



PARLIAMENTARY OMBUDSMAN OF FINLAND

SUMMARY  
OF THE ANNUAL REPORT  
2020

Rights of Persons with Disabilities

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## 3.4 Rights of Persons with Disabilities

### 3.4.1 SPECIAL MANDATE TO IMPLEMENT THE RIGHTS OF PERSONS WITH DISABILITIES

The ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 10 June 2016 brought the Parliamentary Ombudsman a new special task, which is laid down in the Parliamentary Ombudsman Act. The duties set out in Article 33(2) of the CRPD are attended to the Parliamentary Ombudsman, the Human Rights Centre and its Human Rights Delegation, which together form Finland's National Human Rights Institution.

The purpose of the CRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The leading principles of the CRPD are accessibility and non-discrimination. Other key principles of the CRPD include respect for the right to individual autonomy, and participation and inclusion of persons with disabilities in society.

The Convention contains a broad definition of disability, which can be adequately relied upon to ensure the rights and equality of the disabled in different ways. The Convention defines persons with disabilities as those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. For example, persons with memory disorders and psychiatric patients are therefore covered by the Convention.

Decisions on cases in this category were made by Parliamentary Ombudsman *Petri Jääskeläinen*, the presenting officer was Principal Legal Adviser *Minna Verronen*, and the Senior Legal Adviser was *Juha-Pekka Konttinen*.

### 3.4.2 TASKS AND ACTIVITIES OF THE NATIONAL MECHANISM

Promoting, monitoring ja protecting the implementation of the CRPD require an input from all the parties involved in the National Human Rights Institution, as their different tasks complement each other.

Promotion refers to future-oriented active work that includes guidance, advice, training and information sharing. The purpose of monitoring is to determine how effectively the rights of persons with disabilities are realised formally and in practice. Monitoring means the gathering and further use of information related to the practical fulfilment of the CRPD obligations with a view to remedying any defects found in this area. Protection means both the direct and indirect obligations of the state with regard to protection of persons against any violations of the rights laid down in the CRPD.

#### PARLIAMENTARY OMBUDSMAN

The Parliamentary Ombudsman protects, promotes and monitors the implementation of the CRPD within the limits of his or her specific mandate. The Ombudsman's tasks include overseeing legality in the exercise of public authority and supervising (protecting) the implementation of fundamental and human rights. Over time, the Ombudsman's activities have evolved towards promoting fundamental and human rights. In decisions on complaints and during visits and inspections, instead of focusing solely on the legality of practices, an effort is made to guide authorities and other subjects of oversight towards adopting practices that implement fundamental and human rights as effectively as possible. Over-

sight and monitoring are interlinked in the Ombudsman's work, as observations of inadequacies in realising the rights of persons with disabilities made in the course of the oversight of legality are also part of general follow-up of how CRPD obligations are implemented in practice.

For the main part, the Ombudsman exercises oversight of legality by investigating complaints, but he or she also examines shortcomings on his or her own initiative and when conducting inspections. In addition to the oversight of legality, the Ombudsman also serves as the National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture (OPCAT). The NPM visits places where persons are or may be deprived of their liberty, including residential units for persons with intellectual disabilities or memory disorders. When performing this task, the Ombudsman may rely on the assistance of experts appointed by him, who have expertise significant for the NPM mandate. The Ombudsman's experts include, among others, health care specialists, including two physicians who specialise in intellectual disabilities. The Ombudsman also receives assistance from experts who are disabled themselves. After training, the Ombudsman may invite them to participate in the inspections of OPCAT sites in an expert capacity. As no physical inspections were carried out during the year under review due to the coronavirus pandemic, no experts took part in the audits of the monitoring body as external experts. Other forms of cooperation with persons with disabilities and disability organisations have been and will continue to be increased.

## HUMAN RIGHTS CENTRE

The core tasks of the Human Rights Centre include promoting fundamental and human rights and monitoring their realisation. Unlike the Parliamentary Ombudsman, the Human Rights Centre does not investigate complaints or exercise oversight of legality. Rather than being limited to the activities of the authorities, the Human Rights Centre's competence also extends to pro-

moting and monitoring CRPD implementation in the activities of private stakeholders.

One priority of the HRC in work with persons with disabilities is to promote the social inclusion of persons with disabilities and raise public awareness of their rights.

As a result of the coronavirus pandemic, the HRC adapted work related to the rights of persons with disabilities to the changed operating environment. The aim was to implement the action plan drawn up for the term with minimal changes, while including themes related to the rights of persons with disabilities highlighted by the pandemic. Due to changes in the operating environment, regular evaluation discussions on the focus of activities were conducted during the term under review.

