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The Seimas Ombudsmen's Office

2020

REPORT ON THE IMPLEMENTATION OF
THE NATIONAL PREVENTION OF TORTURE



CONTENTS

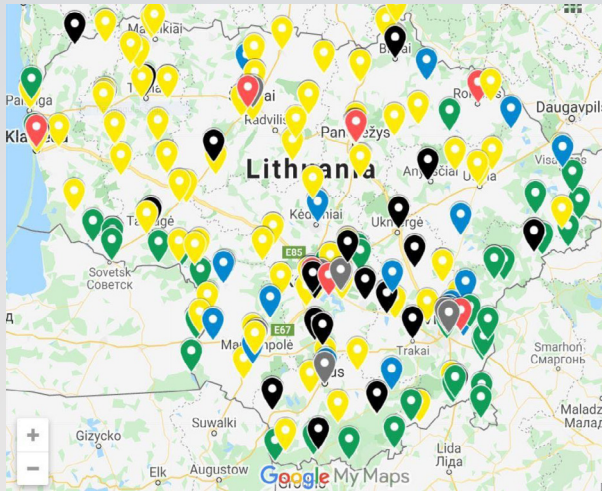
- 3 INTRODUCTION**
- 5 KEY OBSERVATIONS, RECOMMENDATIONS AND ACHIEVED DEVELOPMENTS**
 - 5 INSPECTIONS IN LONG-TERM SOCIAL CARE INSTITUTIONS FOR ADULTS
 - 8 INSPECTIONS IN POLICE FACILITIES
 - 9 INSPECTIONS IN THE PLACES OF DETENTION OF FOREIGNERS
- 10 CONTROL OVER IMPLEMENTATION OF RECOMMENDATIONS**

INTRODUCTION

The Seimas Ombudsmen are authorised to regularly visit places of detention and to check compliance with the human rights of the residents or inmates of these institutions (Article 19¹(2) of the Law). However, after the outbreak of coronavirus infection (COVID-19 disease) reached the level of the global pandemic, taking into account the unfavourable epidemic situation of the spread of coronavirus infection (COVID-19 disease) in Lithuania, the WHO call on states to take urgent, targeted and rigorous measures to stop the spread of this disease, the Government's decisions to introduce quarantine on the territory of the Republic of Lithuania and to avoid creating an additional risk of the spread of this disease in places of detention, visits by the Seimas Ombudsmen to such places in 2020 have reduced compared with previous years.

In 2020, a total of 24 visits were organised to the places of detention during which fundamental violations of human rights and freedoms and other systemic problems were identified and all responsible authorities were urged to address them ensuring that similar violations do not happen again in other

facilities. Also, additional functions of prevention of torture in places of imprisonment were carried out remotely: the information and consultation workshop was organised for employees of social care institutions, the employees of these institutions were additionally consulted in groups established on the Facebook for that purpose, recommendations were made in writing on ensuring the human rights of persons in places of imprisonment during the quarantine period in Lithuania, and an investigation was carried out on ensuring the human rights of persons living in places of detention during the state of emergency in the country. The Seimas Ombudsman also conducted the investigation into fundamental human rights issues arising during the period of validity of quarantine in the territory of the Republic of Lithuania by applying certain emergency management measures; the report of this investigation also covered the self-isolation of persons returning from abroad in the premises provided for by municipal administrations on 24 and 25 March 2020, possibly without ensuring human rights and freedoms.



The location of the places of detention visited by the Seimas Ombudsmen during performance of the national prevention of torture in 2014–2020. Colour marks: yellow – adult social care institutions, blue – children's social care institutions, black – police institutions, grey – prison institutions, green – places of detention of foreigners, red – psychiatric institutions.

KEY OBSERVATIONS, RECOMMENDATIONS AND ACHIEVED DEVELOPMENTS

INSPECTIONS IN LONG-TERM SOCIAL CARE INSTITUTIONS FOR ADULTS

In 2020, inspections were carried out in three (3) social care institutions (Aknysta, Macikai and Skemai social care homes), which accommodate persons with intellectual disabilities and/or mental disorders, as a result of which they have a working capacity level of 0–40 per cent or a high or medium level of special needs, and the corresponding special need for permanent care or special permanent care (assistance).

The issues related to the composition and professional qualifications of the staff of social care institutions, the adaptation of the environment and information to persons with disabilities and the establishment of an emergency call system, ensuring privacy, the residents' freedom of movement, promoting their independence, drawing up individual social care plans and access to activities, the application of restraint measures and the provision of mental health services, as well as other issues related to the human rights situation in these institutions were assessed during inspections.

