

Annual report 2014/15

SUMMARY IN ENGLISH

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Elisabet Fura

Chief Parliamentary Ombudsman

My supervisory area comprises the Swedish Prison and Probation Service, the Swedish Social Insurance Agency and the Swedish Pensions Agency, the Armed Forces and a number of other authorities including the National Board for Consumer Disputes, the Equality Ombudsman and the Swedish Competition Authority. As of 1 February 2015, my supervisory area also includes cases regarding the application of the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS). The OPCAT unit belongs to my area in an organisational respect, but the unit's inspections are carried out on the instructions of the Ombudsman supervising the authority to be inspected. A more detailed account of the OPCAT unit's activities is found later in this publication.

During the fiscal year, 1,548 complaints cases were received, which is a slight increase (33 cases or 2 per cent) compared to the previous year. 1,488 cases were concluded during the year. 641 (43 per cent) of these complaints were settled by delegated heads of division. Over the year, I have myself conducted six inspections. Three inspections have been conducted on my behalf by a head of division. Three visits to authorities have been carried out, of which one by a head of division on my behalf. The OPCAT unit has conducted eight inspections within my supervisory area. Due to observations made during inspections by the OPCAT unit, I initiated three enquiries, one of which was not completed by the end of the fiscal year.

The Swedish Prison and Probation Service

During the fiscal year, a slightly greater number of complaints relating to the Prison and Probation Service has been received than the previous year. I will refrain from speculation as to what this might be due to. The burden on the country's penal institutions has continued to decrease, but this has obviously not caused a continued decrease in the number of complaints. When it comes to

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 services, the National Prison and Probation Board and probation boards.
- 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.
- Application of the Act on the Provision of Support and Service for Certain Individuals with Certain Functional Impairments (LSS).
- 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.

settled Prison and Probation Service cases, the frequency of criticism of decisions remains at roughly the same level as in the previous year. Fourteen decisions have been deemed to be of such public interest that they are referred to in the annual report. I wish to particularly emphasise the following three decisions.

The first decision (ref. no. 1277-2014) concerns the circumstances of a female inmate who had been placed in isolation. The inmate had been guilty of serious violent crime against another inmate and had therefore been placed in isolation at the Hinseberg institution for a long period. In the decisions regarding isolation, the institution had noted that the inmate needed to be placed in a section with special control. In its referral response, the Prison and Probation Service stated that the institution did not at the time in question have sections that would facilitate such internal differentiation. In my decision, I pointed out that inadequate resources or the lack of opportunity for internal differentiation are not acceptable reasons for keeping an inmate in isolation from other inmates, and I expressed serious criticism of the Prison and Probation Service. In this context, I would like to mention that one of the inspections conducted by the OPCAT unit on my instructions during the fiscal year concerned the Hinseberg institution.

The second decision (ref. no. 1697-2014) concerns the Prison and Probation Service's actions in conjunction with a young woman who was an inmate in custody being separated from her infant through deprivation of liberty. In conjunc-

tion with the woman being placed at Borås detention centre, she was separated from her six-week-old son, whom she was breast feeding. The woman applied for leave, and before the application was reviewed by the detention centre, personnel from both the medical services and social services had contacted the detention centre and emphasised the importance of allowing the woman to be with her son. The reason given for this was the need for bonding between the child and mother. However, the detention centre rejected the application for leave. In its decision the detention centre, among other things, stated that since leave in accordance with the Act on Detention can only be granted for short periods, the purpose of the “bonding theory” could not be fulfilled. In my decision, I pointed out the inappropriateness of a detention centre making this type of assessment, as it is not part of the Prison and Probation Service’s remit to make such considerations. In my opinion, the detention centre’s assessment should have been limited to the matter of whether there were especially urgent grounds to approve the application and of whether there were security concerns that would stop the granting of leave. Considering such facts as the leave application concerned a mother’s contact with an infant which was still being breast fed, I believed it to be clear that the requirement for especially urgent grounds was met.

The third decision (ref. no. 6413-2014) concerns the treatment of an elderly woman who was to serve a prison sentence. The decision was issued with reference to an enquiry I initiated following an inspection conducted by the OPCAT unit (then the NPM unit) on my instructions in September 2014. At the end of October 2013, the Prison and Probation Service requested the Police to transport the woman to an institution for the execution of a short term of imprisonment. The request was carried out by the Police on 28 August 2014 and the woman was brought by the Police to the remand prison in Jönköping. Upon arrival at the remand prison she was put under surveillance due to her advanced age and her “uncertain” state of health. The remand prison took no further measures to investigate her condition, such as having her examined by medical staff. Not until the day after her arrival did she meet with the remand prison nurse, and she was transported to the prison in Ystad later that day. On 30 August,



an on-call physician noted that the woman was confused and dehydrated, and that she needed to be taken to hospital. My decision includes serious criticism of the remand prison in Jönköping for not giving the woman the healthcare she needed, and for deciding to have her transported to the prison in Ystad despite her poor condition.

In this context, I would like to mention that in May 2015 I decided to perform a follow-up of an earlier enquiry (ref. no. 2311-2013) about the Prison and Probation Service's processing of cases concerning placement in security units. The decision in this enquiry was presented in last year's annual report (JO 2014/15 p. 243).

I am currently awaiting the Prison and Probation Service's opinion in the "follow-up case" (ref. no. 3021-2015).

Social Insurance

The influx of cases in the area of social insurance has continued to decrease. This, in my opinion, is a sign that the activities of both Försäkringskassan (the Swedish Social Insurance Agency) and the Swedish Pensions Agency have improved in terms of the conditions that the Parliamentary Ombudsmen shall particularly observe. Also in my inspections of various parts of Försäkringskassan, I have fortunately enough been able to note that activities there are on the whole functioning much better now than just a few years ago.

However, there are still some shortcomings. In this year's annual report, I have chosen to include three decisions concerning Försäkringskassan's activities and two decisions on those of the Swedish Pensions Agency. I wish to particularly emphasise a decision concerning Försäkringskassan's processing times in cases with an overseas connection (ref. no. 5502-2013). In this decision, I state that Försäkringskassan's processing times in such cases often become unreasonably long. This is largely due to Försäkringskassan's difficulties in obtaining the necessary material from the relevant foreign authorities. In my decision, I note that there is a great awareness at Försäkringskassan of the problems in question. The agency has both reviewed its internal procedures and referred major issues to the Government. Although Försäkringskassan's opportunities to further influence the situation are limited, I believe it is possible, in anticipation of an expanded IT system, to bring about more improvements with relatively small means, for example through continued review of the timing of reminders and of monitoring systems.

In another decision (ref. no. 6231-2013), I criticised Försäkringskassan for denying a legal representative access to information from their client's case, citing that the client had an administrator. In my decision, I note that persons who have an administrator retain their full legal competence and that they have the opportunity themselves to undertake legal transactions, such as entering into agreements or establishing powers of attorney – even within those areas covered by the appointment of an administrator. The fact that the insured party had an administrator is therefore of no significance, and Försäkringskassan should therefore have handled the legal representative's request in the same way as if the request had been made by the insured party himself.



The Swedish Pensions Agency is criticised for its management of a request for re-examination (ref. no. 3491-2014) and for inadequate justification of a decision on housing supplement (ref. no. 1900-2014).

LSS – the Act concerning Support and Service for Persons with Certain Functional Impairments

As stated above, I am also responsible for supervising application of the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) as of 1 February 2015.

An insured party in need of personal assistance for an average of more than 20 hours a week for their basic needs may be entitled to central government attendance allowance, an allowance managed by Försäkringskassan. The need of personal assistance not covered by central government attendance allowance is instead managed by the municipalities pursuant to LSS.

Since taking office as Chief Parliamentary Ombudsman on 1 June 2012, I have always had responsibility for supervising Försäkringskassan and can therefore now compare its processing of attendance allowance cases with the municipalities' processing of LSS cases. In the relatively short time that I have reviewed the application of LSS, I have unfortunately been able to note that municipal processing demonstrates a much lower general standard of compliance with administrative law than that I have observed at Försäkringskassan. This often involves inadequate application of key provisions of administrative law, including communication, documentation and the right to party insight. Moreover, the municipal decisions in this area are much more poorly designed in general, often with inadequate justifications. It is also often more difficult to follow the

course of municipal cases due to their inadequate documentation.

This year's annual report includes one decision concerning LSS. In this decision, I direct criticism towards a municipal board for having relinquished its responsibility as assistance provider without legal support (ref. no. 785-2014). In the decision, I note that if the individual does not wish to organise their own personal assistance, the municipality is obligated to provide or outsource assistance, in consultation with the individual and, where appropriate, to impose a charge corresponding to the monetary sum that the individual is able to obtain in attendance allowance. A municipality cannot contract out of this obligation, which is what occurred in the case in question.

Swedish Armed Forces

In the area of defence, very few complaints cases are now received by the Parliamentary Ombudsmen. In the current fiscal year, only fourteen were received. In one of these cases (ref. no. 2242-2014), I had reason to make a statement about the decision of the Swedish Defence Materiel Administration (FMV) to establish a whistle-blower function. The function provides both FMV employees and its customers with the opportunity to report any suspicions they may have in respect of serious irregularities concerned with the Administration's activities. In a complaint made to the Parliamentary Ombudsmen (JO) it was claimed that the whistle-blower function competes with the freedom to communicate information that is protected by the Swedish constitution, and thereby counteracts the open approach adopted within the Administration. Furthermore, the complaint claimed that FMV promised anonymity for whistle-blowers. For this reason, the complaint requested that the Parliamentary Ombudsmen should investigate whether the introduction of such a system is consistent with applicable legislation, and whether it is possible for FMV to uphold its promises of anonymity. In my decision, I noted that the design of the FMV whistle-blower function makes it clear that the intention is not to compete with the freedom to communicate information that is protected by the Swedish constitution. It is, rather, a matter of supplementing this freedom, and I had no objections to an authority introducing such a function. In connection with the investigation, no information was found whereby FMV had promised the whistle-blower anonymity. I was instead able to note that FMV had made it clear that the whistle-blower wishing to remain anonymous has the opportunity to refrain from providing personal data.

Other

Besides the usual inspections of the Prison and Probation Service and Försäkringskassan, I have during the year conducted an inspection of the Swedish Competition Authority, which has never previously been inspected by the Parliamentary Ombudsmen. My impression of the Competition Authority's activities was very positive. I was able to note that the Authority writes very well-argued and well-formulated decisions and that the Authority did not have particularly many unsettled cases. The inspection was also rewarding and instructive for me and my members of staff.



Lilian Wiklund

Parliamentary Ombudsman

The supervision within my area comprises health and medical care, the education system and the social services. Although one group of social services cases was moved from the department during the year, the number of complaints received has increased. In total, 2,053 complaints cases were registered, an increase of 131 cases (8 per cent) compared to the previous year. 2,032 cases were concluded, an increase of 77 cases. The case balance at the end of the fiscal year was 273 cases. Of these concluded cases, 43 per cent (874 cases) were settled by delegated heads of division.

Inspections, etc.

Also this fiscal year, I have been forced to deprioritise the inspection activities due to the great quantity of complaints cases. I have myself inspected one social welfare board and one forensic psychiatry clinic. In addition, I have in the context of a supervisory case visited the government agency, Ersättningsnämnden, in order to obtain information on its activities (to examine the eligibility for compensation of persons who were subjected to serious abuse or neglect as a child in social care between 1920 and 1980). I have also, among other things, visited the National Agency for Education to exchange experience on the issue of political information in schools. The OPCAT unit has on my behalf inspected two LVM homes and three psychiatric care institutions.

Social Services

Since LSS cases were moved from the department, the case group consists of:

- cases involving children, such as matters concerning the application of the Care of Young Persons Act (LVU)
- cases concerning different forms of welfare benefits, and
- complaints relating to the Care of Abusers (Special Provisions) Act (LVM).

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).
- The Children's Ombudsman.
- Health and medical care as well as dental care, pharmaceuticals; forensic medicine agencies, forensic psychology agencies; protection from infection.
- 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 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.

In total, about 1,200 social services cases were registered during the year, a 10% increase from the previous year. Social services is thus the Parliamentary Ombudsmen's single largest supervisory area. The child cases constitute by far the largest subcategory, and this year they also represent the largest numerical increase; from 615 to 720 complaints filed. The two other subcategories also increased, but more marginally.

About as many cases were settled during the year as were registered. The annual report presents 16 decisions. Here I would like to mention the following:

As in previous years, some of my decisions have contained critical views of home visits conducted on the part of social services. This time, these concern visits made in the context of various child cases (ref. nos. 3986-2013 and 4076-2013). In the first decision, I considered the visit to have taken place in a way that entailed a manifest violation of the visited mother's integrity. In the second decision, I criticised the home visit of a father during a child care investigation for being conducted in such a way that the father apparently perceived the case officers as acting in support of the mother. In this latter decision, I emphasised the importance of representatives of public authorities observing the Instrument of Government's requirement regarding objectivity and impartiality in their activities. This requirement has come to the fore in several of the decisions referenced.

In three decisions in the annual report, two of which concern social services and one the processing of a supervisory case at the Health and Social Care Inspectorate (IVO), my discussion included issues of gathering information from the internet and the use of social media by case officers and authorities. These are phenomena that have not previously appeared in my complaints cases, and it is important for the issue of these "new tools" in authority activities to be discussed by the authorities concerned. Central to such discussion is the obligation to observe objectivity and impartiality in activities. As two of the decisions referred illustrate, more claims and reports of conflicts of interest can be expected, and there is a great risk that the public's confidence in the authorities will be affected, even if a review were to find, as in these two cases, that there was no conflict of interest. Such a development would be unfortunate, and as I pointed out in the two decisions concerning social services (ref. nos. 2611-2013 and 4436-2014), it is urgent for the authorities to produce guidelines and processing procedures if



they intend their activities to make use of social media and information searches on the internet. I also stressed that there should, of course, be no instances of case officers and other officials making use of private Facebook accounts or the like in official business.

I would also like to highlight two decisions, from September 2014 and June 2015, where municipalities have made complaints against

the National Board of Institutional Care (SiS). The first decision (ref. no. 3359-2014) concerned a complaint from a city district administration in the City of Gothenburg regarding the delay before SiS was able to offer an emergency place at a special residential home for young people. There is no provision specifying the time within which SiS is to assign a place after having received an application. However, in the case of emergency situations, such as might arise during an immediate preventive detention, it is the nature of things that it is generally necessary that a place can be provided more or less immediately. In a statement on the case, concerning the place situation in spring 2014, SiS presented implemented and planned measures to address the problems and stated that the queue for emergency places had been cleared in mid-June 2014. I expressed understanding for the fact that it is not an easy task to immediately meet a sudden need for places, but believed that SiS could not escape criticism for only having been able to offer an emergency place after two days.

The second decision covered four cases involving complaints from three different municipalities (ref. no. 260-2015 etc.). These cases also concerned the difficulty of SiS to assign a place at special residential homes for young people or, in some instances, a place at an LVM home. The complaints related to events in January-February and April 2015, respectively. SiS submitted statements on all complaints except the latter. The investigation of the cases demonstrated that there is, despite the measures taken by SiS, still a lack of places at SiS homes. I stated that it is a point of concern that the situation has been strained for so long and that, in some cases, it has taken as long as six days before SiS could assign a place. This can have serious implications for those in need of care if the immediate need of care cannot be met, and the social welfare board is placed in a difficult situation since the board has limited opportunity to resolve the problem when SiS is unable to perform its task. In its statement of opinion, SiS explained that one of the causes of the lack of places is the difficulty to predict demand from the municipalities and stated that the main reason for the increase in

demand is the increase in the number of unaccompanied minors. The response from SiS raises general questions about the situation of unaccompanied minors and their custody and care. I did not comment further on the matter since these very important issues were beyond the scope of my case. I did, however, criticise SiS for the delays and requested SiS to submit an account in early 2016 of developments and implemented measures.

Health and medical care

During the year, about 300 complaints were registered in this area, an increase of 11 per cent from last year. About as many cases were settled. Seven decisions are presented in the annual report. Three of these are enquiries initiated following observations during inspections of psychiatric and forensic psychiatry clinics. All three decisions (ref. nos. 1170-2012, 3953-2013 and 6615-2012) criticised the care institutions for actions contravening applicable legislation. As I touched upon in last year's annual report, patients committed to compulsory care are in a vulnerable position, and they constitute a patient group that cannot easily safeguard its own rights. The psychiatric care institutions are therefore important inspection objects, and I can only regret that the scope for inspections is not greater.

As I mentioned above, this area also contains a decision concerning conflict of interest and contacts on Facebook. In a complaint to the Parliamentary Ombudsmen, a conflict of interest is claimed in the case an IVO inspector processing a supervisory case related to health and medical services (ref. no. 2772-2014). The complainant referred, among other things, to an excerpt from Facebook. In my decision, I found no conflict of interest in the inspector's processing and expressed no criticism. However, I added that it may be appropriate, where practicable – and especially where activities such as supervision are concerned – for an officer that uncovers circumstances which may affect confidence in his or her impartiality in a case to transfer said case to a colleague, even if the circumstances are not of such a magnitude that they would constitute a conflict of interest.

The education system

More than 300 complaints concerning the education system were registered during the year, an increase of 12 per cent, and about as many were settled. Three decisions are presented in the annual report.

Complaints about the National Agency for Education's management of teacher certification have continued to pour in to the Parliamentary Ombudsmen. About 70 complaints against the National Agency for Education were registered during the year. With a few exceptions, the complaints concern slow processing. Since these problems are well known to the Parliamentary Ombudsmen, and the National Agency for Education has submitted statements in some previous cases, most new complaints do not lead to an investigation. However, for one complaint in spring 2014, I requested the National Agency for Education, in addition to submitting a statement on that particular case, to describe what the Agency is doing to shorten processing times (ref. no. 2371-2014). A decision in the case was issued in January 2015. The decision can be found at the Parliamentary Ombudsmen website, www.jo.se.



I noted in the decision that the long processing times were, according to the National Agency for Education, due to the very large number of applications and that many cases contained issues that were difficult to investigate and assess. I argued that even before introduction of the certification system, it must reasonably have been known how many active teachers and pre-

school teachers there are in the country and that it should have therefore been possible to a greater extent than what appears to have been the case to anticipate the problems that might arise. I expressed no criticism of the National Agency for Education since the question of who was responsible for the misjudgements that must have been made was beyond my power to assess. I did, however, take a serious view of the fact that the processing times had continued to be long. My overall picture was that the Agency “for the foreseeable future lacks the conditions for managing certification cases within a reasonable time”. This picture was based on information on the Agency’s website from December 2014. According to information on the website in summer 2015, the processing times “for cases with a foreign degree [...are...] approximately 9–12 months due to the involvement of other government agencies and higher education institutions in the process”. However, the website also states that the Agency “is working intensively to be down to a four-month processing time during autumn 2015”. The picture thus has improved over the last six months, but I nevertheless anticipate a certain influx of complaints about the National Agency for Education’s processing times even during the coming fiscal year. This is, of course regrettable, in itself. Even more regrettable, however, is that this type of “execution problem”, deriving from rapid and not always completely thorough reforms, risks eroding public confidence in the public operations. This appears much more serious than an increased workload for the Parliamentary Ombudsmen.

