Remand prisons	7
Opcat inspections sum	26

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