The following systemic violations of human rights and freedoms found during the inspections carried out in the aforementioned social care institutions should be noted:

- The personal alarms in social care institutions have deficiencies and are available not in all rooms and personal hygiene rooms of residents,

thus they are not guaranteed the possibility to call for help at any time of the day if necessary. The institutions have steep stairs, thresholds, lifts adapted to help persons unable to get out of bed are provided not everywhere, conditions for independent use of the elevator and lifts are not provided, not all entrances, stairs, lifts and elevators are adapted to the needs of the visually impaired (the facilities are not properly marked), electricity switches are installed at a height inconvenient for persons with movement disability and not all information published on the information boards of social care institutions is accessible to persons with disabilities, thus restricting the independence of the disabled. Having assessed these circumstances, the Seimas Ombudsman concluded that the environment in social care institutions is not suitably adapted to the needs of persons with disabilities, thus violating the principle of equality of persons with disabilities with other persons in the field of physical environment, other objects available to the public or access to services, provided in Article 9(1) of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter – the Convention on the Rights of Persons with Disabilities), as well as in violating the country's other international obligations in the field of protection of human rights and freedoms;

- Employees in social care institutions do not always knock before entering the rooms of the residents; there are living rooms in the institutions that do not have lockable cup-

boards or cabinets to store the residents' belongings; screens are not always used during personal hygiene of residents in rooms (changing diapers, washing); in most living rooms and/or sanitary premises, locks are installed without ensuring the safety of residents because the staff would be unable to unlock them from outside in the case of need. Having assessed these circumstances, the Seimas Ombudsman stated that the privacy of residents of social care institutions is not adequately guaranteed, thus violating the fundamental principle of respect for the natural dignity of the person established in Article 3 of the Convention on the Rights of Persons with Disabilities;

- Social care institutions have permanently lockable units, including administrative premises, some residents are locked in their living rooms, both during the day and at night, and some persons live permanently in self-isolation premises, institutions do not have the approved internal arrangements, which provide for the cases and health conditions in which residents are accommodated in departments where the movement of persons is restricted. People with more severe disabilities are not allowed to take a regular walk, and not all residents are allowed to go to the store, and those who cannot be put in a wheelchair are not taken outside. A particularly serious violation of the restriction of human liberty was found in the Skemai social care home, where one inmate was held behind self-made metal bars for more than two weeks (a pre-trial investigation was opened in respect of this potentially illegal deprivation of liberty of the person). Having assessed these circumstances, the Seimas Ombudsman concluded

that freedom of movement of the residents of social care institutions is not adequately guaranteed, thus violating the principles of respect for human dignity, independence, Article 3 of the Convention on the Rights of Persons with Disabilities, Article 3 of the ECHR and the provisions of the Convention Against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment;

- Not all residents of social care institutions are given keys to lock up their living quarters, there is no effort in institutions to ensure that the living room environment of the residents is close to the home environment and cosy, so these facilities resemble hospital wards. When accommodating residents in rooms, their opinions are not considered, and the interests and needs of the persons assigned to live together are not coordinated. Personal belongings (payment cards, money, personal documents) of residents are kept in the offices of social workers, thus not ensuring that residents with better orientation in the environment can access their belongings independently. Moreover, institutions do not adequately ensure that clothes of residents are personalized, residents are not encouraged to wash their clothes and do their rooms or cook on their own, the use of kitchens and all flatware is not encouraged. Having assessed these circumstances, the Seimas Ombudsman concluded that the independence of residents is not sufficiently encouraged in social care institutions, thus violating the principles of respect for the independence, inclusion, freedom of choice, full effective participation and integration into society established in Article 3 of the Convention on the Rights of Persons with Disabilities;