Public access and secrecy

There is a high level of secrecy applied to information within the social services as well as the health services. For this reason, complaints concerning public access and secrecy are common in my supervisory areas. During the year, 167 new cases were registered, 25 more than the previous year. A relatively high number of complaints is investigated. In my areas, 32 decisions with criticism concerning this case group were issued in total during the year, which also includes cases concerning issues of freedom of the press and freedom of expression. The annual report presents five decisions with criticism and one decision that did not result in criticism.

I would like to emphasise one very comprehensive decision, which led, among other things, to discussion and debate about issues on the use of cloud services in public operations. My decision directed serious criticism towards certain healthcare providers for having entered into agreements with a company for the keeping of medical records even though this was not compatible with the provisions of secrecy in health and medical services (ref. no. 3032-2011). In brief, these agreements entailed the following: The company's employees (medical secretaries) were authorised by the healthcare provider to log on to the healthcare provider's electronic medical records system. This made recordings of dictated notes about the patients available to the medical secretaries, who listened to these notes and entered the details in the patient's medical record. The medical secretaries carried out this work remotely, in some cases from their homes. The case drew attention both to the secrecy provisions in health and medical services and to the regulations concerning the processing of personal data. The provisions on the processing of personal data have no direct bearing on how the issue of secrecy is to be considered. The issue of whether a healthcare provider may disclose data covered by secrecy to someone intended to process that data on behalf of the healthcare provider is thus to be considered in the usual manner in accordance with the secrecy legislation. After review and analysis of the regulations, I found that the healthcare providers had not had legal support for disclosing the personal data covered by secrecy in the way that had taken place. The investigation of the case gave the impression that the agreement parties had attached primary importance to their respective roles pursuant to the provisions on the processing of personal data, and I found it remarkable that the healthcare providers had not devoted greater attention to secrecy aspects when entering the agreements.

The case illustrates, as I see it, a continuous development towards the possibilities of technology and the desire for quick and easy processing "winning" over the individual's needs and rights concerning the protection of personal integrity. In a referral response in autumn 2014, I expressed great doubt as to the proposals in the report *Rätt information på rätt plats i rätt tid* (Right information at the right place at the right time) (SOU 2014:23). Among other things, I feared that the proposed provisions on an expanded opportunity for various healthcare providers to have direct access to a patient's personal data would lead to a manifest risk of weakening the protection of the individual patient's integrity. Due to the scope and complexity of the issues in the report, I had not had the opportunity to perform a deeper analysis of the proposals. However, I have subsequently noted that the Swedish Data Inspection Board, after a thorough analysis, has resolutely opposed implementation of the proposals, and that the Office of the Chancellor of Justice, which supported the assessments made by the Swedish Data Inspection Board, has also opposed the proposals. Of course, the balance to be made between different interests is ultimately a political assessment. However, the fact that technological development opens up new possibilities does not necessitate utilisation of these possibilities. In any event, this must take place following much more careful analysis than had been performed in the said report. If not, the provisions for the protection of personal integrity will soon have lost all meaning. Would we like to see such a development?



Lars Lindström

Parliamentary Ombudsman

My supervisory area comprises the Swedish courts, the Swedish Enforcement Authority, the planning and building service, the land survey and cartography agencies, environment and health protection, the Swedish Tax Agency, the Chief Guardians and the communications system. During the year 1,587 complaints cases were received, which is an increase of 20 cases (+1.3 per cent) compared to the previous year. 1,630 cases were concluded during the year. 387 (28 per cent) of these complaints were settled by delegated heads of division.

Over the fiscal year, I have inspected two district courts and one administrative court. Head of Division Charlotte Håkansson has inspected three municipal boards on my behalf. The inspection records can be found at the Parliamentary Ombudsmen website www.jo.se.

In the following account, I will highlight some of the decisions that are described in this year's annual report, and account for certain other measures that I have taken this year.

The Court's role in criminal trial procedure

Article 6 of the European Convention states that everyone charged with a criminal offence has the right to be informed in detail of the nature and cause of the accusation against him, and to have adequate time for the preparation of his defence. Defendants are in other words entitled to know what they are defending themselves against. This is a matter of course in a state governed by law, and the Swedish Code of Judicial Procedure also has a rule which states that a judgment in a criminal case may relate only to an act for which a prosecution was properly instituted. In cases of public prosecution, prosecutors describe the act in the statement of the criminal act as charged that forms part of their summons application.

Thus by reading the summons application, those prosecuted for a criminal of-

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.

fence should understand what the prosecutor claims they have done and thereby also understand what they are to defend themselves against. However, in one case I reviewed during the year (ref. no. 1371-2014), the court sentenced the accused for something that was not evident from the statement of the criminal act as charged in the prosecutor's summons application. The district court sentenced the defendant for having jointly and in concert with others robbed a store. Specifically, the defendant was sentenced for either having been in the store and having conducted the robbery itself, or for having driven a getaway vehicle from the scene. But the prosecutor had not claimed that any of those involved had driven a getaway vehicle. The court had thus sentenced the defendant for an act for which he was not prosecuted, and the judge responsible was criticised. I might add that the district court judgment was appealed to the court of appeal, which discovered the error and acquitted the defendant.

The case illustrates the importance of actors in criminal trial procedure understanding which roles they have and of their being careful to observe the distribution of these roles. The annual report contains another ruling (ref. no. 387-2015) that illustrates this. Certain particularly interventive decisions during the preliminary investigation in criminal cases are to be made by the district court. These include decisions on "covert coercive measures". A prosecutor applied to the district court for the court's authorisation to conduct covert surveillance of electronic communications. Among other things, the prosecutor wanted to obtain details about messages sent to and from certain specified tele-



phone numbers. A prerequisite for approving the prosecutor's application was that someone was justifiably suspected of an offence. In her application to the district court, the prosecutor wrote that two persons were justifiably suspected of preparation to commit gross theft and that she wanted surveillance of three telephone numbers they were using. As regards the suspicions, the prosecutor wrote that the suspects were planning to burgle a house and that they had been seen around the area of the house. However, this is not punishable according to the provisions concerning preparation to commit gross theft. Something more is required, for example that the suspected person has had to do with means to be able to carry out the theft. Therefore, according to the law, the suspicions presented by the prosecutor cannot lead to the district court authorising the prosecutor to conduct covert surveillance of electronic communications. The judge who gave authorisation wrote in his response to the Parliamentary Ombudsmen that the suspected persons' burglary plans appeared sufficiently advanced that this must have reasonably encompassed the fact that they could be justifiably suspected of having had to do with tools and thereby having had to do with equipment for being able to carry out the burglary. In my opinion, however, the court's examination may not assume the prosecutor's position and fill out incomplete statements in this way. If, in support of his application for coercive measures, the prosecutor claims something that cannot legally lead to the application's approval, the court has only one option: to reject the prosecutor's application.

Thus, in the case reviewed, the district court unlawfully authorised the prosecutor to conduct covert surveillance of electronic communications. The judge responsible was seriously criticised.

The processing of custody cases in district courts

Both in conjunction with my inspections of district courts and in the processing of complaints cases, I have noted that certain cases concerning the custody

of a child and visitation with a child take a very long time to process. The court has often elected to apply processing methods that have been deemed to create conditions for the parties to reach agreement but that have the disadvantage of the cases risking becoming excessively long. In a decision of 3 April 2013 (ref. no. 1814-2012) available on the Parliamentary Ombudsmen website, the district court had elected to apply a method of trial and error with various temporary solutions in the hope that subsequent agreement would be reached between the parents concerning their children. The district court had held seven meetings for preparatory hearing, and the case had been going on for four and a half years. The case was still under adjudication at the time of the Parliamentary Ombudsman's decision.

This year's annual report gives an account of two similar cases (ref. nos. 6418-2013 and 7131-2014). Here, the district court had made use of a different method: the possibility of engaging a mediator. The mediator worked for one year and four months and for one year and nine months, respectively, but without succeeding in conciliating the parties. When the cases were finally adjudicated, it had been three years and four months and two years and nine months, respectively, since their submission to the district court.

What all three cases have in common is that the district court did not draw up any timetable for its processing.

I am critical of the fact that it has taken so long to process these cases. It is the court which is responsible for how the preparation of a civil case should be managed. And especially in cases of child custody and visitation, the court's responsibility is particularly manifest. In these cases, it is not only the parties who are affected by how the procedure is arranged, but also, and sometimes above all, their children, who have no opportunity to influence the choice between different options. If a judge is to assume responsibility for prolonging the process of reaching a consensual solution between the parents, there must in my opinion be careful thought as to whether such a procedure benefits the children or whether it is primarily the parents' interests that are being met. It is the nature of the matter that it is not good for anyone to be involved in a judicial process that it is difficult to see an end to. For a child especially, the insecurity resulting from this must be agonising.

Another decision in this year's annual report (ref. no. 382-2015) concerns a custody case that took the district court more than five years to process. The parties' eldest daughter, who was nine years old when the case began, had turned 14 when judgment finally came. Here, the slowness of the district court had not concerned any particular method of dispute resolution, but was due to the lack of a timetable and an inadequate direction of proceedings. This does not make things better for those involved. The judge responsible was seriously criticised.

Cases pursuant to the Planning and Building Act

The municipalities' processing of cases pursuant to the Planning and Building Act gives rise to many complaints to the Parliamentary Ombudsmen. In many municipalities, employees possess inadequate knowledge, which results in management that does not comply with laws and other regulations. The Parliamentary Ombudsman's review is of great benefit in this area, and Parliamentary



Ombudsman inspections have long prioritised local building boards.

This year's annual report contains five decisions related to planning and building. Here I would like to mention two of these in particular.

In the first case (ref. no. 6596-2013), two property owners had already in 2004 reported unlawful construction on a neighbouring property. Despite several reminders, the board prolonged its processing over several years. It was not until 2012 that the actual processing of the case was commenced. The board was then able to establish that unlawful measures had been carried out on the property referred to in the complaint. But instead of making a decision, the board engaged a mediator to “manage the case” and reach a consensual solution between the neighbours. The mediator then informed the board that the conflict could be considered resolved, and the board then marked the case as concluded in its register. The board obviously assessed that there was no further processing in the case. In my decision, I am very critical of the board's management. I note that the board appears to be of the view that the case concerned issues that have finally been able to be resolved through an agreement. However, a local building board cannot opt out of its statutory obligations and fail to process a case of intervention. Such management deprives reporting parties of the right to have their request for intervention to be examined on the merits by the board and the opportunity to appeal. The board was seriously criticised.

In the second case (ref. no. 2212-2013), the municipality had the task of processing an application for a building permit for six wind turbines. The case was ready for decision in December 2010. It was not until September 2012 that the board made a decision. But that decision did not take a position on the building permit application but referred the case back to the department for consultation with the county administrative board. On 10 December 2012, the board made a new decision, namely to refer the case back to the department, this time to await the municipal executive board's possible revision of the municipality's

wind power programme. The applicants appealed the board's decision to the county administrative board, which noted in a decision of 15 February 2013 that awaiting the municipal executive board's possible decision could not be considered to imply anything other than procrastination and passivity on the part of the board. The county administrative board presupposed that the board would without delay ensure the conclusion of its processing and the issuing of a final decision. On 4 March 2013, the board made a decision, but neither this time did the decision take a position on the building permit application. Instead, the board elected to refer the case back to the department for a third time, this time to await the incorporation of the wind power programme into the municipality's comprehensive plan. This decision was also appealed to the county administrative board, which on 5 September 2013 reversed the board's decision and returned the case to the board for examination of the building permit case on the merits. In its decision, the county administrative board wrote that the board had flagrantly neglected its duties.

Complaints to the Parliamentary Ombudsmen of course concern long processing times. And in my decision, I note that the board's management of the case was startling and cannot be perceived as anything other than pure obstruction. The board was seriously criticised. We at the Parliamentary Ombudsmen have followed up the case. In April this year, we found out that the board has now employed a new administrator who has experience in managing building permits for wind turbines, that all members of the board have been replaced after the election in 2014 and that the board is now keen to make a decision on the building permit issue, but that it is not yet possible to do so because the board is awaiting updated documentation from applicants concerning the turbines' size and placement.



Cecilia Renfors

Parliamentary Ombudsman

My supervisory area comprises the Swedish Police and Prosecution Authorities, Swedish Customs, aliens and employment matters as well as certain matters relating to the Government Offices and municipal operations.

During the fiscal year, 1,972 complaints cases were received and 15 enquiries (including inspections) initiated within my supervisory area. The number of cases received has decreased by just over 200 compared to the past fiscal year, but is higher than the year before that. During the fiscal year, 1,923 cases were settled. Of these, about 30 per cent were settled through decisions by delegated heads of division.

The greatest number of complaints was directed towards the Police. The number during the fiscal year amounted to 966, which is fewer than last year but more than the year before. The number of complaints concerning prosecutors is on about the same level as last year, around 190. There are somewhat more complaints against the Swedish Migration Agency than previously, and during the fiscal year these amounted to 283. The number of answered referrals was lower than previously, 29 compared to 38 the year before.

During the fiscal year, I have conducted three inspections; at the Border Police Unit of the then Gävleborg County Police, at the Swedish Prosecution Authority's Public Prosecution Office in Borås and at the Swedish Public Employment Service in Borås. On my behalf, inspections have also been conducted under the direction of an Executive Officer at four public prosecution offices specialising in cases concerning restraining orders. These were part of a series of inspections that is now concluded. I have initiated one enquiry and requested the Swedish Prosecution Authority to submit a statement on what emerged during the inspections, including shortcomings in some instances regarding the justification of decisions.

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 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 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

After a particular form of inspection at the Legal Secretariat of the Ministry for Foreign Affairs, the Ministry was criticised due to the unacceptably long time it took to disclose documents in five instances (ref. no. 6276-2012, etc.). The review of procedures to process requests for public documents that was performed during the visit showed that there generally were long processing times and that this was mainly due to a lack of human resources. At the time of the inspection, new resources had been provided, which the responsible officials deemed sufficient. However, the Ministry for Foreign Affairs was criticised because it had allowed a situation to arise in which requests to obtain documents were not processed actively, but had remained in the request balance. My decision also discussed the delimitation between the obligations an authority has under the Freedom of the Press Act and the authority's service obligation. There is reason to point out that an authority's – in themselves commendable – service measures may not lead to the disclosure of public documents under the Freedom of the Press Act being delayed due to insufficient resources.

Some of the same issues are discussed in another of my decisions in this year's annual report. This has also been discussed in the Riksdag, contributing to a

declaration to the Government (Riksdag Communication 2014/15:128). The decision concerns the question of how an authority should manage frequent requests from one and the same person to be provided with extensive material (ref. no. 180-2014). Such requests are becoming more and more common, which is no doubt due to factors such as the ability to communicate with authorities via e-mail. The present case concerned a municipality which found the situation of a very large number of letters and enquiries, as well as requests for the disclosure of documents, from one and the same person untenable. The situation was felt to affect the municipality's ability to work effectively and with legal certainty, and it was also perceived as a work environment problem. An authority must, of course, be allowed to take measures to manage situations of this kind, and I did not find any reason to criticise the fact that the person's enquiries were only answered verbally and that e-mails from the person were routed to the municipality's contact centre. There was, however, reason to criticise the municipality's measure to decide in principle that future requests from the person would not be accommodated or considered. Such a decision is clearly contrary to the law and entails the municipality setting itself over legal and constitutional provisions regarding public access in public operations. The municipality's decision also contravened the Instrument of Government's requirement regarding objectivity and impartiality.

In my decision, I had reason to treat the issue that was also raised in the Ministry for Foreign Affairs case, namely how authorities should manage very frequent and extensive requests to be provided with public documents. The provisions of the Freedom of the Press Act on promptness and the right to receive an appealable decision are, of course, applicable. However, it must be accepted that it takes some time before documents can be disclosed where extensive material is involved, and the authority must be allowed to manage requests in turn. It is, as already pointed out, also important for an authority to keep separate its obligations under the Freedom of the Press Act and its service obligation under the Administrative Procedure Act. The latter is extensive but not unlimited.

According to the Riksdag's declaration, the Government should commission an investigation of possible measures to meet the challenges that can arise upon very frequent and extensive requests to be provided with public documents, while maintaining respect for the principle of public access. The committee report (2014/15:KU11) points out that the principle of public access and the right to be provided with public documents are of key significance to forming public opinion, debate and scrutiny, and that the obligation of authorities to disclose public documents upon request should be far-reaching and strictly regulated. This is how it must be, of course, and it remains to be seen whether it is possible to find a solution that balances this interest against the interest of authorities also to be able to perform their ordinary duties.

The Police Authority and the Prosecution Authority

Long processing times for preliminary investigations continue to generate complaints to the Parliamentary Ombudsmen. In most instances, the statements from the Police paint a bleak picture of the situation in many parts of the country regarding resources for processing cases which do not concern suspects

who are deprived of liberty or are young. The resource issue is primarily a matter for the government authorities, and in 2015 my supervision of the Police and prosecutors regarding preliminary investigations will focus more on specific questions of rule of law and integrity.

A special case concerning long processing times is included in this year's annual report. This concerns the National Laboratory of Forensic Science (SKL), now a department within the Swedish Police Authority, the National Forensic Centre (NFC). SKL was criticised for its long processing times, particularly with regard to firearms examinations. It cannot be ruled out that SKL's processing times have affected remand periods, and this is of course serious. I presume that the Police Authority is working to reduce processing times and I note that Statskontoret (the Swedish Agency for Public Management) has been commissioned by the Government to review the management of forensic examinations.

Last year, I reported on a decision that criticised the Police for long processing times in cases concerning firearms licences. Complaints about this have continued to come in. I have raised the issue at a meeting with the leadership of the Police Authority's legal secretariat. I am also able to note that the Government has given the matter attention and in August 2015 assigned the Police a special commission to report on and develop the management of firearms licences.

The other police and prosecutor cases in the annual report concern, in one way or another, integrity issues and the importance of the Police having legal support for its coercive measures. In one decision, the Stockholm County Police was criticised for having apprehended three persons for begging, with reference to local public order regulations (ref. no. 457-2014). Judicial proceedings had subsequently established that the act that the suspicions concerned was not punishable. I was able to note that the suspicion also concerned an offence that can only lead to monetary fines and that the principle of proportionality means that apprehending someone in such cases is in principle out of the question. In one decision, the Värmland County Police was criticised for having disclosed details of a suspicion of drunken driving and a petty drug offence to social services despite secrecy and despite the fact that it must have been clear that it was a case of the normal use of medicine for which the suspect had a prescription (ref. no. 682-2014). I have also criticised the Östergötland County Police, which without legal support had photographed a woman and her daughter in order to check a suspicion of theft. This took place in their home, to which the Police had been called for an entirely different reason (ref. no. 1422-2014).

Another decision (ref. no. 3820-2013) concerns the implementation of urine specimen collection outdoors. By law, intimate searches of more significant extent are to be executed indoors in a secluded room. Urine specimen collection may often be considered to be of a more significant extent, but there can be exceptions, such as when suspects only need to expose themselves to a lesser extent in order to submit a specimen. In my decision, I state that urine specimen collection should for integrity reasons normally be done indoors, but can be done outdoors in conjunction with intervention if the suspect voluntarily desires this and if the specimen can be submitted in satisfactory seclusion and with the dignity that may be required.

The most labour-intensive and most highly noted of my cases in this year's annual report concerns the Skåne County Police's register of more than 4,000 Roma individuals. In November 2013, the Swedish Commission on Security and Integrity Protection found that there were serious shortcomings in the County Police's processing of personal data in the database that had been reviewed. Prosecutors also found serious shortcomings but came to the conclusion that no single official could be held responsible for these. The Office of the Chancellor of Justice has decided that those registered are entitled to compensation for aggrievement of SEK 5,000. It appeared for a long time that there would be no need for a Parliamentary Ombudsmen enquiry. However, in light of the assessment of culpability, I considered there to be reason to review more closely the division of responsibilities at the Skåne County Police regarding the two databases in question.

Previous reviews revealed serious shortcomings in the processing of personal data in two databases established by the Police's criminal intelligence organisation. The stated purpose of the personal data processing was far too general; logging and culling had not been done and it had not been specified which persons were not suspected of crimes. These shortcomings had very serious consequences, and I point out in my decision that the errors have resulted in the building up of a more or less permanent family register covering a large number of persons of Roma origin. In my opinion, the two databases have become a de facto register of ethnic affiliation.

My review demonstrated that one condition for these shortcomings was the very unclear division of responsibilities at the County Police. The decision-making system applied by the County Police to the processing of personal data led to decisions in practice being made by persons who lacked the requisite authority. The uncertainties in the division of responsibility meant that those involved were not aware of the extent of their responsibility. There was a lack of control over which databases were being created, and there were very limited opportunities to detect any impropriety in them. There was also a lack of technical opportunities to apply current procedures for logging, sorting out irrelevant information and labelling of people who were not suspected of anything. The County Police knew about this, but took none of the necessary steps to ensure compliance with the regulations concerning integrity protection.

What happened demonstrates extensive and serious shortcomings in the criminal intelligence organisation. For this reason, the Skåne County Police was seriously criticised, and I believed that there was a heavy responsibility for these shortcomings on those who, during the period in question, were in a senior position at the county criminal police department. However, responsibility for the fundamental shortcomings as regards the County Police's organisation, instructions and praxis rested ultimately on the County Police as such and the most senior position. I believed, however, that the head of the criminal intelligence service in Lund had a responsibility for the fact that these databases were actually built up, and that the police officers who built them up had a responsibility for the information contained within them.

In the decision, I presumed that the new Police Authority is taking the necessary



steps to guarantee compliance with the provisions concerning the integrity protection in the Police Data Act throughout the entire authority. According to the information I have studied, the Authority is working with this question – which has of course been raised in other contexts – and the Government has assigned the Police a special commission to review all register keeping in order to guarantee integrity protection in its personal data processing, among other things, to ensure that responsibilities are clear and internal control effective. I look forward to the results of this work and hope that it might serve as a good example of the advantages of a single police authority for the entire country.

Labour market

The inspection of the Swedish Public Employment Service's office in Borås was part of the follow-up to a decision from November 2013 (ref. no. 3972-2012). The Public Employment Service was then criticised for non-compliance with procedures established for documentation and the fact that these procedures were, in some cases, unclear. The shortcomings were extensive, occurred throughout and of a such a nature that could jeopardise the right of access to public documents. The inspection demonstrated that a quite a number of shortcomings remain, and I will continue to follow the work the Public Employment Service is doing to rectify them.

Inadequate knowledge of administrative law is also found in the activities of unemployment insurance funds. One example of this is a case where Fastighets arbetslöshetskassa was criticised for shortcomings in the justification of a decision to reject an application for unemployment benefit (ref. no. 6945-2013). It was difficult to understand whether this unemployment insurance fund had examined the application on the merits or rejected it on formal grounds.

Migration

Last year's annual report contained no decision concerning the Swedish Migration Agency. This was not due to a lack of cases, and my cases this fiscal year demonstrate that the Migration Agency is contending with quite a number of difficulties.

For a number of years, a very large number of complaints has been received regarding the processing times for the Agency's cases, as have complaints regarding shortcomings when it comes to the accessibility of case officers in individual cases. I have reviewed these issues more generally and made decisions in the cases on 17 December 2014 (ref. nos. 3549-2013 and 5497-2013). The Agency was criticised for long processing times in cases of residence permits for work and family ties and in cases of residence cards for the period 2011–2013, and for inadequate service and accessibility. In addition, I considered the Agency's choice to prioritise web applications ahead of paper applications to be incompatible with the principles of equality and objectivity in the Instrument of Government.

There remained a number of questions about the Agency's processing that had been raised in several complaints, and there was also reason to believe that the processing times had increased further after the period reviewed. For this reason, my decision stated that developments would be carefully followed in various ways and that I would visit the Migration Agency in 2015 to gain a detailed and current picture of the Agency's processing times, priorities and procedures.

I and some members of staff conducted such a visit in April 2015. It was found that, in relation to permit cases, the Agency focuses on the oldest cases, that an action plan has been produced and that the objective is to successively achieve a stable processing time. The Agency's assessment at that time was that it would be possible at the end of the year to maintain acceptable processing times in cases of residence permits for family ties and work. Complaints of long processing times and inadequate service continue to come in, and there is great reason for me to continue following developments. However, there is reason to point out that the issue of the Migration Agency's ability to make decisions within a reasonable time and provide good service is ultimately a resource issue for which the government authorities are responsible.

Other decisions in the annual report concern the processing of asylum cases and are in various ways significant from a legal certainty perspective. One case (ref. no. 6942-2013) concerns the consideration of an application that stated the asylum seeker's age to be under 18, and where the Migration Agency expressed in an official note that he had not made it appear probable that he was a minor and had therefore changed his date of birth. Previous Parliamentary Ombudsmen decisions have made it clear that the starting point should be that the assessment of whether or not an asylum seeker is an adult is not to be made in conjunction with a decision on the asylum case. In the present case, the asylum seeker was, in accordance with the Dublin Regulation, to be transferred to a third country and the asylum application considered there if he had been over 18. The asylum seeker's age was therefore relevant to how the application was to be processed, and a preliminary understanding of the asylum seeker's age must of course determine the direction of this processing. However, taking a position on an asylum seeker's age by means of an official note that is given the form of a non-appealable decision is not acceptable. The final consideration of an asylum seeker's age should also in these instances be made first in conjunction with a decision on the merits, i.e. when the Agency decides whether the asylum seeker



is to be transferred or when it makes a decision on the question of asylum. In this instance, the position taken had immediate legal effects for the asylum seeker as regards housing, schooling and guardian. The matter is complex, and I and my members of staff have conducted a dialogue with the Migration Agency on how to manage these cases properly and with legal certainty.

A couple of cases concern the appointment of public counsels. In one of these cases, the Migration Agency was criticised because the Agency's IT support for appointing public counsels disadvantages persons who in and of themselves are suitable for such assignments, but who are not lawyers or legal associates (ref. no. 5920-2013). The other case concerns the Agency's system for checking suitability for assignments as a public counsel (ref. no. 4500-2013). While the Agency has a primary responsibility to ensure that individual asylum seekers receive qualified counsels, it must uphold the fundamental principles of objectivity and impartiality in relation to those persons who might be considered for assignments.

A particular concern within the Migration Agency's area of responsibility is enforcement cases. The Migration Agency has primary responsibility for the enforcement of decisions on refusal of entry and expulsion. If the person to be expelled or refused entry cannot be found, or if it can be assumed that coercion will be needed, the Agency may submit the case to the Police for enforcement. The Migration Agency is to give the Police instructions or take other measures if it is not possible to enforce the decision. In case ref. no. 5329-2013, the Police on two occasions turned to the Migration Agency but received no clear instructions about which measures were to be taken to enforce a decision on expulsion to Jordan. Jordanian authorities provided information to the effect that the Police were unable to enforce the decision, but the Migration Agency nevertheless considered there to be no obstacles to enforcement. The case illustrates how important it is for authorities to cooperate when they have differing views on the opportunities to enforce a decision. When this does not happen, the process can – as in this instance – become very protracted and affect individuals in an unacceptable manner.

Opcat activities

During the fiscal year, the NPM unit changed its name to the OPCAT unit in the hope that this clarifies the basis for the Parliamentary Ombudsmen's commission as national preventive mechanism. The unit was established in 2011 to support the Ombudsmen in their task of fulfilling the commitments pursuant to OPCAT, the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The aim is for the OPCAT unit, on behalf of the Ombudsmen and by virtue of Section 22, fifth paragraph of the Parliamentary Ombudsmen's instructions, to inspect places where persons are detained, deprived of liberty. Such places include prisons, remand prisons, police cells, institutions for compulsory psychiatric care, Migration Agency detention centres and the special residential homes for young people and LVM homes [Care of Abusers (Special Provisions) Act (LVM)] run by the National Board of Institutional Care (SiS). The commission does not cover the investigation of complaints.

The work comprises continuous inspection activities, which includes the preparation of inspections, subsequent processing and horizon scanning.

During the first four years of OPCAT activities, 2011–2015, the Parliamentary Ombudsmen has prioritised a high inspection rate. The inspections aim to acquire information in various respects that is relevant to the overall prevention activities performed by the Parliamentary Ombudsmen within the framework of its instruction. The individual inspection objects have been determined based, among other factors, on the principle that OPCAT activities should refer to places other than those recently inspected by the Parliamentary Ombudsmen in its regular supervision. Priority has furthermore been given to places where the detainees usually have limited contact with the outside world, and the turnover of detainees is high, such as police cells and remand prisons. These activities have been continuously coordinated with the inspections planned at each respective supervisory department.

OPCAT activities have focused on inspections of police cells, remand prisons and the National Board of Institutional Care's LVM homes. This focus and this work have resulted in the Parliamentary Ombudsmen having inspected all remand prisons during the period, as well as all LVM homes and around half of the Police's cells.

Over the four years that the Parliamentary Ombudsmen has acted as the national preventive mechanism, 116 OPCAT inspections have been conducted, and the Ombudsmen have consequently decided to initiate 19 enquiries. These activities will from now on be developed towards issues relating to follow-up, etc., in order to promote respect for the human rights of those deprived of liberty.

OPCAT inspections during the fiscal year

During the past fiscal year, 21 inspections were conducted. OPCAT activities in 2015 are working with a particular theme: women deprived of liberty. This work has prioritised inspections of the Prison and Probation Service's women's institu-

tions and of psychiatric institutions. The results of this work will be presented in a special report.

It is natural that the number of inspections varies from year to year depending on the focus of OPCAT activities and the choice of inspection objects. During the year, a total of 32 days has been used for inspections. These inspections have mainly concerned places not previously inspected by the Parliamentary Ombudsmen.

During the year, most inspections have been announced. The composition of the inspection teams has varied depending on the size and sometimes the security classification of the institution. Since the unit has been understaffed, the proportion of inspections with the participation of personnel from the concerned supervisory department has increased to more than half of OPCAT inspections.

OPCAT inspections of the Swedish Prison and Probation Service

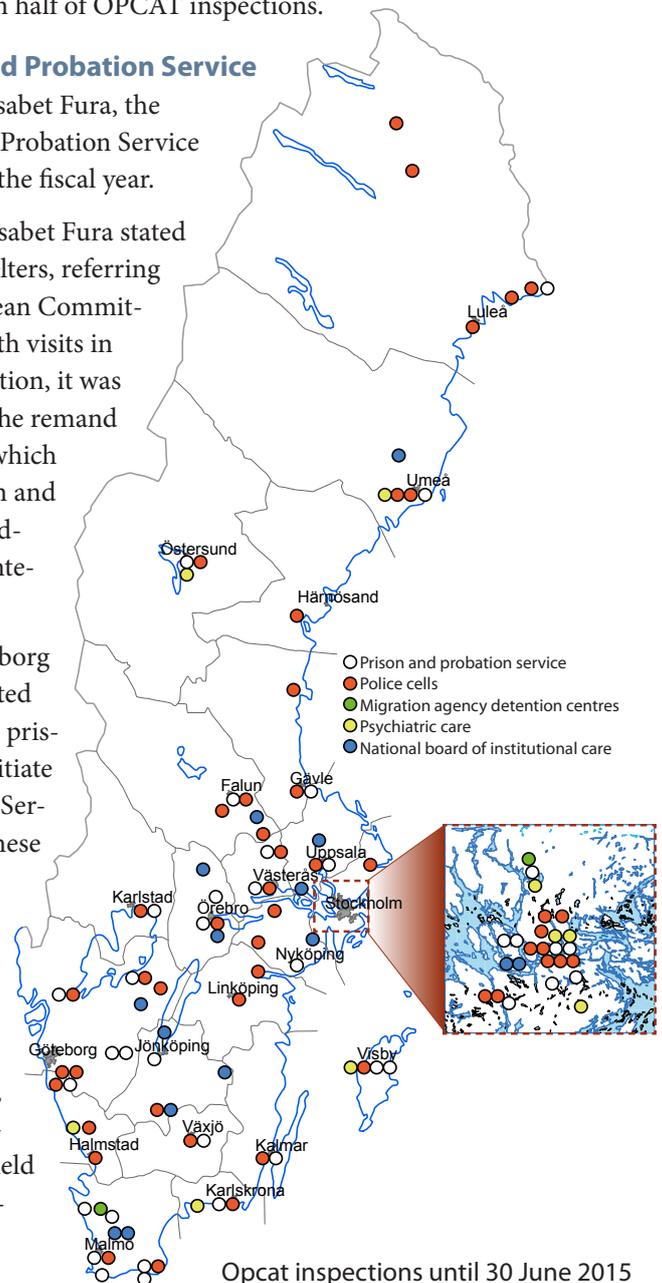
On behalf of Chief Parliamentary Ombudsman Elisabet Fura, the OPCAT unit has inspected three of the Prison and Probation Service remand prisons and five women's institutions over the fiscal year.

After inspection of the remand prison in Ystad, Elisabet Fura stated that all exercise yards should be fitted with rain shelters, referring to the recommendations made by the CPT (European Committee for the Prevention of Torture) in connection with visits in Sweden (see CPT/Inf [2009]34). During the inspection, it was noted that there was a great need of renovation at the remand prison and that the milieu was not acceptable, for which reason Elisabet Fura found reason to call the Prison and Probation Service to take immediate measures to address the sanitary problems and the neglected maintenance of the remand prison (ref. no. 4690-2014).

During inspections of the remand prisons in Trelleborg and Jönköping, it was noted that inmates have limited opportunity to see out from windows and from the prisons' exercise yards, and Elisabet Fura decided to initiate an enquiry to investigate the Prison and Probation Service's opportunities to limit the inmates' rights in these respects (ref. nos. 4689-2014 and 4860-2014).

OPCAT inspections of SiS LVM homes

During the fiscal year two LVM homes were inspected, Rällsögården and Renforsen. An important part of the work under the OPCAT protocol is the dialogue with representatives of the authorities, which is important from the perspective of prevention. During the year, special meetings have been held with key representatives of SiS concerning observations noted at OPCAT inspections.



During the inspection of the Renforsen LVM home, it was observed that women had less opportunity to spend time outdoors than men. This situation prompted Parliamentary Ombudsman Lilian Wiklund to state that she presumes that SiS is taking measures to guarantee that all inmates have the opportunity for sufficient daily periods outdoors (ref. no. 5530-2014).

Lilian Wiklund has initiated one enquiry, which in part concerns a home at which the choice has been made in connection with threatening situations to allow inmates to leave the home (ref. no. 7163-2014).

OPCAT inspections of police cells

During the fiscal year, a total of eight police cells has been inspected. A follow-up of previous inspections has commenced, and the cells in Umeå and Mölndal were inspected during the year. The focus of the follow-up visits is to see which measures have been taken in response to the criticism that Parliamentary Ombudsman Cecilia Renfors directed towards the Police concerning the opportunity for time outdoors and information about rights and concerning the meaning of the enforcement.

Inspections over the past year have prompted Cecilia Renfors to give a reminder of the importance of individuals, in connection with being taken into a cell, receiving information as close to their deprivation of liberty as possible (ref. no. 4859-2014) and of the importance of increasing the opportunity for natural light in arrest cells where the blinds are always down and the lights are on even at night (ref. no. 4691-2014). Furthermore, Cecilia Renfors has given a reminder of the importance of routine supervision also for those apprehended and arrested (ref. no. 3284-2014).

International cooperation

One of the Parliamentary Ombudsmen's overriding goals is to promote international dissemination of the idea of legal scrutiny through independent ombudsmen. In its work towards this goal, the Parliamentary Ombudsmen has carried out the following operations during the fiscal year.

The Parliamentary Ombudsmen has received 27 visits in connection with which it has provided information about its activities. Most visits have lasted one day, but three longer visits have also been received. One of these visits was from the newly established Information Commissioner's Office Maldives. The visitors were interested both in the Swedish principle of public access to official records and in the Parliamentary Ombudsmen's supervision of compliance with this. The delegation also visited the Administrative Court of Appeal in Stockholm and the Swedish Data Inspection Board in order to obtain a fuller picture of the Swedish model. Practical questions of a more administrative nature were also discussed.

Furthermore, the Parliamentary Ombudsmen and officials at the Parliamentary Ombudsmen have actively participated in conferences and seminars overseas. These included participation at the conference, The institution of the Ombudsman, organised by Turgut Özal University in Ankara, Turkey.

In October 2014, Chief Parliamentary Ombudsman Elisabet Fura and a member of staff carried out a visit in South Africa arranged by the Embassy Of Sweden in Pretoria. The visit included a meeting with Deputy Minister of Justice, John Jeffery, talks with and panel discussion together with parties including the Parliamentary Ombudsmen's closest counterpart in South Africa, Public Protector Thuli Madonsela, a meeting with judges at the Constitutional Court, Deputy



Visit by a Serbian delegation at the Parliamentary Ombudsmen.

Chief Justice Moseneke, meetings with representatives of civil society, researchers and the ANC's legal department. There was also a visit to Pretoria Central Prison, and Chief Parliamentary Ombudsman Elisabet Fura lectured at Wits University (University of the Witwatersrand).

In conclusion it is worth mentioning that, in her capacity as board member, Chief Parliamentary Ombudsman Fura has participated in the work conducted by the International Ombudsman Institute (IOI) as well as its Board of the European Region. The IOI is a global collaborative organisation for independent, mainly parliamentary, ombudsman agencies. The collaboration involves 155 ombudsman agencies from more than 90 countries, representing all the continents.

Summaries of individual cases

The following is a selection of summaries of cases dealt with by the Ombudsmen during the period

Public courts, etc.

Criticism of a judge at Blekinge District Court for the handling of a case regarding custody, etc. (6418-2013)

A court case regarding custody of children, etc., took three years and four months. The responsible judge is criticised for not establishing a time plan for the processing of the case. He is also criticised for having insufficient control over how a mediator, employed by the District Court, handled his duties.

Criticism of a judge at Skaraborg District Court in an enquiry regarding the handling of an adoption case (6120-2013)

A judge is criticised in connection with his handling of an adoption case for: 1) not allowing the biological parents to issue a statement in respect of the application for adoption; 2) not informing those concerned that an adoption decision would mean that the adoptive child – from a legal perspective, according to the Act on The Children and Parents Code – would no longer be considered to be the child of its biological mother.