- Not all residents of social care institutions have the possibility to engage in adequate activities suited to their individual needs, sufficient activities are not organised for those unable to get out of bed due to their health condition and other dependent residents, they are not taken outside or to larger balconies. Institutions lack a wider range of activities suited to the residents' needs and strengthening their social skills, they do not have enough books, computers, internet access is also provided not everywhere. During the period of the national state of emergency, even after declaration of the end of quarantine, the participation of all residents in various activities, as well as participation in the activities of the council of residents of the institution continued to be severely restricted. Moreover, individual social care plans of the residents (hereinafter – the ISCP) are prepared and filled in not all cases or this is done disregarding legal requirements and recommendations of the Department of Social Services Supervision under the Ministry of Social Security and Labour (SPPD). When preparing the ISCP the residents' needs are assessed not always, the services provided to residents and measures aimed at achieving social care objectives are not regularly detailed in the ISCP, therefore the ISCP are prepared and implemented without taking into account the individual health characteristics of the resident, thus failing to devote the required attention to the development of the person's essential living and social skills, the formation of skills or the restoration of lost skills. Having assessed these circumstances, the Seimas Ombudsman concluded that the aforementioned weaknesses create preconditions for violating the right of the residents to the provision of quality social services, including activity and leisure services, proper encouragement and motivation of the person to become more involved in activities and assistance in developing and maintaining skills lost or missing due to health condition, as well as their right to participate actively in community life, to take decisions on engaging in activities meeting the needs of the person and other social care services, thus violating Article 30 of the of the Convention on the Rights of Persons with Disabilities and other international obligations of Lithuania in the field of human rights;
 - Physical restraint of a person in social care institutions is applied in violation of legal acts: the procedure established by legal acts for application of physical restraint measures is not complied with, the proper registration of application of restraint measures (self-made straitjackets and specialised restraint devices – waist, wrist, ankle fixation belts designed to safely restrain the torso and limbs of a troubled, agitated person) is not ensured, physical restraint measures are prescribed and psychotropic drugs are injected to residents without physical examination of the person by a doctor psychiatrist, thereby violating Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and provisions of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Taking into account the identified weaknesses, the Seimas Ombudsman issued one hundred and seventy-five (175) recommendations to the responsible institutions and authorities (the Ministry of Social Security and Labour, the SPPD) on improving the human rights situation of persons living in Aknysta, Macikai and Skemai social care homes.

INSPECTIONS IN POLICE FACILITIES

In 2020, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, employees of the Human Rights Division of the Seimas Ombudsmen's Office visited Varėna District Police Station of the Alytus County Police Headquarters (hereinafter – Varėna PS), also Lazdijai District Police Station (hereinafter – Lazdijai PS) and Birštonas Police Station (hereinafter – Birštonas PS).

During inspections, the following issues were assessed related to: the detention of persons and the length of their stay in a police facility; registration of information about the delivered persons in the electronic register; informing relatives about the delivery of a person to a police facility and/or detention; ensuring the safety of persons (observing them, providing with possibility to seek assistance) and setting up of interrogation rooms; the installation of temporary detention facilities, their cleanliness and tidiness, as well as ventilation and lighting.

During the inspections, it was established that: the inspected police stations comply with statutory periods of detention; the officers of the police facilities property record data about persons delivered to police stations, the period of their detention in temporary detention facilities and long-term detention facilities; the data registration control is ensured; and family members of detainees are appropriately informed about the fact of detention of their relatives as well as their location. In addition, all inspected police stations ensure the continuous monitoring and safety of persons kept in detention facilities and appropriate conditions in the premises where they are interrogated as

well as the minimum period of retention for video surveillance records of detainees.

During the visits, the following drawbacks were identified: in Birštonas PS, due to the specific nature of the premises of the institution, there is no separation between the flows of persons who are brought to the police station and the visitors who apply to the police facility, that may lead to violations of safety of the persons brought to and applying with the police facility; the walls of the temporary detention facilities of Lazdijai PS are decayed, detainees in Varėna PS are not provided with adequate material accommodation conditions of detention – minimum area of the detention facility, ventilation, cleanliness and necessary repairs, thus creating preconditions for violating the right of detainees to adequate detention conditions and human dignity.

Having assessed the circumstances identified during the inspections, the Seimas Ombudsman issued three (3) recommendations to the Head of Alytus County Police Headquarters: to take measures ensuring the separation of flows of visitors and persons who are brought to the police facility; not to use the temporary detention facilities of Varėna PS, the area of which does not comply with requirements of legal acts, to ensure adequate ventilation, cleanliness and necessary repairs in the premises of detention; to carry out repairs in the premises of temporary detention of Lazdijai PS.

In regard to the recommendations of the Seimas Ombudsman, the Head of the Alytus County Police Headquarters informed that decisions have been taken into account to transfer Lazdijai PS to new premises where temporary detention facilities, meeting the necessary requirements, will be installed; to carry out routine repairs in

the detention facilities of Varėna PS, to install air extract fans and stop using premises, the area of which does not meet the requirements of legal acts; to transfer the detainees to temporary detention facilities through a separate entrance of the police station. Having assessed the submitted plan for the implementation of recommendations of the Seimas Ombudsman, it should be concluded that actions have been taken to implement all recommendations issued by the Seimas Ombudsman.

INSPECTIONS IN THE PLACES OF DETENTION OF FOREIGNERS

In 2020, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, the staff of the Human Rights Division of Seimas Ombudsmen's Office visited Pagėgiai Border Guard Unit Command of the State Border Guard Service (hereinafter – SBGS), Plaškiai border crossing station of Pagėgiai Border Guard Unit, Bardinai border crossing station of Pagėgiai Border Guard Unit, Panemunė border control post of Bardinai border crossing station (hereinafter – Panemunė BCP) and Rambynas border control post (hereinafter – Rambynas BCP).