Complaint against the chief judge at Malmö District Court regarding a list used in the distribution of assignments as counsel for the injured party, and as special representative for children, etc. (3586-2013)

The chief judge at Malmö District Court was reported for not having included three legal associates in a list of lawyers and other law graduates suitable for assignments as counsel for the injured party or as special representatives for children. In its decision JO notes that the list is a practical tool for the District Court in respect of appointing suitable persons to the above assignments, and that the list does not contravene Section 1, Chapter 9 of the Swedish constitution about objectivity and impartiality. JO therefore finds no reason to criticise the District Court in respect of its handling of the list. The Chief Judge was also reported for not having submitted an appeal referring to their position when this was requested by those concerned. Since the

Chief Judge considered that her decision could not be appealed, she cannot, in JO's opinion, be criticised for expressing that view.

Serious criticism of a judge at Skaraborg District Court and criticism of the chief judge at the District Court for their slow processing of four civil disputes (6119-2013)

JO's inspection of Skaraborg District Court in October 2013 uncovered four civil disputes that had, basically, not been touched by the District Court since their receipt in August 2010. The judge responsible for these cases is seriously criticised. The District Court's chief judge is also criticised for their failure to act in order to get the cases processed and decided.

Serious criticism of a judge at Blekinge District Court who unlawfully decided to approve covert surveillance of electronic communications (387-2015)

A prosecutor applied to the Court for authorisation to conduct covert surveillance of electronic communications. The prosecutor suspected two individuals of conspiracy to commit grand larceny. She stated that the suspects planned to burgle a house and that they had been seen around the area of the house. To plan the burglary of a house and to be seen in the vicinity of the house is, however, not a criminal offence under the provisions on conspiracy to commit grand larceny and cannot, under the law, lead to a prosecutor being authorised to conduct covert surveillance of electronic communications. Despite this, the District Court issued her the authorisation she requested. The judge responsible has been seriously reprimanded.

Criticism of Svea Court of Appeal for the handling of an appeal which included a request for reference in accordance with Chapter 10, Section 20, first paragraph of the Code of Judicial Procedure (3644-2014)

Södertörn District Court rejected the applicant's claim for a dissolution of marriage because the District Court was not the approved court. The applicant appealed the decision to Svea Court of Appeal. The Court of Appeal did not issue leave to appeal. In JO's decision, the Court of

Appeal is criticised for having not understood the applicant's appeal as a request for reference to the correct District Court, in accordance with Chapter 10, Section 20, first paragraph of the Code of Judicial Procedure, and consequently for not issuing leave to appeal in the case.

Criticism of a judge at Norrköping District Court as a result of the District Court having sentenced a person for an act for which he had not been charged (1371-2014)

A person was charged with, together and in collusion with others, having committed a robbery in a store. The District Court sentenced him for either having been in the store and having conducted the robbery itself, or for having driven a getaway vehicle from the crime scene. However, the prosecutor has not claimed that any of those involved had driven a getaway vehicle. The judge responsible has been reprimanded because the District Court sentenced the defendant for an act for which he had not been charged.

Complaint against Kalmar District Court regarding the formulation of an injunction to pay a supplementary fee in a case that had been transferred to the District Court from the Swedish Enforcement Authority (6998-2014)

Since 1 July 2014, the party that has presented a case before the Swedish Enforcement Authority must pay a supplementary fee when the case is transferred to the District Court. The plaintiff paid such a fee to Kalmar District Court despite having already been paid by the defendant for his claim, and thus no longer had an interest in the District Court examining the case. JO's decision notes that the injunction that the District Court sent to the plaintiff was not clearly formulated, which is why he did not understand its meaning or the consequence of the payment being made. However, since the District Court had used a template provided by the Swedish National Courts Administration, the District Court is not subjected to any criticism.

Criticism of a judge at Blekinge District Court for their formulation of a default judgment (386-2015)

In a default judgment, the plaintiff's claim and the references to the circumstances on which the claim was based had been presented by reference to an appendix. The appendix comprised a surrender document addressed to the Swedish Enforcement Authority, along with copies of bank statements, invoices and giro payments. The JO decision notes that the circumstances to which the plaintiff referred in support of their

claim – and therein the judgment's legal force – cannot clearly be inferred from the judgment. In addition, the number of appendices and their content made the judgment confusing and hard to read. The judge responsible is criticised for their formulation of the default judgment.

Serious criticism of a judge at Blekinge District Court for the handling of a case regarding custody of children, etc. (382-2015)

A summons application in a case regarding custody of children, etc., was submitted to the District Court on 5 March 2010 and was settled through a judgment on the documentation on 21 April 2015, i.e., a little over five years later. In the decision, the judge responsible has been severely criticised for the lack of time management, for inadequate process management and for the lengthy processing time of the case.

Criticism of Kalmar District Court and two of the District Court's judges for administration of a child custody case, etc. (7131-2014)

The matter regards a custody case in the District Court concerning three children aged 11, 9 and 3 at the time the case was initiated. The District Court appointed a mediator who was to attempt to have the parents come to a mutual agreement. The mediator was however unsuccessful in this regard. When the judgment was finally passed, two years and nine months after the case had begun, the children were 14, 12 and 6 respectively. In JO's decision, it is established that it must be considered a failure that a case concerning children took as long as two years and nine months to administer. The biggest causes of the long administration time were the lack of a schedule and inadequate follow-up of the mediator's work. The District Court is criticised for this. Besides the long administration period, three additional points have been noted in JO's review.

1. The District Court tasked two different individuals with interviewing the parties' two eldest children. It is not possible for a court to determine, without legislative backing, that a third party shall speak with a child. The judge who made the decision is thus criticised.
2. The District Court decided how a care institution should prioritise a referral relating to the children. There is no legislative backing for such a decision, and the judge who made this decision is thus criticised.
3. In three decisions on access between one of the parents and one of the children, the District Court gave third parties – the mediator's representative and an

as-yet unappointed person who was to act as access support – the right to make decisions on the access in certain situations. However, the law does not permit this type of delegated decision-making, and the judge who made this decision is thus criticised.

Cases involving prosecutors, police and custom officers

Criticism of the Stockholm County Police Authority for, in breach of the proportionality principle, having apprehended persons suspected of offences which can only result in fines (457-2014)

The police apprehended three women for an offence against Södertälje Municipality's local public order regulations. The women were apprehended as they lacked residence in Sweden and there was a risk that they, by leaving the country, would try to avoid criminal charges or sentencing. In the decision, the Parliamentary Ombudsman finds that apprehending the women for an offence which can only result in a monetary fine was in breach of the proportionality principle.

Criticism, including that levelled at two policemen at the Västra Götaland Police authority, for decisions in respect of the apprehension of suspects and their bringing to questioning (4761-2013)

J.R. was arrested on suspicion of raping his daughter after the daughter's mother had filed a police report in conjunction with her leaving her daughter with him. JO notes that the decision to arrest J.R. was made based on insufficient information and vague grounds. The report referred to a crime that was supposed to have been committed several years ago, and which had already been the subject of a police report and investigation. There were therefore neither sufficiently strong suspicions of J.R. nor investigative reasons that justified an arrest. After J.R. had been in custody for about an hour, it was instead decided that he should be brought for questioning, without a preceding summons being issued. JO considers that this decision was also incorrect. It almost seems like this was a measure that was taken quickly when it became obvious that there were insufficient grounds for his arrest. The decision therefore reminds us that bringing suspects to questioning is not to be used as an alternative to arrest when the prerequisites for an arrest are not satisfied. The policemen who made the decision to arrest/bring to questioning respectively are criticised.

The decision also addresses the measures taken when J.R. was taken into custody.

Criticism of the former Police Authority of Östergötland County for photographing and performing an identity check on a woman and her daughter in their home without the legal grounds for doing so (1422-2014)

Two police officers who had been called out to an apartment after a reported disturbance requested a woman and her 15-year-old daughter, who were living in the apartment, to produce identification and to stand against a wall to be photographed. The reason for this was so that their photographs could later be compared with a surveillance film that showed two individuals who were suspected of theft. The woman and her daughter were not suspected of the theft, and the head of the investigation was not contacted before they were photographed. In a situation such as the one described, there are no grounds to take these measures, even if the officers were under the impression that the woman and her daughter had given their consent. In the decision, the former Police Authority of Östergötland County is criticised for photographing the woman and her daughter and for performing an identity check without sufficient legal grounds for taking these measures.

Serious criticism of the Police Authority in Skåne, at that time, for failings in the management of personal data in the authority's criminal intelligence organization (5205-2013)

Reports in the media that the Police Authority in Skåne, at that time, had an illegal register of more than 4,000 Roma individuals were investigated by the Swedish Commission on Security and Integrity Protection and prosecutors. Their investigations revealed that there were serious failings in the management of personal data in two databases kept by the police's criminal intelligence organisation. These databases contained data concerning several thousand people, a large number of whom could be presumed to be Roma. The failings included that the purpose stated for this use of personal data was far too general, that its use had not been logged, that culling had not taken place to a sufficient extent and that there was no indication of who were suspects. The JO have investigated who within the Police Authority was responsible for these failings. In her decision, the JO state that the failings ascertained had very serious consequences. Specifically, the lack of culling has resulted in the creation of a more or less

permanent genealogical register concerning a large number of people of Romany origin. The two databases have become a de facto register of ethnic affiliation. According to the JO, the very clear division of responsibility within the Police Authority was a prerequisite for the failings in the databases. The decision-making system applied by the Police Authority to the management of personal data, in practice, resulted in decisions being made by people who lacked the requisite authority. The uncertainties in the division of responsibility meant that those involved were not aware of the extent of their responsibility. There was a lack of control over which databases were being created and very limited opportunities to detect any impropriety in them. Furthermore, there was a lack of technical opportunities to apply the authority's procedures for logging, culling and labelling of people who were not suspected of anything. The authority knew about this, but took none of the necessary steps to ensure compliance with the regulations concerning privacy protection. What happened demonstrates extensive and serious failings in the criminal intelligence organisation. Accordingly, the JO directed serious criticism at the Police Authority in Skåne at that time. It is the JO's opinion that those who were in charge of the county criminal investigation department at the time bear a great deal of the responsibility for these failings. However, responsibility for the fundamental failings in terms of the authority's organisational structure, instructions and practice rests on the shoulders of the Police Authority and its most senior manager, the Chief Commissioner. The JO is also very critical of the head of the criminal intelligence service in Lund, who was responsible for the fact that these databases were actually created, and to the police officers who provided the information contained within them. The JO presumes that the new Police Authority are taking the necessary steps to guarantee compliance with the provisions concerning the protection of privacy in the Police Data Act throughout the entire authority.

Statement regarding processing times at the Swedish National Laboratory of Forensic Science (SKL) (441-2014)

The Parliamentary Ombudsman (JO) has investigated processing times at the Swedish National Laboratory of Forensic Science (SKL). It has emerged from the investigation that the processing time for any given case is affected

by the time required for the examination itself and the degree of difficulty of the analysis.

However, there are other circumstances that have an impact; for example, the volumes of cases of a similar nature is an important factor. For cases with large volumes, such as narcotic analyses, SKL has developed rapid processes with automated instruments and IT support.

However, for cases with smaller volumes, which are handled by just a few officers, there is often idle time when the officers are working with other, higher priority cases. The processing time for a case is also affected by SKL's prioritisation.

By and large, SKL has been organised so that it can handle priority cases, such as those involving detained persons or young people, as quickly as possible. There is no reason to object to this per se, since there are particular, statute-regulated requirements for these cases to be processed speedily. Such prioritisation does, however, lead to other cases not being processed within a reasonable length of time. The category of case where there is the greatest problem with long processing times is weapon examinations. SKL's records indicate that the processing times here have increased considerably in recent years.

The situation is particularly serious for priority cases. It cannot be ruled out, for instance, that the processing times lead to the periods of detention being unnecessarily long. It is a fundamental legal right for a person not to be detained longer than necessary. All authorities involved in the chain of events are responsible for this. SKL has a responsibility to organise its operations and ensure that its resources are allocated as required so that preliminary investigations in which there is a particular need for urgency can be completed within a reasonable length of time, and that deadlines are met. For non-priority cases, SKL is of course also obliged to ensure the preliminary investigations can be conducted as speedily as possible. SKL and the Swedish National Police Board have stated that better collaboration and improved communication between the Police and prosecutors is a matter of urgency if processing times are to be improved. They hope for better collaboration and greater consensus as a result of the police organisation becoming a single authority at the start of 2015. The Parliamentary Ombudsman assumes that those within the new police authority will continue to devote their attention to the processing times at SKL and work actively to improve them.

Criticism of the Stockholm County Police Authority for how a body search was conducted; statements regarding the consideration principle when taking urine samples (3820-2013)

The Police Authority suspected the person submitting the report of having used narcotics and conducted a body search of him (urine sample taking). According to the report, the person was ordered by the police to leave the sample outdoors next to a bush. He felt violated by the situation. According to the Code of Judicial Procedure, a body search of a more extensive scope shall be conducted indoors and in private. The taking of urine samples is often of such a nature that it must be considered to be a body search of a more extensive scope, but there are exceptions. The deciding factor should primarily be if the person needs to expose themselves to only a small extent. For reasons of integrity, the starting point should be that urine sample taking is done indoors in private, even when it is not extensive in nature. However, the sample should be given outdoors in connection with the apprehension if the suspect personally expresses a wish to do so and if the sample can be taken in sufficient privacy and with the dignity necessary, taking the suspect's personal circumstances into consideration. In the decision, the Parliamentary Ombudsman finds that the body search was not extensive in nature. Taking into account what the report states regarding the incident, the sample should have been taken at a nearby police station.

Criticism of the Police authority in Värmland for submitting confidential information to a social welfare board (682-2014)

A woman was suspected of drunken driving and crimes against the Narcotics Drug Law (own use). Since she had an under-age son (born in 1999) the Police authority in Värmland made a "report due to concern" to the social welfare board. The report was made despite the fact that the sample taken only showed positive results for substances found in painkillers for which she had a prescription. The preliminary investigation in respect of the crimes was subsequently closed. Information from preliminary investigations is covered by confidentiality regulations. Police officers have a duty to make a report to the social welfare board when they encounter in their activities, or suspect that a child is in danger; the confidentiality regulations do not then apply and such information can be submitted. However, such information is not to be

submitted as a matter of routine. Each individual case should always be assessed on its own merits. When the Police authority submitted the information regarding the suspected crimes to the social welfare board, it must, in JO's opinion, have been obvious that the woman was no longer suspected of any crime, and that she had purely been using normal medication, for which she had a prescription. The information did not give grounds for suspicion that her child was in danger and did not therefore entail a duty to report. The Police authority is criticised for its decision to submit the information.

Criticism of the Stockholm County Police for the handling of a revoked confiscation (1268-2014)

A woman found a large sum of money, which she handed in to the police. The money was registered as lost property, and it was stated that the finder made a claim on it, and on a reasonable reward. On the following day, the police launched a preliminary investigation into the suspected receipt of stolen money and confiscated the money. The preliminary investigation was however closed after a short period and the confiscation was revoked. The police's assessment was that the money could no longer be considered lost property. Instead, it was handled in accordance with the Act on procedures for confiscated goods and lost property, etc. According to this act, the money shall be reported to the State, unless the owner or another entitled party makes a claim on it. The confiscated money should rightfully have returned to being handled in accordance with the provisions in the Lost Property Act. The police's handling of the revoked confiscation meant that the finder was at risk of losing their rights in accordance with the Lost Property Act. The Stockholm County Police is thus criticised for its handling of the case.

Prison and probation services

Complaint against the Swedish Prison and Probation Service's Sollentuna detention facility, regarding the procedures that the facility applies when a seizure has been revoked and the object in question is to be handed over to an inmate of the facility (4689-2013)

A detention facility employee has questioned the procedures that the Sollentuna detention facility applies when a seizure has been revoked and the object in question is to be handed over

to an inmate of the facility. According to the person filing the report, receipt of the object is acknowledged by the facility's staff and not by the inmate themselves. In the Chief Parliamentary Ombudsman's decision it is noted that the Code of Judicial Procedure contains no requirement for the person to whom the object is returned to personally acknowledge receipt. It is also noted that the Police in many cases do considerably more than that demanded by the rules of the Code, which states that they are to inform the person in question that their goods have been seized, or inform the person in question that the seizure has been revoked and that the object can be picked up. In the light of the difficulties that a person who is detained may have in preserving their interests, the Chief Parliamentary Ombudsman takes a positive view of police officers who help out in these situations. However, the approach of the Police does raise certain questions, in the Chief Parliamentary Ombudsman's opinion. One question is, for example, if it would not be more reasonable to let the detainee themselves decide what should be done with the object. Another question that arises is how the responsibility for the storage of an object will work when the object is submitted or sent to the detention facility, and not received personally by the detainee. This can in turn be significant if the inmate wishes to direct a claim for damages against the authority storing the object. In conclusion, the Chief Parliamentary Ombudsman sees that there are several doubts concerning how the Police and the Prison and Probation Service are to act when a seizure has been revoked and the object in question is to be handed over to an inmate of a detention facility. The Chief Parliamentary Ombudsman makes no criticism of how the authorities currently work in these situations, but assumes that the Police and Prison and Probation Service will review what they should do to bring about procedures that are effective and adaptable, and which at the same time guarantee that the individual's interests are taken into consideration.

Criticism of the Swedish Prison and Probation Service's Hinseberg facility regarding the handling of a case where an intern was placed in isolation and where their implementation plan was not followed up on within the prescribed time (6766-2013)

According to the person filing the report, the Hinseberg facility, in their decision to place an intern in isolation, referred to documents which the intern was not aware of or could comment

on until after the decision was made. According to the Prison and Probation Service, the documents were a letter which the intern had written herself. The Prison and Probation Service has also stated that the information in the letter was not of crucial importance for the outcome of the case. The Parliamentary Ombudsman's decision finds that the information could hardly be considered unimportant, as the Hinseberg facility referred to it in the decision. The fact that the information was from the intern's letter should, according to the Parliamentary Ombudsman, not be afforded any significance. The Hinseberg facility is criticised for the fact that the intern was not informed that the information in the letter had been included in the case and was not given opportunity to comment on the information before a decision was made in the case. In the decision, the Hinseberg facility is also criticised for not following up on the intern's implementation plan within the prescribed time period.

Criticism of the Swedish Prison and Probation Service's Hinseberg institution and region Mitt for reporting certain information about an individual's personal circumstances in decisions concerning leave and placement in isolation (392-2014)

Hinseberg and region Mitt have reported information from a forensic psychiatric investigation in several decisions concerning placement in isolation and special leave. The report concerning the forensic psychiatric investigation is encompassed by the so-called correctional confidentially in Chapter 35, Section 15 of the Public Access to Information and Secrecy Act (2009:400). In their decision, the JO states that, because the Prison and Probation Service's decisions are generally in the public domain, it is important that decision-makers carefully consider what information about the individual needs to be reported in a decision. This consideration must take into account the requirement for justification pursuant to Section 20 of the Administrative Procedure Act (1986:223) and the individual's interest in sensitive information not being disclosed. The Prison and Probation Service is criticised for having reported information from the forensic psychiatric investigation in the decisions. It is the JO's understanding that it would have been possible for the Prison and Probation Service to refrain from reporting certain information obtained from the forensic psychiatric investigation in the decisions in question without having to disregard the requirement to justify the decision.

Grave criticism of the Swedish Prison and Probation Service for an intern being placed in isolation for a long time, etc. (1277-2014)

An intern had been guilty of serious violent crime against another intern and was then placed in isolation at the Hinseberg prison for a long period. In the decision regarding isolation, the facility has noted that the intern needs to be placed in a section with special control. The Prison and Probation Service has stated that the facility currently lacks sections that allow such internal differentiation. In the decision it is stated that a lack of resources or possibility of internal differentiation does not constitute grounds for keeping an intern isolated from other interns. The Prison and Probation Service receives grave criticism for its actions.

The actions of the Swedish Prison and Probation Service's detention centre in Borås in connection with separating a woman from her infant child through deprivation of liberty (1697-2014)

In conjunction with a young woman being placed in custody, she was separated from her six-week-old son, whom she was breast-feeding. The woman applied for leave. Before the application was reviewed by the detention centre, personnel from both the medical services and the social services had contacted the detention centre and emphasised the importance of allowing the woman to be with her son. The reason for this was the need for bonding between the mother and child. The detention centre rejected the application for leave. In its decision the detention centre, among other things, stated that since leave in accordance with the Act on Detention can only be granted for short periods, the purpose of the "bonding theory" could not be fulfilled. According to the Chief Parliamentary Ombudsman, it is inappropriate for a detention centre to make these types of assessments, as it is not part of the Prison and Probation Service's remit to make such considerations. Instead, the detention centre's assessment should have been limited to the matter of whether there were especially urgent grounds to approve the application and if there were security concerns that would stop the granting of leave. Considering such facts as the leave application concerned a mother's contact with an infant which was still being breast-fed, the Chief Parliamentary Ombudsman believes it to be clear that the requirement for especially urgent grounds was met. In its decision, the detention centre also stated that it could not be "ruled out" that the woman could commit crimes or abscond from

leave. According to the Chief Parliamentary Ombudsman, it is unreasonable to have such far-reaching requirements when examining an application for leave. There is always a risk that an intern mismanages their leave, but the risk of this varies between cases. When examining the application, the detention centre must therefore make an assessment of how big the risk is, and then weigh this against the intern's need for leave. The detention centre can then determine if it is reasonable that the intern is allowed to spend time outside of the detention centre.

Criticism of the Swedish Prison and Probation Service, Salberga Prison, for taking measures not within the bounds of the authority's commission, etc. (1924-2014)

In connection with placing inmates in solitary confinement, the Prison and Probation Service, Salberga Prison, has regularly turned off the water in the inmates' living quarters. According to the prison, this measure is taken in situations where it is suspected that the work of the prison staff, and also in some cases the Police, can be hindered. In the opinion of the Chief Parliamentary Ombudsman, this is a restrictive measure. The decision states that it is not possible to assert that in every case it would be disproportionate to turn off the water, so turning off the water in every case thereby constitutes an illegal method. However, such a measure is not to be used indiscriminately and it must be preceded by an assessment of proportionality. The Prison and Probation Service's commission does not extend to taking initiatives to secure evidence on behalf of other authorities. It is therefore surprising, according to the Chief Parliamentary Ombudsman, that the prison would regularly turn off the water to prevent hindering the work of the Police. The Prison is criticised for having acted outside the bounds of the Prison and Probation Service's commission. The decision furthermore contains statements regarding the inmates' right to an hour of outdoor activity per day and the hiring of interpreters.

Criticism of the Swedish Prison and Probation Service, Umeå Prison, for the handling of a document containing information pertaining to a certain inmate with "protected identity" (1993-2014)

The complainant's identity is marked with a "secrecy indicator". According to the complainant, documents containing his name and the information that he has a "protected identity" have been handled in a way that would allow other inmates access to them. As far as the prison in

Borås is concerned, it has not been possible to determine what type of document was involved. JO notes in the decision that there is no cause to reprimand the prison in Borås. On the other hand, the prison in Umeå is reprimanded for handling an attendance sheet used at a medical examination in such a way that there was a risk of other inmates seeing the information that the complainant has a “protected identity”. JO states in the decision that, in the choice of whether or not to write “protected identity” on a document, the Prison and Probation Service must take various different interests into consideration. On the one hand, the authority needs to use this note in various contexts as a warning to its own staff. On the other hand, it is of course in the inmate’s interest that there is no risk that the information regarding their protected identity is revealed. If the Prison and Probation Service chooses to write “protected identity” on a document, this document must, according to JO, be handled in a way that ensures that this information cannot be revealed.

Criticism of a civil servant from the Swedish Prison and Probation Service’s Skänninge institution for having replaced suspected narcotics found in the facility with baking powder (2299-2014)

When staff found suspected narcotics in the institution’s workshop, an inspector from the Prison and Probation Service decided that the powder found would be replaced with baking powder. All the inmates that had been in the workshop was then searched. The aim of this action, according to the Prison and Probation Service, was to attempt to gain clarity as to who was involved in the suspected trade in narcotics. The JO considers it to be very serious that the Prison and Probation Service has in this case assumed the police’s role of investigating an offence subject to public prosecution. The inspector from the Prison and Probation Service is seriously criticised for their actions. The JO is also critical of the fact that the institution did not report the discovery of the suspected narcotics to the police.

Criticism to the Swedish Prison and Probation Service, Sollentuna Remand Prison, for shortcomings in terms of its obligation to keep records, etc. (4313-2014)

An inmate was placed in solitary confinement during their internment at the Sollentuna Remand Prison. At the time of this confinement, the inmate was 17 years old, and should therefore be considered a minor. In the decision, the Chief Parliamentary Ombudsman empha-

sises that the Prison and Probation Service must exercise great caution when subjecting minors to coercive measures. If a minor is placed in solitary confinement, the Prison and Probation Service has a particular responsibility to ensure on the one hand that the solitary period is as brief as possible, and on the other that measures are taken to interrupt the isolation. Furthermore, the proportionality assessment that is always to be conducted in connection with coercive measures must place particular emphasis on the fact that the measure involves a minor. In the decision, the Chief Parliamentary Ombudsman reprimands Sollentuna Remand Prison for not having documented the reasons for limiting the inmate’s access to clothing during one instance of solitary confinement.

Criticism of the Swedish Prison and Probation Service’s Skogome institution for not having discharged the Service’s obligation to inform the injured party in accordance with Section 35 of the Prison Ordinance (5182-2014)

Pursuant to Section 35 of the Prison Ordinance, if an inmate serving a sentence for a crime that has been directed at someone’s life, health, freedom or peace, the injured party has to be asked whether they wish to be informed about, for example, the inmate’s leave and when the inmate is to be released. In their decision, the JO stress the importance of the Prison and Probation Service complying with this obligation. The Prison and Probation Service’s Skogome institution is criticised for failings in its handling of the injured party’s request to be kept informed in accordance with the stated provision.

Criticism of the Swedish Prison and Probation Service, Fosie Prison, for shortcomings in the processing of requests for outdoor access, etc. (5775-2014)

Whilst interned at the Swedish Prison and Probation Service’s Fosie Prison, an inmate was granted supervised leave on several occasions in order to receive treatment at a hospital. The investigation shows that the accompanying staff member was regularly present in the examination room as the inmate was examined by the physician. The secrecy implemented within the health services takes precedence over that applied by the prison and probation services. This, in combination with it being fairly common for inmates to undergo private and sensitive examinations when visiting the hospital, means that the basic procedure, according to the Chief Parliamentary Ombudsman, must be for the inmate to be examined by a physician in private, even

when they are on supervised leave. Penal institutions have a great responsibility, in consultation with the hospital in question, to plan hospital visits in such a way that the accompanying staff member does not have to be present during the examination. In the decision, the Fosie Prison is also criticised for shortcomings in the processing of a request for outdoor access.

Severe criticism of the Swedish Prison and Probation Service, Jönköping Remand Prison, for shortcomings in the treatment of an inmate, etc. (6413-2014)

At the end of October 2013, the Prison and Probation Service requested the Police to transport an elderly woman to a prison for the execution of a short term of imprisonment. The request was carried out by the Police on 28 August 2014 and the convicted person was brought by the Police to the remand prison in Jönköping. Upon arrival at the remand prison she was put under surveillance due to her advanced age and her “uncertain” state of health. The remand prison took no further measures to investigate her condition, such as having her examined by medical staff. Not until the day after her arrival did she meet with the remand prison nurse, and she was transported to the prison in Ystad later that day. On 30 August, an on-call physician noted that the inmate was confused and dehydrated, and that she needed to be taken to hospital immediately. The JO decision severely criticised the remand prison in Jönköping for not giving the inmate access to the healthcare she needed, and for deciding to have her transported to the prison in Ystad despite her poor health. The remand prison is also criticised for not informing the Prison and Probation Service’s placement unit of the inmate’s condition, which resulted in the prison not being able to prepare for her arrival and to a delay in finding a more suitable placement. The prison in Ystad is also criticised for waiting to alert the on-call physician, even though the inmate was in such a poor condition that she was found on the floor of her quarters. The JO decision also contains statements regarding the Prison and Probation Service’s procedures to request Police assistance in transporting convicted persons to prison.

Serious criticism of the Prison and Probation Service for serious shortcomings in the processing of cases by a prison facility (6760-2014)

In conjunction with an inspection of the Prison and Probation Service, Kalmar Prison, serious shortcomings were identified in the prison’s pro-

cessing of misconduct cases and cases concerning the placement of inmates in isolation. JO’s decision noted that there have been errors and deficiencies on a scale that is totally unacceptable. Among other things, the processing of the misconduct cases has dragged on. One of the explanations for this is that the prison has for some time had an acting Prison Governor who has had to handle a “changeover period”. The decision states that this cannot be interpreted in any other way than that the deputy initially did not have sufficient knowledge to be able to carry out his work tasks. According to the Chief Parliamentary Ombudsman, the Prison and Probation Service must have such an organisation in place that change-over periods do not arise. It is not in keeping with the Act on Imprisonment’s requirements regarding expedited procedure that misconduct cases remain unprocessed due to holidays, illness, staff turnover or the like. The decision also notes that Kalmar Prison bears a large part of the responsibility with regard to detecting and correcting any deficiencies that have been found in the processing of cases. However, the prison is not solely responsible. The region and the Prison and Probation Service’s Head Office have also failed in their inspections of the prison’s case processing and in their responsibility to ensure that the staff have the competence required for the job. The extent of the errors and deficiencies identified have resulted in serious criticism being directed at the Prison and Probation Service. The decision also contains a statement regarding what is to be considered an acceptable processing time in misconduct cases, as well as a statement regarding the lack of uniform procedures for how cases with a lengthy processing time are to be handled.

Criticism of the Swedish Prison and Probation Service, Salberga Prison, as a result of inmates who have chosen to hold a religious service having been directed to a residential unit, etc. (222-2015)

For security reasons, the Swedish Prison and Probation Service, Salberga Prison, directed a number of inmates to hold a religious service in a residential unit. The unit also housed inmates who did not wish to participate in the service. The Chief Parliamentary Ombudsman’s decision expresses an understanding that those inmates who did not want to participate in the service felt that they did not have any choice but to be in their rooms during the service. The conducting of the service has therefore entailed a restriction for those inmates who chose not to participate. The public has an obligation to

respect an individual's choice to practice religion as well as to refrain from doing so. Furthermore, religious belief is a private matter that no-one should be compelled to present to others against their will. In light of this, the Chief Parliamentary Ombudsman finds it to be wholly inappropriate to conduct a religious service in a locked residential unit where there are inmates who do not wish to participate. The prison has received criticism for its actions. The decision also underlines that, for the inmates, the opportunity to participate in a religious service in a multi-faith room can represent an important element in reducing the negative consequences of the deprivation of liberty. Conducting religious services in a multi-faith room as opposed to a production unit is also an important part in treating the inmates with respect. Moreover, such an arrangement – unlike when a service is conducted at a residential unit or directly adjacent to it – means that the inmates participating in a religious service do not need to disclose their faith to other inmates. According to the Chief Parliamentary Ombudsman, this means that, if a prison has a multi-faith room, religious services should only be held elsewhere in the prison in exceptional cases. The decision also criticises the Swedish Prison and Probation Service, Salberga Prison, for having organised the operations in such a way that visitors have been able to access sensitive personal information about the inmates. This was not the prison's intention.

The armed forces

Report regarding the Swedish Defence Materiel Administration's decision to introduce a "whistle-blower" function (2242-2014)

The Swedish Defence Materiel Administration (FMV) has introduced a "whistle-blower" function. The function provides both FMV employees and its customers with the opportunity to report any suspicions they may have in respect of serious irregularities concerned with the Administration's activities. In a complaint made to the Parliamentary Ombudsman (JO) it has been claimed that the whistle-blower function contravenes the freedom of information that is protected by the Swedish constitution, and that it is therefore contrary to the open approach adopted within the Administration. Furthermore, the report claimed that FMV promised anonymity for whistle-blowers. For this reason,

the complainant has requested that JO should investigate whether the introduction of such a function is consistent with applicable laws, and whether it is possible for FMV to uphold its promises of anonymity. The Chief Parliamentary Ombudsman states in her decision that the design of the FMV whistle-blower function makes it clear that the intention is not to compete with the freedom of information that is protected by the Swedish constitution. It is, rather, a matter of supplementing this freedom, and in principle the Chief Parliamentary Ombudsman has no objections to an authority introducing such a function. The FMV whistle-blower function has been examined and there have been no situations where the Administration has promised anonymity to the party reporting the information. Instead, the Chief Parliamentary Ombudsman notes that FMV has made it clear that the reports are treated as public documents, and that reporting parties wishing to remain anonymous may refrain from providing their personal details. The Administration has therefore been clear in respect of the actions to be taken by those wishing to remain anonymous. The report also submits observations that FMV engaged an outside company to receive the reports and anonymise them, and in respect of the design of the Administration's policy documents. Apart from a minor observation regarding the design of the policy document, the Chief Parliamentary Ombudsman has no opinion with regard to the manner in which FMV has chosen to design its whistle-blower function.

Serious criticism of the Swedish Armed Forces for not having executed a decision from the National Board of Appeal (3803-2014)

An applicant who had not been accepted for training in the Armed Forces appealed the decision to the National Board of Appeal. In connection with the processing of the appeal, the Board requested that the Armed Forces supplement the case with the data which it had at its disposal when the decision was made. For reasons of confidentiality, the Armed Forces chose not to submit the requested documents. The Board examined the case and found that the appellant should have been offered the training place for which he/she applied. The Board of Appeal subsequently passed the case on to the Armed Forces for them to take the necessary measures. Instead of offering the applicant a place on the training course, the Armed Forces chose to place the person on the application

list for the following year's training. In a re-examination, the Armed Forces then stated that the applicant did not satisfy the required profile and therefore could not be offered a training place. When a case is examined at the National Appeals Board, the reviewing body puts itself in the position of the decisionmaking authority. When an appeal is granted, the principal rule is that the authority appealed against issues a positive correction, i.e., it communicates a decision, the content of which is what should have been communicated from the start. For a decision made by a superior instance to have the intended effect, the lower instance must dutifully apply the decision. In the opinion of the Parliamentary Ombudsman, this meant that the Armed Forces, without re-examining the application, should have offered the applicant a place on the training course as soon as the opportunity to do so arose. By not doing so, the Armed Forces ignored a fundamental principle of administrative law, and for this they are seriously criticised.

Administrative courts

Criticism of the Administrative Court in Uppsala for its actions in connection with the dispatch of a decision in a case of immediate forced custody in accordance with the Care of Abusers (Special Provisions) Act (LVM) (6067-2013)

A court decided that a person admitted for care in an "LVM home" should be released immediately. The court informed the LVM home by fax at 17.05. However, the LVM home first became aware of the faxed message at 07.55 the following day. The internee was therefore detained for 15 hours too long. The court is criticised for not having attempted to inform the LVM home by telephone.

Criticism of a judge at the Administrative Court in Gothenburg for the slow processing of a case concerning the application of the Prisons Act (2010:610) (3551-2014)

A person who was an inmate in a penal institution was to be conditionally released on 27 July 2014. The Swedish Prison and Probation Service had rejected his application for expanded release, and he appealed the rejection to the Administrative Court. The case arrived in the Court on 10 February 2014 and was not settled until 25 June of the same year. The judge responsible is criticised.

Central government agencies

Criticism to Fastighets arbetslöshetskassa [an unemployment benefit office] for slow processing and the lack of justification for a decision made in a case regarding unemployment benefits (6945-2013)

Fastighets arbetslöshetskassa rejected an application from L.H. for unemployment benefits, with the justification that she had not submitted the requested documents showing that she fulfilled the requirements to qualify for compensation. The unemployment benefit office referred to a section of law that regulates the formal requirements for an application. JO notes that the wording of the justification makes it difficult to understand whether an actual assessment of the case has been made, and that the fundamental requirements for a decision justification have therefore not been met. JO is also of the opinion that the processing time was too long. L.H. appealed the decision of the unemployment benefit office. After submitting supplementary documents, she was told that Fastighets arbetslöshetskassa would change their decision and that they would refer the case back to the benefits officer for a new assessment. Around five months after the appeal had been received, the office made a final decision in the case. JO states that it is unacceptable to have such a long processing period in an appeals case. Furthermore, the decision also calls to mind the fact that JO has previously stated that a case cannot be referred back within the unemployment benefit office, and that the reassessment should not be divided into different stages.

Complaint against the Swedish Estate Agents Inspectorate regarding the agency's case management, etc. (6576-2014)

The case addresses the Swedish Estate Agents Inspectorate's record keeping, firstly in the register of real estate agents and secondly in the agency's official register. An estate agent has reported the Swedish Estate Agents Inspectorate for not deleting or adjusting information in the agency's register and disclosing inaccurate information about him. The Chief Parliamentary Ombudsman's decision notes that both registers are kept for different purposes and that this influences the information contained in the registers and how long this information is retained. Unlike the register of real estate agents, there is no specific provision regarding the sorting out of the Swedish Estate Agents Inspectorate's of-

ficial register. Instead, it is the Archives Act and the Archives Ordinance that govern the agency's opportunity to delete public documents. According to the Archives Ordinance, the National Archives [Riksarkivet] issues directions regarding the sorting out of documents. The directions that the National Archives have issued regarding the Swedish Estate Agents Inspectorate state inter alia that, in regulatory cases, only certain register excerpts, documents of no significance for the assessment and appeal instructions may be deleted. In light of this, the Chief Parliamentary Ombudsman states that she finds no reason to state any opinions about the Swedish Estate Agents Inspectorate's record keeping and the fact that the agency, in accordance with the provisions of the Swedish Freedom of the Press Act, disclosed an excerpt from its register. The Chief Parliamentary Ombudsman is of the same opinion as the Swedish Estate Agents Inspectorate regarding the unfortunate incident where the disclosed register excerpt led to inaccurate information on the estate agent being published in an article. According to the Chief Parliamentary Ombudsman, the Swedish Estate Agents Inspectorate cannot be blamed for this.