The inspections assessed issues related to: the asylum procedure; the registration of data; the adaptation of premises to the disabled; the provision of facilities with inventory, adequate lighting, ventilation and ensuring their cleanliness; the surveillance monitoring of persons and the access to the first aid.

During inspections in the visited SBGS facilities it was established that the registers were completed properly, the e-register system was functioning smoothly during visits; the staff was periodically provided with compulsory first aid

training, the first aid kits were available at the on-duty posts, the staff possessed valid health knowledge certificates; the officers working with asylum seekers had the required competence; the foreigners wishing to apply for asylum were given access to information about their rights and obligations and applicable procedures for applying for asylum in the language understandable to them. It was also established that in all visited facilities, with the exception of Panemunė BCP, the premises were provided with the required inventory and the natural and artificial lighting requirements were observed, and appropriate conditions for monitoring the persons placed in the premises were ensured.

The visits revealed the following weaknesses: the detention facilities of Panemunė BCP do not provide adequate conditions for observing the persons placed there, the accommodation and temporary detention facilities of asylum seekers were possibly not provided with minimum natural lighting, and the list of places of accommodation for the detained persons with disabilities in structural subdivisions of Pagėgiai Border Guard Unit during the visits (hereinafter – the List) erroneously stated that the administrative detention facilities of Bardinai Border Guard Unit and Panemunė BCP were adapted to persons with disabilities. At the same time, it should be noted that during the visits the rights of persons with disabilities accommodated / detained at the facilities of the Pagėgiai Border Guard Unit of the SBGS were ensured by Order No K-521 of the SBGS Commander as of 17 February 2020 “On the establishment of places of detention for the detained persons, detained persons with disabilities as well as places of accommodation for asylum seekers in Pagėgiai Boarder Guard Unit of the State Boarder Guard Service under the

Ministry of the Interior of the Republic of Lithuania”, which, contrary to the List, provided that detained persons with disabilities may be placed and asylum seekers with disabilities may be accommodated only at Rambynas BCP – the only facility visited during the inspection.

Having assessed the circumstances identified during the inspections, the Seimas Ombudsman recommended to the Commander of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania to update the List of persons detained in the structural divisions of Pagėgiai Border Guard Unit of the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania and places of accommodation of detained persons with disabilities and asylum seekers with disabilities, noting that administrative detention facilities in the Bardinai Border Guard Unit and Panemunė BCP were not adapted to the needs of the disabled.

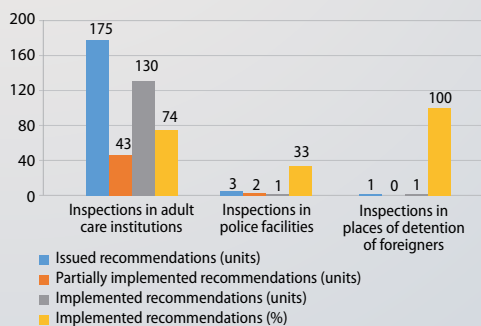
In respect to the recommendations of the Seimas Ombudsman, the Deputy Commander of the SBGS informed that the provisions of the List had been changed to provide that the administrative detention facilities in Bardinai Border Guard Unit and Panemunė BCP were not adapted to the needs of persons with disabilities, therefore it should be concluded that the recommendation of the Seimas Ombudsman has been properly implemented.

CONTROL OVER IMPLEMENTATION OF RECOMMENDATIONS

In 2020, the global pandemic of the coronavirus infection caused by COVID-19 disease affected not only the extent and methods of prevention of torture carried out by the Seimas Ombudsmen, but also the process of control over the implementation of recommendations. Taking into

account the quarantine declared in the country and seeking to ensure the rights and freedoms of persons held in places of detention without exposing them to additional risks, the Seimas Ombudsmen used various methods of control over the implementation of recommendations issued by them. Following the issue of recommendations, the responsible institutions were consulted by phone, email and other means of communication, and after analysing the plans for implementation of recommendations submitted to the Seimas Ombudsman, the institutions were provided with detailed comments regarding the implementation of the plans for implementation of recommendations, and where the information was insufficient, the plans were requested to be revised.

74 % of the recommendations issued as part of the national prevention of torture in 2020 were implemented, and 25 % were implemented partially and/or are still being implemented. As regards the recommendations that have not been implemented, the dialogue is still pending with the responsible authorities to ensure quick and effective implementation of all recommendations and adequate enforcement of the rights of persons kept in detention facilities.



Implementation of issued recommendations