Migration

Criticism of the Swedish Migration Board for long processing times in permit cases and for failing to observe constitutional requirements when prioritising on-line applications (5497-2013)

Following several complaints, JO initiated an audit of the Swedish Migration Board's processing times in respect of applications for residence permits due to family connection and work, and for residence permit cards, for the period 2011–2013. The audit also addressed the differences in processing times between on-line and paper applications, and between applications for work permits from certified employers and others. It emerged from the audit that the processing times are, in many cases, unreasonably long, and that they regularly exceed the constitutionally-regulated limits by some distance. The Swedish Migration Board has stated that the long processing times have primarily been caused by the number of asylum seekers having massively exceeded the number forecast. However, based on the information presented by the Board, it is difficult to see how this alone can explain the long processing times. Furthermore, the information

provided by the Board suggests that they have prioritised simple cases at the expense of more extensive or complicated cases in a manner that is unacceptable. The Swedish Migration Board is criticised for its long processing times and for the fact that constitutionally-regulated time limits are regularly exceeded. The audit also shows that, for several different types of cases, there is a considerable difference in the processing time for on-line applications and paper applications. The Board has stated that, in order to encourage people to apply on-line, it has chosen, in cases where the applications are otherwise identical, to prioritise on-line applications ahead of paper applications. This procedure is deemed inconsistent with the equality and objectivity principles found within the Swedish constitution. The Swedish Migration Board is criticised for this. However, the case data gives no reason to criticise the system in respect of certified employers. It does however raise several questions that may need to be addressed in another context. There is reason to believe that the processing times have increased still further since the audit period. Developments in this area are therefore to be closely monitored. During 2015 JO will be visiting the Swedish Migration Board and its management in order to establish a detailed and current picture of the Board's processing times, its priorities and its procedures.

Criticism of the Swedish Migration Board in respect of deficient service and accessibility, and regarding an incorrect decision (3549-2013)

During 2013 JO received an unusually high number of complaints concerning deficiencies with regard to the Swedish Migration Board's service and accessibility. The decision addresses one of the complaints and the general opportunities that the general public have for contacting the Board via telephone and e-mail. The investigation finds that the Board has had problems handling individuals' telephone calls and e-mail enquiries in an acceptable manner, and also that the Board has taken certain measures to correct these problems, including introducing a "call back system" within its customer service department. However, in order to satisfy the requirements of the Administrative Procedure Act in respect of service and accessibility, private individuals must also be able to come into contact with the Board's various different units within a reasonable length of time. The complaints received by JO show that the Swed-

ish Migration Board does not always satisfy this requirement. The Swedish Migration Board is criticised for shortcomings in respect of its service and accessibility. Nor can the Board escape criticism for having communicated an incorrect decision regarding the registration of the right of residence. Since the number of complaints of deficiencies in the Board's service and accessibility is still relatively high, JO must continue to devote attention to this issue.

Statement regarding the Swedish Migration Board's list of public legal counsels who are subject to monitoring, supervision and control (4500-2013)

The Swedish Migration Board entered the name of a lawyer on a "List with names of public legal counsels who are subject to monitoring, supervision and control" since the Board had reason to question his suitability. According to the Board, the list is an aid used when assessing the suitability of public counsels to be appointed to specific cases, but it is not meant as an indication of incompetence. In its decision, JO states that the Swedish Migration Board has a responsibility to ensure that the counsel appointed is sufficiently competent for the task in hand, and that the Board must have a system whereby it can monitor and document the skills and/or deficiencies displayed by public counsels. Bearing in mind the far-reaching consequences that could result from a counsel being placed on the list, it is important that this action is considered thoroughly and is factually justified. Only circumstances implying that the counsel's suitability must be questioned should be noted. The negligence of the person concerned must have reached a certain degree of seriousness and the information must be specified and objectively ascertained. Furthermore, it is important that the actual procedure satisfies fundamental requirements in respect of legal security. The decision develops how this can be safeguarded. The lawyer was placed on the list because he had not appealed a decision that found against the plaintiff, despite the fact that it had not been clarified that he had been assigned by the plaintiff to appeal on his behalf. In JO's opinion, it is doubtful whether his actions are of a sufficiently serious nature that his suitability as a public counsel should be questioned. However, the decision to place him on the list lies within an acceptable discretionary margin. There is therefore insufficient reason to level any criticism at the Swedish Migration Board.

Criticism that the Swedish Migration Board's IT support system for appointing public legal counsels discriminates against persons who do not actually satisfy the suitability requirements (5920-2013)

When a public counsel is to be appointed, the Swedish Migration Board's IT support system for the administration of information regarding public counsels suggests, in the first instance, a lawyer or a legal associate at a law office. Other persons are only suggested if neither of the above are available. The Swedish Migration Board has stressed that the system does not exclude those other than lawyers and legal associates from being appointed, and that the person appointing a counsel is not bound to use the person that the system suggests. However, JO can draw no conclusion other than that persons who are not lawyers or legal associates are at a disadvantage since the IT support system suggests them in the second instance, regardless of whether or not they are suitable. In JO's opinion, it is not acceptable that persons satisfying the suitability requirements are regularly selected in the second instance. There is no objective reason for an IT support system with a ranking order that suggests one person to a lesser extent than a lawyer or legal associate. Nor is there any legislation that gives scope for a systematic ranking of suitable persons. There are of course circumstances where a specific counsel may be more or less suitable for a specific case; this is another matter. An assessment of suitability must be conducted for each individual case.

Criticism of the Swedish Migration Agency for making an unfounded decision regarding an asylum seeker's age before a decision was made in the asylum case (6942-2013)

On 7 May 2013, H.S. applied for asylum in Sweden. He had no identity documents but stated that he was 16 years old. H.S. had previously applied for asylum in Austria. Upon request from the Swedish Migration Agency, Austria agreed to resume responsibility for the assessment of H.S.'s asylum application, in accordance with the Dublin Regulation. Austria's acceptance was valid until 5 December 2013. On 3 December 2013, during its processing of the case, the Swedish Migration Agency decided that H.S. would be considered as an adult, which, at the time, was a precondition for transferring the case. However, no transfer was completed since the time limit expired on 5 December 2013. JO has previously stated that the point of departure

in an assessment of whether an applicant is to be considered as an adult or a minor should be that such an assessment should be conducted in conjunction with a decision being made in the asylum case. Up to this point, the age stated by the applicant at the time of application should be accepted, unless it is clearly evident that the information is incorrect. In the decision, JO states that this principle is also to apply when dealing with a transfer in accordance with the Dublin Regulation. The age stated by the asylum seeker when applying must normally be accepted up until such a time that the Swedish Migration Agency makes a decision regarding a transfer, or another final decision in the case. The Swedish Migration Agency is criticised for having considered H.S.'s age before making a final decision in the case, and for making this assessment in the form of a non-appealable decision, which had direct legal consequences for H.S.

Serious criticism of the Swedish Migration Board for insufficient instructions to the police authority in an enforcement case (5329-2013)

Subsequent to the Swedish Migration Board deciding to deport an asylum seeker to Jordan, the case was handed over to a police authority for enforcement. The police authority has, on two occasions, informed the Migration Agency that it is not possible to enforce this decision. The Migration Agency is being criticised for not having provided clear instructions regarding the action the police authority was to take in order to enforce the decision. This has resulted in the enforcement processes becoming very protracted.

Social services

Social Services Act

Criticism of Kungsör Municipality's social welfare services for visiting a woman's workplace during their preliminary assessment of a report of concerns regarding her child (3986-2013)

Within the scope of a preliminary assessment of an anonymous report of concerns regarding a seven-year-old girl, Social Services went to the home of the child's guardian (her mother) to talk to her and to see the girl. Since no-one was at home, they instead went to see the mother at her place of work where the social workers gave her an account of the report and made arrangements with the mother for a home visit later that day. In accordance with a recommendation

from the Police, all these visits were conducted in the company of police officers. JO agrees with the social welfare services that they had grounds to contact the mother during the preliminary assessment. However, such contact must occur while respecting the integrity of the individual. The social welfare services are criticised for, as a first contact measure, going to the mother's home unannounced in the company of uniformed police officers. They are also criticised for approaching the mother at her place of work. Such an extraordinary measure should not even be considered within the scope of a preliminary assessment. The visit, which was unannounced and took place in the company of uniformed police officers, was a clear violation of the mother's integrity. JO adds that the scope for such a visit must be considered highly limited, even during an ongoing child welfare investigation.

Serious criticism of Farsta District Board in the City of Stockholm for several failings in its handling of a case involving a child (519-2013)

Farsta District Board initiated what is known as a childcare investigation subsequent to a mother having applied for support for her 14-year-old daughter. In the investigation the girl's problems were described in a relatively large amount of detail and the investigator assessed the girl to be in need of support and assistance. While the investigation was being carried out, the family moved to another municipality. One month later, the district board concluded the investigation without proposing any interventions and without making contact with the municipality to which the family had moved. The social welfare board's obligation to conduct a childcare investigation is one of the board's most important duties. According to Chapter 11, Section 4 of the Social Services Act, the board is obliged to complete such an investigation and decide over the case, even when the child has moved to another municipality. This provision is to ensure that the child does not "fall into the cracks" when moving during an investigation. The new municipality is obliged to assist with the investigation when requested to do so. Under certain conditions, an ongoing case can also be transferred to the new municipality. In this case, Farsta District Board failed in its investigatory obligation by concluding the investigation concerning the girl without setting out which interventions she was in need of and without making any contact with the new municipality. According to the JO, this gives the impression that the district board was more interested in

the chance of “getting rid of the problem” when the girl moved than its obligation to ensure that the investigation it had begun was completed. The district board is seriously criticised for how it handled this case.

Criticism of the Social Services Department in Håbo Municipality for an unannounced home visit to a parent in connection with the other parent collecting a child they have together (4076-2013)

During a childcare investigation concerning a one-year-old girl, two case workers from the Social Services Department made an unannounced home visit to the girl’s father. The visit was conducted together with the child’s mother and maternal grandmother in conjunction with the mother collecting the child after a visitation. The purpose of the visit was to observe both the handing over of the girl and the girl’s “state and situation at the father’s home by reason of expressed concern”. Representatives of the public must observe objectivity and impartiality in their official activities. A home visit conducted to clarify the situation of a child, and whether an intervention by the authority is necessary, involves such an exercise of public authority that it is usually inappropriate for a party other than the authority’s representatives to participate in the visit. In this incident, the case workers found themselves in a situation where the father obviously perceived the case workers involvement as siding with the mother. This is unacceptable. The Social Services Department is reprimanded for its actions.

Criticism against the Individual and Family Care Committee in the Municipality of Kungsbacka due to a parent not being offered the chance to participate in a child welfare investigation (2653-2013)

Following a report due to concern from a four-year-old girl’s preschool, the social services decided both to initiate a child welfare investigation and to file a police report which concerned suspicions that the girl’s father acted violently towards his daughter when she was staying with him. At that time, the girl had, at least periodically, been living alternately with both parents since they had joint custody of her. The father was arrested and put into custody, but was released several weeks later. The child welfare investigation was conducted and concluded without a personal interview with the father. He complained to JO because, amongst other reasons, he did not have the chance to speak during the investigation. JO maintains that,

when an investigation involves a child’s situation in a parent’s home, the committee will obtain information from the parent as a matter of course. Admittedly, the committee cannot force anyone to take part in the investigation. On the other hand, it is important that the committee makes it clear to the parent that it is important that he or she contributes information to the investigation. In JO’s opinion, the committee cannot be satisfied with just making one single attempt to make contact; this is something that the committee should be doing continuously whilst the investigation is in progress. Several of the measures that the social services’ investigators state were taken during the investigation in question are not documented in the journal notes. This has led to the committee having difficulties in reporting their processing of the case. Based on that stated by the committee, JO notes however that on no occasion was the father summoned in writing to a meeting with the investigators; nor did the investigators in any other way clearly offer him a chance to meet with them. Admittedly it has been said that the father became aware of certain documents and information during the investigation, and that he did not state any views nor make any objections. The results of the completed investigation were also communicated without him stating any particular views. Even if he was given the opportunity to have his say, JO believes that the investigators should also have called him in for an interview or, in some other way, offered him a chance to participate in the investigation. All in all, there have been serious shortcomings in the processing of this child welfare investigation. The committee is criticised for the shortcomings cited above.

Criticism of the Social Welfare Board in Säter Municipality, which decided to rehouse 16-year-old unaccompanied minors, without the views of the minors having been heard in the case (4860-2013)

Five unaccompanied minors were placed voluntarily in a children’s home. There was a turbulent situation at the home during the summer of 2013 and the social welfare service decided to find new accommodation for the minors, who were 16 years old at the time. The social welfare service was in discussion about the relocation with the minors’ custodians, who were appointed to represent the minors in place of their legal guardians. The custodians were then informed about the planned move. In cases administered in accordance with the provisions of the Social Services Act, a minor who has reached the age

of 15 has the right to plead their own case. The minor then also becomes party to the case. Consequently, the custodian no longer solely represents the unaccompanied minor. Accordingly, the social welfare service should also have spoken to the minors before making its decision in order to establish whether they consented to being rehoused. The Social Welfare Board is being criticised for having ignored the basic provisions of the Social Services Act concerning how cases involving minors who have reached the age of 15 are to be administered.

Report against the social services administration in the Municipality of Hultsfred regarding the processing of a case concerning social assistance; issue concerning the acquisition of information from the Internet (2611-2013)

In a case concerned with social assistance, the case worker acquired certain information regarding the aid applicant from the Internet. In JO's opinion, there are no formal obstacles to prevent the social services, within the scope of their investigating claims for social assistance, from acquiring from the Internet public, i.e., publicly accessible, information regarding aids applicants. Nor does JO see any formal obstacles to this happening without the applicant's consent. However, even if no consent is required, the social services should inform applicants that they may acquire or check information via the Internet. The fundamental principles that apply to the activities of the social services are also to be observed in the acquisition of information from the Internet. The starting point is therefore that the investigation is to be conducted in consultation with the individual in question. Furthermore, the investigation is to be conducted with respect for the individual's right of self-determination and their integrity. In the light of this, the social services should not, in JO's opinion, devote themselves generally, and as a matter of routine to searching for information about an individual aid applicant. The Internet should only come into the equation when, for example, it becomes necessary for some reason to check a piece of information that the individual has submitted. In other words, there should be a definite reason for the searching to take place. The information that is added to the case should, like all other information acquired, be relevant to the processing of the case. It is to be documented and communicated to the applicant before a decision is made in the case.

Furthermore, JO pronounces that the social services may not acquire or attempt to acquire information from the Internet that is not in the public domain, i.e., information that is not available to everyone. And of course, nor may case workers or other officials use private Facebook accounts or the like in their professional capacity for the acquisition of information. The more specific circumstances concerned with the acquisition of information in the case in question are unclear. JO has not, however, investigated the matter further as it has primarily concentrated on the principal issue of the Social Welfare Board's right to acquire information from the Internet. JO therefore directs no criticism at the social services administration in respect of the information that was acquired in the case in question.

Complaint against the social services in Oxelösund municipality regarding a conflict of interest in a matter of the use of social media (4436-2014)

Authorities must observe objectivity and impartiality in their activities (Chapter 1, Section 9 of the Instrument of Government). A conflict of interest is said to exist if there are special circumstances which are likely to undermine confidence in the impartiality of a party administering a given case within the social services. In the case in question, the investigation has not found evidence that the social services' administrator was Facebook friends with the mother of two children during the time she was dealing with investigations into the welfare of the children. The fact that they were friends on Facebook in connection with the administrator later making a minor intervention does not give cause for JO to direct criticism. JO adds: One fundamental point is that requirements for independence and impartiality must be fulfilled with a certain margin. Social services cases concerning children involve the exercise of authority in an intervening and sensitive manner against individuals. It is therefore important for social services to maintain trust among involved parties and endeavour to fulfil the requirements of objectivity and impartiality with a good margin. This means that it may be inappropriate for an official to participate in the administration of a case where there are circumstances which can affect confidence in the official's impartiality, even if the circumstances are not of such a magnitude that they would constitute a conflict of interest. According to JO, it seems inappro-

appropriate that a person who is Facebook friends or similar with one of the parties involved in an ongoing investigation should take part in the administration.

Criticism of the Social Welfare Board in Sollentuna Municipality for the design of a rental contract (4930-2012)

A rental contract signed between the Social Welfare Board in Sollentuna Municipality and a person approved for housing support in short-term housing within the Municipality includes clauses which, among other things, allow the staff to search the person's room and, if they suspect that a crime has been committed, summon the police. The Parliamentary Ombudsman, who questions the design of the contract on several points, finds that the Board appears to have failed to take into consideration the Instrument of Government's provisions regarding protection against searching of premises, the Rental Act or the rules regarding secrecy between government agencies. The Parliamentary Ombudsman assumes that the Board reviews the contract and adjusts it to be in line with existing regulations.

Complaint against the Social Services Department in Piteå Municipality regarding inadequate communication in a case concerning a repayment claim for financial assistance; the issue in the case has involved the exercise of authority (2988-2013)

After a woman had been granted income support, the Social Services Department received information from the unemployment insurance fund that she had received a higher compensation from the fund than that which had been stated in the application. In light of this information, the Social Welfare Board decided to claim repayment of part of the income support. The decision was made without the woman having been given the opportunity to provide a statement regarding this information. The Social Welfare Board's decision on claiming repayment of financial assistance is not the exercise of authority. There has therefore been no obligation under the Administrative Procedure Act to inform the woman about the information received from the unemployment insurance fund prior to the decision being made. Although the reclaim decision was not binding, it did concern a measure that is considered to be of significant importance to this individual. The Social Services Department should therefore have informed her about the information from

the unemployment insurance fund prior to the reclaim decision being made.

Care of Young Persons (Special Provisions) Act

Criticism of the Swedish National Board of Institutional Care for delays in providing placement in a special youth home (3359-2014)

A report to the Parliamentary Ombudsmen included a complaint that the National Board of Institutional Care (SiS) in a specific case in early May 2014 offered emergency placement at a special youth home two days after the Social Welfare Board had submitted a request for placement. SiS explained that the reason for the delay was the lack of open spots in the youth homes. According to SiS, they had since late 2013 had trouble providing immediate emergency housing, but they had intensified the work with solving the problems in mid May and the queue for emergency placement was eliminated by June 2014. According to the Parliamentary Ombudsman, the bottom line in an emergency is that SiS should provide placement more or less immediately. However, there can be situations when a certain delay is inevitable, for example after a fire or another unforeseen incident which requires the placement of a number of persons. However, the fact that SiS was unable to provide emergency placement until two days later in this case was due to problems of a completely different nature. Therefore, SiS cannot escape criticism for the delay.

Criticism of the Swedish National Board of Institutional Care (SiS) for delays in providing placement in special youth homes (260-2015)

In a decision from September 2014, JO criticised the Swedish National Board of Institutional Care (SiS) for delays in providing an emergency placement in a special youth home. In the beginning of 2015, JO received new complaints against SiS concerning the issue of a shortage of placement options during the immediate forced custody of young people and abusers. JO decided to re-investigate the issue and requested a statement from SiS. The investigation shows that there is still a shortage of places in the so-called SiS homes. Although SiS has been working intensively and has taken several measures to meet the municipalities' growing demand, the authority has not been able to successfully meet the need. SiS has stated that the main reason for the increasing demand for places is the increase

in the number of unaccompanied minors. The issue that SiS has brought up raises general questions about the situation of unaccompanied minors and their custody and care. However, these questions lie outside the parameters of this matter. In its decision, JO states that it is a point of concern that the situation has been strained for so long and that, in some cases, it has taken as long as six days before SiS could provide a placement. SiS has been criticised for the delays. JO further states that it may have serious consequences for those in need of care if their immediate care needs are not being met. It raises questions about what the municipality can do whilst waiting for a place to become available. According to JO, the Social Welfare Board must not remain passive in the meantime. The Board should, in consultation with the individual, attempt to find a solution, for example, through a temporary placement in an “HVB home” (Home for Support or Living). JO is aware that in many cases it is not possible to resolve the matter in this way and that there is no simple answer to these questions. JO is continuing to monitor the issue of the placement situation at the SiS homes and requests that SiS submits a report by 15 January 2016 outlining the additional measures that have been taken. A copy of the decision is being sent to the Ministry of Health and Social Affairs for information purposes.

Serious criticism of the Social Welfare Board in Vänersborg Municipality for failings including having “enforced” a court ruling on custody by immediately taking a child into care pursuant to the Care of Young Persons Act (4983-2013)

Following the District Court’s ruling that a father would have sole custody of his 13-year-old son, the father applied for help from the social services to move the boy from the mother to him. After the failure of a few attempts, the Social Welfare Board decided to immediately take the boy into care pursuant to Section 6 of the Care of Young Persons Act and requested the assistance of the police to enforce the move. The Care of Young Persons Act is a piece of protective legislation that aims to ensure that children and young people, under certain specific circumstances, receive the help and support they need when this cannot take place with the consent of those concerned. Decisions regarding care, pursuant to the Care of Young Persons Act may not be made in order to fulfil any purpose other than those listed in the Act. The JO directs its serious criticism at the Social Welfare Board because it has, on the one hand, attempted to

help one parent “enforce” the custody ruling behind the back of the other parent and, on the other hand, because it decided to immediately take the child into care pursuant to the Care of Young Persons Act instead of referring the child’s guardian to apply for enforcement of the custody ruling in accordance with the specific regulations pertaining to this in Chapter 21 of the Children and Parents Code. The JO is also making some pronouncements concerning enforcement such as this, but is not directing any criticism at the Board in this respect.

Some criticism of the Committee for the Labour Market and Adult Learning in the municipality of Borlänge for its processing of a transfer in accordance with the Compulsory Care of Young Persons Act (LVU) (224-2013)

Two children who were taken into care in accordance with the LVU were to be transferred from an emergency foster home to a family home. In order to facilitate a good, safe transition for the children, the Committee deemed a period of acclimatisation to be necessary. The children therefore stayed in the new family home for several days before the decision to transfer them was made. During the whole acclimatisation period, the foster home parents had daily contact with the family home. Not every temporary stay outside of a family home needs to be preceded by a placement decision made by the Committee. Even if the intention of the stay in the new family home was that it would precede a permanent placement there, the children are in this case considered to have stayed in the emergency foster home during the period of acclimatisation, as it was only a short period. The Parliamentary Ombudsman therefore does not criticise the period of acclimatisation. On the other hand, the Committee cannot avoid criticism for the fact that the decision to transfer the children was made by the chair of the Committee. The right of the chair to make decisions is intended to be used in emergency situations. Here, however, it was the matter of a transfer that had been planned and arranged for some time. The question should therefore have been taken up instead by the Committee in its entirety.

Family law

Criticism of an administrator at the Social Welfare Board in Luleå Municipality for actions in contravention of Chapter 1, Section 9 of the Instrument of Government (48-2013)

Those representing the public shall, in accor-

dance with Chapter 1, Section 9 of the Instrument of Government, observe objectivity and impartiality. This includes acting in a way which means that their impartiality cannot reasonably be questioned. This does not merely concern how a matter has been administered. It also matters how the actions have been perceived. The Parliamentary Ombudsman has found a number of shortcomings in the handling of a custody investigation for which a Family Law Officer at the Luleå Social Welfare Board has been responsible. The shortcomings have mainly consisted of information that could be detrimental to the mother having been omitted, the father's request for information having been handled unprofessionally and the fact that the administrator has drawn up an official letter upon request of the mother, which can be seen as her speaking in favour of the mother. In its decision, the Parliamentary Ombudsman states that, in an overall assessment, the shortcomings are enough to reasonably question the administrator's impartiality. The administrator is criticised for not adhering to the provisions of Chapter 1, Section 9 of the Instrument of Government.

Criticism of Örnsköldsvik Municipality's social welfare services for the manner in which cooperation talks conducted by them have been reported to the District Court (4353-2013)

The Humanities Committee in Örnsköldsvik had been assigned by the District Court to arrange cooperation talks between two parents. The results of such talks are to be reported to the Court. The report must clearly show whether the parents have entered into any agreements, or whether the talks no longer serve any purpose. However, since anything stated during such talks is covered by secrecy, the contents of the talks must not be reported. The social welfare services are reprimanded for including an account of the contents of the talks in their report, along with the family law office's assessment of the parents' ability to safeguard the best interests of the children, without such an account being requested by the Court.

Criticism of the Social Welfare Board in Gävle Municipality for the formulation of a letter in a paternity case (342-2013)

In a paternity case, a man, who according to the mother could be the child's father, received a letter which could give the impression that the man was summoned to the Family Law Office to submit a DNA sample. The letter did not include

the fact that the sample was voluntary. The letter, which was very short, was completely misleading in this respect. The Social Welfare Board is criticised for its formulation of the letter.

Support and service for persons with certain functional impairments

Criticism of the Social Welfare Board in Jokkmokk Municipality for the handling of a matter in accordance with the Act (1993:387) concerning Support and Service for Persons with Certain Functional Impairments, LSS (3956-2013)

In February 2013, a woman applied for personal assistance in accordance with LSS from the Social Welfare Board and the Swedish Social Insurance Agency [Försäkringskassan]. The Board took some investigative action in connection with receiving the application. After a visit to the woman's home in April 2013, the matter was left untouched until late August the same year without any active investigative measures being taken, as the Board was awaiting a decision by the Social Insurance Agency. The Board made its decision in December 2013. The Parliamentary Ombudsman also finds that the Municipality has the ultimate responsibility for ensuring that all persons covered by LSS also have their needs met. The fact that the woman had also applied for personal assistance from the Social Insurance Agency did not mean that the Board could wait on processing her application. The Board is criticised for the long processing time.

Criticism of the Social Welfare Board in Emmaboda Municipality for having declined its responsibility as assistance provider without having the legal grounds to do so (785-2014)

A woman in Emmaboda had been granted personal assistance benefits in accordance with the Social Insurance Code. The Social Welfare Board in Emmaboda Municipality had undertaken the responsibility of being her assistance provider. After a while the Board terminated the woman's agreement. The matter in question is whether the Board had legal grounds to decline its responsibility as assistance provider in this way. The decision notes that, if the individual does not wish to organise their own personal assistance, the municipality is obligated to provide or outsource assistance, in consultation with the individual and, where appropriate, to impose a charge corresponding to the monetary sum that the individual is able to obtain in personal assistance benefits in accordance with Chapter 51 of the Social Insurance Code. JO furthermore points out that the individual's right to ask the

municipality to arrange personal assistance is based on provisions set out in the Act concerning Support and Service for Persons with Certain Functional Impairments (LSS) – provisions which a municipality cannot agree on in the same way as a private party. In accordance with LSS, it is ultimately the responsibility of the municipality to organise personal assistance for individuals who have been granted such measures. A municipality cannot decline this responsibility. Consequently, the Social Welfare Board in Emmaboda Municipality did not have grounds to decline its responsibility to provide personal assistance for the woman in question, and the Board is therefore criticised.

Health and medical care

Severe criticism to the Norra Stockholm psychiatric clinic at S:t Görans Hospital, Stockholm County Council, for treating a patient taken into care in accordance with the Compulsory Mental Care Act with ECT procedures outside of the county's facilities (3953-2013)

Care in accordance with LPT is to be provided within a care facility operated by a county council (Section 15 of LPT). A patient being cared for pursuant to LPT at the Norra Stockholm psychiatric clinic at S:t Görans Hospital was given electroconvulsive therapy (ECT) at the Capiro clinic at the same hospital, as part of their compulsory care. JO issues severe criticism regarding these ECT treatments being conducted, in violation of the provisions in LPT, at a care facility not operated by the county council.

Case initiated by JO. The Regional Clinic of Forensic Psychiatry in Sundsvall, Västernorrland County Council, is criticised for the formulation of decisions regarding restraints and isolation (6615-2012)

During an inspection of the Regional Clinic of Forensic Psychiatry in Sundsvall, JO noted that the clinic had made decisions for the restraint and isolation of patients to “last for a maximum of 72 hours”. Coercive measures are to be implemented as carefully as possible, and with the greatest possible consideration for the patient, to ensure that their integrity is not violated unnecessarily. During the period when the coercive measures are deemed to be necessary, they are to be increased or relaxed as the need changes in the individual case. There is therefore no predecided maximum period at the initiation of a coercive measure. In conclusion, JO makes the assessment that decisions regarding restraints

and isolation are not to be formulated in this way. The clinic is reprimanded for its formulation of these decisions.

Criticism of the Forensic Psychiatry Clinic in Örebro, Örebro County Council, regarding the clinic's general regulations regarding computer and TV games (1170-2012)

At an inspection of the Forensic Psychiatry Clinic in Örebro it emerged that the clinic had decided on general regulations that meant that the patients were not allowed certain types of computer or TV games. The Parliamentary Ombudsman decided to investigate whether there is legal support for such rules. The Senior Consultant can decide on the general regulations to be adopted for local procedures. However, the rules may not restrict the freedom or rights of the patients in a manner that contravenes the law. In the opinion of the Parliamentary Ombudsman, games that can be played on a computer or a TV are covered by the freedom of information decreed in Chapter 2, Section 1 of the Instrument of Government. Legal grounds are required if this freedom is to be restricted. There are, however, no legal grounds for generally restricting the right of the patients to possess items such as those in question, and the Clinic is criticised for its regulations. Furthermore, the Parliamentary Ombudsman considers that it is not self-evident that a computer or video game with a certain content can, following assessment on a case-by-case basis, be confiscated by virtue of Section 21 of the Compulsory Mental Care Act (1991:1128) (LPT). There may be reason to review this legislation, and a copy of the decision has therefore been sent to the Ministry of Health and Social Affairs for information.

Serious criticism of Västra Götaland Region's Commissioned Primary Healthcare Board due to a decision to close an antenatal unit which contravened the Board's delegation of authority (2123-2013)

The Commissioned Primary Healthcare Board in Västra Götaland Region is a board in the sense implied by the Local Government Act (1991:900). According to the Board's own delegation of authority, it is the Board as such that is to decide on the closure of “service facilities”. Despite this, one such facility (an antenatal unit in Ljungskile) was closed down following a non-standard decision made at official level. A consequence of this was that when the time came to close the unit, there was no decision against which municipal members could ap-

peal, in accordance with the rules of the Local Government Act in respect of the assessment of legality. The Parliamentary Ombudsman seriously criticises the Board's procedures.

Serious criticism of the Health and Social Care Inspectorate (IVO) for, inter alia, flawed justifications concerning two decisions in an oversight case (5211-2013)

In a complaint submitted to IVO, a patient complained about the level of care and personal treatment she received from a dentist. IVO initiated an investigation and subjected the dentist to criticism in two decisions. The dentist reported IVO to JO and submitted a complaint regarding IVO's processing and decisions in the oversight case. In a statement to JO, IVO admitted to the decisions being flawed, that they do not provide an accurate picture of the case and that they do not reflect the intended meaning. Decisions in oversight cases must be thorough and objective. The language must be clear, simple and comprehensible. It should not create any uncertainty in the reader regarding the circumstances on which the assessment is based, and it must be clear how IVO has reasoned – regardless of whether or not a decision results in criticism. The decisions in the case in question have several flaws in these respects. As a result, IVO has received serious criticism.

Criticism of Stockholm County Council's health-care services for their processing of applications regarding the transfer of activities from physiotherapists with partnership agreements in accordance with the (current) Physiotherapy Act (1993:1652) (681-2013)

A private health care provider can get public funding for its activities by entering into a partnership agreement with the county council in accordance with the provisions of the "compensation legislation", i.e. the Medical Care (Compensation) Act (1993:1651) and the Physiotherapy (Compensation) Act (1993:1652). From a legal point of view, a partnership agreement is a contract between the county council and the care provider and is not to be considered a decision made under public law. If the location of the activities has been regulated in the partnership agreement, any wish expressed by the care provider to move the activities will be considered a regular contractual matter to be negotiated by the parties concerned. The healthcare services have processed applications for the relocation of activities covered by partnership agreements in a manner that has given

the impression that their attitude to such an application is based on a decision made under public law. JO is critical of the County Council's processing of these applications.

Complaint against the Health and Social Care Inspectorate (IVO) regarding conflict of interest on the grounds of Facebook contacts, etc. (2772-2014)

In a complaint to JO, a conflict of interest is claimed in the case an inspector at IVO administering a supervision assignment related to health and medical services. Authorities must observe objectivity and impartiality in their activities (Chapter 1, Section 9 of the Instrument of Government). A conflict of interest is said to exist if there are special circumstances which are likely to undermine confidence in the impartiality of a party administering a given case. JO's assessment is that the fact that the inspector was the superior of one of the reported persons during the 1990s and early 2000s – and the fact that they continued to have sporadic work-related contact and limited contact via Facebook thereafter – has not constituted a conflict of interest on the part of the inspector in administering the supervision assignment. JO adds: one fundamental point is that requirements for independence and impartiality must be fulfilled with a certain margin. It may therefore be appropriate, where practicable – and especially where activities such as supervision are concerned – for an officer that uncovers circumstances which may affect confidence in his or her impartiality in a case to transfer said case to a colleague, even if the circumstances are not of such a magnitude that they would constitute a conflict of interest.

Social insurance

Försäkringskassan has received support for its action to request certain investigative material in a case concerning assistance compensation but is criticised for the investigation taking so long (5162-2013)

In the decision it is noted that Försäkringskassan is responsible for leading the investigation and deciding which investigative data is required in order for the Agency to adopt a standpoint in a case. In the case in question, Försäkringskassan had obtained a large amount of journal notes, some of which came from a child and adolescent psychiatry unit. Such an action is covered by the Agency's investigative authority by virtue of Chapter 110, Section 14 of the Social Insurance Code. Regarding the com-

plainant's objection that the material acquired contained sensitive information, and that she had not consented to the procurement of this, the Parliamentary Ombudsman responded as follows. It is the authority in possession of the information requested, in this case, the health and medical services, that, in the event of a request from another authority, must take a view as to whether the information in question is confidential and, if so, whether it should be passed on nonetheless due to e.g., the individual concerned giving their consent. Furthermore, the Parliamentary Ombudsman stated that it is not obvious who should obtain the consent where required, and that the starting point should be that the health and medical services examine all grounds for issuing or not issuing the information and, accordingly, handle the task of obtaining consent. Försäkringskassan is therefore criticised, not for the actual investigative measures they took, but for the fact that the investigation has taken so long.

Försäkringskassan's processing times in cases with a foreign connection (5502-2013)

Försäkringskassan's processing times in cases with a foreign connection are often unreasonably long. This is largely due to the difficulties that the Agency has in obtaining the necessary material from the relevant overseas authorities. To draw attention to these problems and to provoke thoughts regarding a possible solution, the Parliamentary Ombudsman initiated this enquiry. Following a description of the relevant regulations and the measures taken, it is noted in the decision that there is great awareness of these problems at the Agency. The Agency has reviewed its internal procedures and made the Government aware of major issues. Even if the opportunities for Försäkringskassan to further influence the situation are limited, the Parliamentary Ombudsman still considers that it is possible, whilst awaiting the construction of an extended IT system, to bring about several improvements with relatively small resources, such as continuing with the overhaul of reminder times and monitoring systems.

Försäkringskassan is criticised for denying a legal representative access to information from their client's case, citing that the client had an administrator (6231-2013)

A lawyer, in his capacity as legal representative, had requested information regarding their client's case from Försäkringskassan, but he was denied access despite the fact that he

held a power of attorney. Försäkringskassan was of the understanding that since the client, the insured, had an administrator, then their consent had to be obtained before information could be handed out. In its decision, JO notes that persons who have an administrator retain their full legal competence and that they have the opportunity themselves to undertake legal transactions, such as, for example, entering into agreements or establishing powers of attorney – even within those areas where an administrator has been appointed. The fact that A.M. had an administrator is therefore of no significance, and Försäkringskassan should therefore have handled the legal representative's request in the same way as if the request had been made by the insured party themselves. Försäkringskassan is criticised for its incorrect and slow handling of the legal representative's request.

Criticism of the Swedish Pensions Agency for its handling of a request for re-examination (3491-2014)

In a report received by JO, complaints were directed at the Swedish Pensions Agency due to its handling of a request for re-examination of a decision made in a case concerning housing supplements. When the case in question was examined, it emerged that the Agency had not applied the amending rules found in Chapter 113, Section 3 of the Social Insurance Code. For this reason, JO pronounces in its decision that the Swedish Pensions Agency should, on its own initiative, determine whether the conditions exist for amending a decision by virtue of Chapter 113, Section 3 of the Social Insurance Code prior to a reexamination, and that such a review should be conducted regularly in cases where the two month time limit that applies for re-examination has expired – before the cases are rejected. The journal notes should also state that a review has been conducted. The Swedish Pensions Agency is criticised for its deficient handling of the request for re-examination.

The Swedish Pensions Agency is criticised for a lack of justification for a decision in respect of housing supplements (1900-2014)

The Swedish Pensions Agency had requested supplementary information in a case concerning housing supplements and subsequently sent a reminder that the information was missing. Since the deadline for providing supplementary information had expired, the Agency decided to reject the application. The following justification was given for the decision: "You have not

submitted the information that the Swedish Pensions Agency requested from you within the allotted time. Your application will therefore be rejected.” After having requested re-examination and having received a decision regarding which information was missing, the individual’s legal representative requested an extension to 25 April 2014. An extension was granted to 8 April 2014. JO has no objections to the Swedish Pensions Agency’s examination of the case per se, but points out that the justification was not correct since the actual ground for the rejection was that there was insufficient data with which to substantiate the right to housing supplements. Furthermore, the justification should cite the provisions that the Agency has applied. No such reference was included in the decision in question. JO criticises the Swedish Pensions Agency for its incorrect justification. As far as the re-examination is concerned, JO feels that the Agency could have been more generous in its granting of the requested extension. Furthermore, regarding the re-examination, it has emerged that over a month passed before the Agency started processing the case. JO criticises the Agency’s initial passiveness.

Environmental protection, public health as well animal welfare

Criticism of the Environmental Committee in Central Bohuslän for its failure to report a suspected breach of the Environmental Code (1806-2014)

According to Chapter 26, Section 2 of the Environmental Code, a supervising authority is obligated to report any violations of the Code’s provisions to the Police or Public Prosecution Authority if illegal activities are suspected. The Environmental Committee is reprimanded for failing to report the fact that, for a period of time, mussel cultivation was being conducted on a protected shoreline without an exemption from the law on shoreline protection.

Criticism of the County Administrative Board in Uppsala County by reason of the processing of an animal welfare case (1584-2014)

In a case concerning the immediate forced custody of animals under the Swedish Animal Welfare Act, the County Administrative Board has implemented a process with a preliminary decision that is not supported by the Act. The County Administrative Board has been criticised for this, for not immediately informing the animal owner about the decision itself, and for

not having provided him with any information about how he could appeal the decision.

Planning and building

Criticism of the Social Building Board [Samhällsbyggarnämnden] in Jokkmokk Municipality regarding the processing time for an application for a building permit in accordance with the Planning and Building Act (2010:900) (5738-2013)

Chapter 9, Section 27 of the Planning and Building Act (2010:900) has provisions regarding the time limits for processing matters regarding building permits and preliminary decisions. These time limits cannot be exceeded, not even if the applicant agrees to it.

Serious criticism of the Municipality of Ödeshög’s Environmental and Building Committee for its handling of an application for planning permission in accordance with the Planning and Building Act (1987:10) (2212-2013)

The manner in which the Environmental and Building Committee handled an application for planning permission for a wind power station cannot be perceived as anything other than pure obstruction. The Committee is therefore severely reprimanded.

Severe criticism of Nynäshamn Municipality’s Environmental and Community Planning Committee for its handling of a case relating to an intervention in accordance with the Planning and Building Act (6596-2013)

In 2004, a property owner filed a report in accordance with the Planning and Building Act. Not until 2012, following several reminders, did the Committee actually start processing the matter. Instead of considering questions of consequences and interventions, the Committee handed the case over to a mediator and then noted the case as being closed. The Committee is therefore severely criticised.

Criticism of the Building Committee in Munkedal Municipality for its handling of a case regarding a preliminary decision in accordance with the Planning and Building Act, etc. (2675-2014)

The JO decision reprimands the Building Committee for not providing information, in accordance with Chapter 9, Section 27 of the Planning and Building Act, stating that the processing time of a case regarding a preliminary decision had been extended. The Committee is also reprimanded for having notified the applicant that the period of appeal was extended despite such a decision not being possible to

make, and for otherwise having given the applicant the impression that he had received a respite for filing an appeal. In addition to this, the decision contains statements about how the building committees should apply the rules regarding proof of receipt in Chapter 9, Section 27 of the Planning and Building Act.

Criticism of the Environmental and Building Committee in Salem Municipality for the formulation of a condition in a preliminary decision according to the earlier Planning and Building Act (6167-2013)

The Building Committee can issue a preliminary decision regarding planning permission. In the preliminary decision, the Committee can establish the conditions required. In a preliminary decision, a Building Committee had stated that “one condition for the decision is that an agreement is concluded and adhered to regarding the establishment of a neighbourhood street for providing access to the properties stated in the agreement”. JO’s decision notes that the meaning of the preliminary decision became unclear as a result of this condition. In fact, the preliminary decision can be interpreted as permission having being refused under the conditions that prevailed when the Committee issued the preliminary decision. In any event, the condition meant that the content of the preliminary decision was thinned out to such a degree that the decision can be considered to have lost its permission-qualifying status. The Committee is therefore reprimanded.

Education and research

Criticism of the chairman of the Child and Education Board in Nordmaling Municipality for how a correction of a decision in confirmed board minutes has been done (581-2013)

A decision by the Child and Education Board in Nordmaling Municipality was, due to an oversight, only partially recorded in the minutes of the meeting. This was not noticed when the minutes were confirmed. The Board’s chairman and secretary later decided, in accordance with Section 26 of the Administrative Procedure Act, to correct (i.e. in this case to supplement) the decision in the minutes so that the wording corresponded with what the Board had decided. The correction was done by having a “new” page replace the page with the decision in question. The new page did not include any notice about the correction. According to the Parliamentary Ombudsman, documents (such as minutes)

which contain a corrected decision must make it clear that a correction has been made, and what the correction was. The Board’s chairman is criticised for not having the corrected minutes include information that a correction had been made and what information had been added.

Criticism of the chairman and one other member of the Child and Education Board in Ljungby Municipality for confirming the minutes of a board meeting despite a decision item having been reworded (3339-2013)

During a meeting of the Child and Education Board in Ljungby Municipality it was decided that the child care allowance for children under the age of three should be removed. Before the minutes of the meeting had been confirmed, it was noted that the matter of the child care allowance should actually be tried by the municipal council. When the minutes were approved, the item had been reworded as a recommendation from the Board to the municipal council to remove the child care allowance. The persons confirming the minutes of a board meeting shall check that the minutes are correct, i.e. that they reflect what was decided by the board, and confirm this with their signatures. The Parliamentary Ombudsman criticises the chairman and one other member of the board for in this case confirming the minutes despite knowing that the wording of the item in question did not correspond to what the Board had decided.

Criticism of a former head teacher at Kullen Primary School in the municipality of Piteå, due to the school having entered into an agreement regarding a father’s contact with his child at the school (1734-2013)

The school’s main task is to promote learning. School staff should not get involved in parental disputes, as far as is possible. It is not the school’s job to take action in issues that concern a child’s contact with a parent or other close relative, and the basic premise must be that such contact takes place outside of the school. At a meeting between a mother, who was a sole custodian of a child, and the school, represented by the head teacher among others, the school drew up a written agreement on matters including how the father’s visits to the school were to be organised. The mother signed the agreement and the father later verbally consented to it. The aim of the father’s visits was to meet the child, and the agreement was aimed at the question of how this contact should be organised. The agreement contained several wordings that gave

the impression that the school undertook to act in a certain way in connection with the contact sessions. The agreement led to the school being drawn into the parents' conflict over access to the child. The former head teacher is therefore criticised for drawing up the agreement.

Committees of chief guardians and chief guardians

Criticism of the Chief Guardian Committee in the Municipality of Lund for insufficient justification of a decision to discharge an administrator, etc. (4561-2014)

The Chief Guardian Committee is criticised for: 1) a decision to discharge an administrator not being justified in the manner prescribed by law; and 2) that an order given to the administrator was incomprehensible.

Criticism of the Chief Guardian Committee in the City of Västerås for insufficient justification of a decision to discharge an administrator (4248-2014)

The Chief Guardian Committee decided to discharge a person from his assignment as administrator. The decision was not justified in the manner described in Section 20 of the Administrative Procedure Act (1986:223) and the Committee is criticised for this.

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

Social services, health and medical services

Grave criticism of certain healthcare providers in the Västra Götaland region and Stockholm County Council for entering into a journal keeping agreement with a company despite this being in contravention of the regulations (3032-2011)

Healthcare providers in the Västra Götaland region and Stockholm County Council have entered into an agreement with a company regarding journal keeping for patients. According to the agreement, the company acts as a personal information assistant in relation to the healthcare provider (who is the controller). The agreement means that the healthcare provider allows medical secretaries employed by the company to remotely listen to recorded dictation and enter the information into the patient's journal. The processing is fully electronic and information is never stored outside of the County Council/

region's IT systems. According to Chapter 25, Section 1 of the Public Access and Secrecy Act (2009:400), OSL, a strict secrecy applies to protect information about patients in the public health and medical care system. The rules that govern the processing of personal information in the health and medical care system are not of direct importance for how the matter of secrecy shall be examined. The question of whether a healthcare provider can disclose confidential information to a personal information assistant or to persons employed by the assistant shall be tried in the usual way in accordance with OSL. The Parliamentary Ombudsman finds that the medical secretaries at the company are not covered by the OSL-related oath of secrecy that applies to the healthcare provider's own staff. The question of whether the information in the patients' journals can be made available to the medical secretaries is therefore mainly dependent on whether a disclosure can take place without injury to those protected by the secrecy. The medical secretaries entered into an agreement which includes an oath of secrecy in relation to their employer (i.e. the company). Furthermore, the regulations that govern the processing of personal information entail a form of secrecy for those processing the information. According to the Parliamentary Ombudsman, these "alternative" oaths of secrecy are not sufficient for the disclosure to be made without injury to those protected by the secrecy. When making this assessment, based on the fact that the information being processed in accordance with the agreements is highly sensitive, it has been taken into consideration that the healthcare provider's own staff can be sentenced for breaching the secrecy if confidential information is incorrectly disclosed, while this is not the case for medical secretaries employed by the company. A disclosure is also not supported by the secrecy-breaking provisions found in Chapter 10 of OSL or in laws or ordinances which OSL refers to. The Parliamentary Ombudsman's conclusion is that the healthcare providers do not have legal support for the way in which they have disclosed confidential patient information for journal keeping by the company's medical secretaries. The Parliamentary Ombudsman finds it remarkable that the healthcare providers have not shown greater consideration to the secrecy-related aspects when entering into the agreements. The healthcare providers receive grave criticism for entering into agreements entailing that the County Council/region disclose patient information for journal keeping

by a company's employees despite this not being compatible with the regulations concerning secrecy.

Grave criticism of the Child and Youth Psychiatric Department, BUP, in Sollentuna for the handling of a request for disclosure of a patient journal (6600-2013)

The parents of a girl who was being treated in accordance with the Care of Young Persons Act, LVU, requested a copy of the daughter's journal from BUP. BUP agreed with the social services that the journal should be given to the social services for assessment of which information could be given to the parents. It is the government agency which holds a public document that should examine a request for a copy of the document. BUP receives grave criticism for not evaluating the parents' request and instead giving the journal documents to another government agency for assessment.

Criticism of a doctor at Psykiatri Skåne, Region Skåne, for disclosing a parent's journal to a social welfare board to be used in the daughter's child care investigation (6772-2012)

There is in principle a prevailing secrecy between the healthcare services and social services. However, in ongoing child care investigations, the Social Welfare Board is entitled to information from the healthcare services that may be of importance to the Board's investigation. The government agency that discloses information shall make an assessment of the scope of its liability to disclose this information. A doctor at Psykiatri Skåne disclosed a parent's full patient journal to the social services. Even if the doctor perceived the Social Welfare Board's request to be a request for the full journal, he was obligated to assess what information could be disclosed. On disclosure, he stated a "condition" that the information could only be used in an investigation that concerned a child's welfare. However, such a condition cannot be established in relation to another government agency. The Parliamentary Ombudsman criticises the doctor for his handling of the case.

Criticism of the social welfare service in Krokom Municipality for the management of a request for anonymity in a report of concerns sent to the social services (4121-2013)

The authors of a letter sent to the social services about the home circumstances of two children, who had signed the letter with their names, stated in the letter that they wished to be anonymous. The social welfare service processed the

letter as a report of concerns about children. The letter was provided to the children's guardian as part of the process of dealing with the report. Because the authors had provided their names, they had revealed their own identities and could not thus have any control over the question of anonymity. The authority was obliged to conduct a confidentiality investigation before releasing this data. The JO have no evidence on which to base any criticism with respect to the issue of the deliberations the social welfare service made in this respect prior to the letter being released. According to the JO, however, the authorities' general service obligation pursuant to Section 4 of the Administrative Procedure Act means that the social welfare service should have informed the authors of the letter that they could not guarantee their anonymity, but would instead investigate and make a decision on this matter. The social welfare service cannot evade criticism of its failure to inform the authors of the report about this.

Criticism of a unit manager from the home-help service in Österåker Municipality for having expressed themselves in a way that was not consistent with the so-called ban on reprisals in the Freedom of the Press Act (4945-2013)

An employee from the home-help service turned to the media to criticise their current working conditions. This person was called to a meeting at which a unit manager, among others, was present. In their decision, the JO establish that, in conjunction with the meeting, the unit manager expressed their clear dissatisfaction with the employee having turned to the media. According to the JO, the unit manager's actions have come into conflict with the so-called ban on reprisals, and she is criticised for this.

Other areas

Restriction on the freedom of expression of a professor at Lund University called into question (4420-2013)

In his free time, a professor at Lund University has made disparaging remarks about a named person via the microblog Twitter. As a result of this, he was called to a meeting with the Dean of the university's Faculty of Science, among others. Before the meeting took place, the Dean took part in an interview with a newspaper during which he made certain statements. In his decision the JO expresses his understanding that both the professor and others who read the article could perceive these statements as an indication that representatives of the university

were regarded themselves as having a right to have opinions on how a colleague chooses to utilise their freedom of expression. In addition, these statements can be perceived as indicating that the university's representatives believed themselves to have the opportunity to limit this right. The JO conclude that there is a clear risk that other university employees may have perceived the statements in the press as indicating that their freedom of expression is more limited than that of other citizens in general. According to the JO, this is serious and risks leading to a situation in which employees dare not express their opinions. For this reason, the JO underline the importance of representatives of authorities not expressing themselves in a way that may be perceived as indicating the authority wants to limit its employees' freedom of expression.

Criticism of the Municipal Executive Board of the Municipality of Kalmar for a decision not to process requests for the release of documents by a certain person, etc. (180-2014)

Over a period of a couple of years the Municipality of Kalmar received a very large number of letters and inquiries as well as requests for the release of documents from one and the same person, L.P. Finally the Municipality considered that the situation was unsustainable since the handling of what was received was very time-consuming, affected the Municipality's possibility of working efficiently and in a legally secure way and was experienced as a work environment problem. After a period the Municipality found that the most appropriate response was to only reply to enquiries from L.P. orally, either by phone or at scheduled meetings. In addition, the Municipality steered emails from L.P. to the head of the Municipality's contact centre for reply and processing. Against the background of the situation described there is no reason to criticise the Municipality's actions in this part of the matter. In January 2014 the Municipality took a decision in principle that coming applications for the release of documents by L.P. would not be accommodated with or examined. This decision, which means that the procedural rules of the Freedom of the Press Act and the Public Access to Information and Secrecy Act will not be applied to requests from L.P., is manifestly contrary to the law and means that the Municipality has overridden clear legal regulation in ordinary law and in fundamental law. As a result the decision is also contrary to the requirement in the Instrument of Government that an authority shall observe objectivity and impartiality

and have regard to the equality of all before the law. With the support of this decision in principle, which the administrative court of appeal has assessed not to be appealable, the Municipality has failed to examine applications for the release of documents from L.P., which has meant that she has been refused formal decisions rejecting her requests and has therefore not been able to have her requests examined by a court. The Municipal Executive Board is criticised for this decision which is contrary to the law and for the fact that L.P.'s requests for access to official documents have not been examined thereafter. This decision also contains general pronouncements about the service obligation of authorities and the handling of both very extensive and very frequent requests for the release of documents.

Criticism of the Government Offices, the Ministry for Foreign Affairs, which in several cases has not satisfied the requirements that public documents are to be speedily disclosed (6276-2012)

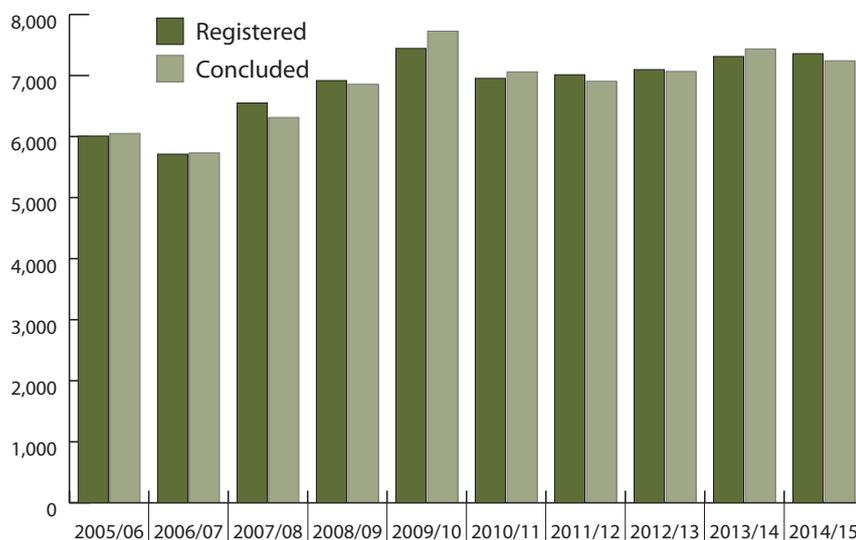
The Parliamentary Ombudsman has investigated five separate reports made against the Ministry of Foreign Affairs regarding the Ministry's handling of applications for access to public documents. The Ministry is criticised in all five cases for unacceptably long processing times. The investigation of the five complaints has led to a more detailed examination of the Ministry's processing procedures in respect of applications for access to public documents; this included the conducting of an inspection. This examination showed that long processing times generally occur at the Ministry for Foreign Affairs. This is primarily due to the fact that the personnel resources for the work with disclosure of public documents were insufficient, which means that backlogs occurred. The Ministry has now allocated additional resources that the official in charge considers sufficient. In the decision, the Parliamentary Ombudsman notes that the fact that applications for access to public documents are not actively processed is incompatible with the provisions of the Freedom of Press Act, and that there is take the regular backlog of applications as a very serious matter. The Ministry for Foreign Affairs is criticised for allowing this situation to arise. The decision also addresses the boundary between measures that an authority is obligated to take according in line with the provisions of the Freedom of Press Act and the authority's service measures. Furthermore, issues concerning the processing of applications that apply to an extensive amount of material are addressed.

Criticism of the Swedish Transport Administration for the handling of a request for disclosure of public documents (3442-2013)

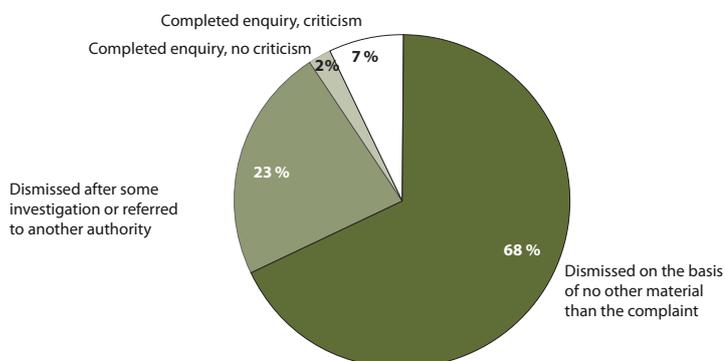
During a preliminary investigation regarding a traffic accident near Hjulstabron in Uppsala County, a reporter asked for information from the Swedish Transport Administration's speed cameras. The Transport Administration did not provide the information and instead contacted the police. This led to the police requesting access to the information for their preliminary investigation, which in turn meant that the information became subject to what is known as preliminary investigation secrecy. The Transport Administration then rejected the reporter's request for the information. The Transport Administration is criticised for contacting the police instead of swiftly giving the information to the reporter.

Statistics

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



Decisions in complaints and initiatives 2014/15, total 7,280



Most complaints 2014/15		
Area	Complaints	% criticism
Social welfare	1 277	5,1 %
Police	916	3,5 %
Prison and probation	838	8,0 %
Courts of law	409	3,2 %
Access to public documents	404	20,3 %
Social insurance	341	10,9 %
Education	295	3,7 %
Health and medical care	290	4,8 %
Migration	269	5,2 %

Most criticized 2014/15		
Area	Criticism	% criticism
Access to public documents	82	20,3 %
Prison and probation	67	8,0 %
Social welfare	65	5,1 %
Social insurance	37	10,9 %
Police	32	3,5 %
Planning and building	29	14,0 %
Agriculture, environment	26	12,9 %
Health and medical care	14	4,8 %
Migration	14	5,2 %

Inspections 2014/15

Regular inspections	
Myndighet	Antal
Prison and probation	6
Swedish competition authority	1
Social insurance	2
Municipalities , social welfare boards	1
Municipalities, environment boards	3
Forensic psychiatry	1
Courts of law	3
Prosecutor	5
Police	1
Labour market authority	1
Inspections sum	24

Opcat inspections	
Institution	Antal
Remand prison	3
Prisons	5
Police cells	8
Care of Substance Abusers Act (LVM)	2
Psychiatric wards	2
Forensic psychiatry	1
Opcat inspections sum	21



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