At the early stages of the coronavirus pandemic, the HRC included a separate theme page on its website, dealing extensively with issues related to the implementation of fundamental and human rights that had emerged in monitoring during and after the exceptional circumstances. From the perspective of fundamental and human rights, the theme page addressed issues such as mobility and meeting restrictions imposed on persons with disabilities, safeguarding of social welfare and health care services, the protection and safety of other persons in need of help, equal access to information and equal right to treatment. The theme page also contains comprehensive guidelines related to the rights of persons with disabilities and compiled by authorities during the pandemic, and opinions of various NGOs on problems related to the rights of persons with disabilities.

Members of the Disability Rights Committee (VIOK) were appointed at the meeting of the Human Rights Delegation on 20 May 2020. The Delegation convened four times during the term of office. During autumn, the Committee prepared its own work programme and planned the appointment of external experts to complement the composition of the Committee. The themes of the Committee's work programme for the period from 2020 to 2024 include poverty and employment of persons with disabilities, education, involvement and social inclusion, discrimination and equality, and the impact of the coronavirus

pandemic on the rights of persons with disabilities. The Committee also focuses on monitoring the Government Programme throughout the period.

During autumn, all members of the Committee participated in a workshop organised by the Human Rights Delegation to discuss how the coronavirus pandemic and the various restrictions and measures taken to combat it affect the implementation of fundamental and human rights. Based on the workshop discussions, the HRC compiled a condensed snapshot of the implementation of fundamental and human rights. The publication also includes the Delegation's recommendations on how, among other things, the rights of persons with disabilities should be safeguarded during the coronavirus pandemic and in its aftermath (*"The impacts of the coronavirus pandemic on the implementation of fundamental and human rights – recommendations by the Human Rights Delegation"*).

In cooperation with the parliamentary group on disability matters (vammaisasian yhteistyöryhmä, VAMYT), the HRC organised a webinar on the reform of the legislation on services for persons with disabilities. At the event, an official from the Ministry of Social Affairs and Health gave an up-to-date review of the timetable for the reform of the legislation on services for persons with disabilities and the related consultation procedure. Representatives of four different disability organisations spoke at the event and raised issues that, from their own perspective, are important in the reform of the Act on Services and Assistance for the Disabled. The Human Rights Centre published a summary of the discussion.

During the term under review, the HRC cooperated with the Finnish Institute for Health and Welfare to finalise the report on the Fundamental Rights Barometer project and prepare it for publication. The report will be published in spring 2021. In addition, the HRC was involved in supporting the survey on everyday life at school conducted by the Finnish Disability Forum and directed at the parents of children with disabilities.

For several years, the HRC has monitored the preparation of an additional protocol to the Convention on Human Rights and Biomedicine (the

'Oviedo Convention') of the Council of Europe regarding involuntary treatment measures. During the term under review, the HRC issued a statement on the drafted additional protocol. In its statement, the HRC stated that the drafted additional protocol still includes significant problems in relation to the UN Convention on the Rights of Persons with Disabilities. In addition, the HRC noted that the drafted additional protocol does not contain an article that would specify what kind of measures are taken in order to strengthen the right to self-determination of persons subject to involuntary treatment and other related restraints, and how these measures are implemented.

## DISABILITY TEAM

The Disability Team of the Office consisted of three experts from the Office of the Parliamentary Ombudsman, a notary and one expert from the Human Rights Centre. During 2020, the Disability Team worked in close cooperation with the Disability Sub-Committee. Matters highlighted in the Sub-Committee and Disability Team's meetings were discussed fluently on both sides, since two members of the Disability Team also served as experts in the Sub-Committee.

The Disability Team's meetings focused on discussing the impact of the coronavirus epidemic on the selection of inspection sites and carrying out of inspections, updating the Disability Team strategy, planning training within the Office related to the theme of disability, and planning to include content focused on the rights of persons with disabilities on the websites of the HRC and the Ombudsman. As part of identifying the tasks of the national mechanism, the Team conducted discussions with the employees of the Office and assessed the scope of the concept of persons with disabilities in the administrative branches of the oversight of legality. The Disability Team also considered different ways of cooperating with and involving persons with disabilities.

During the term under review, the Disability Team finalised the self-assessment tool prepared during the Fundamental and Human Rights in Housing Services project. The self-assessment

tool is intended for supporting the efforts of special care service providers to strengthen clients' right to self-determination. The tool consists of questions that guide the special care providers to make an independent assessment on how well the activities and operating methods of residential units support and strengthen the clients' right to self-determination. The questions were finalised in extensive cooperation with authorities and NGOs. Among other things, a consultation meeting was organised in the autumn for authorities and NGOs in which they presented their own views and development proposals regarding the self-assessment tool. The final version was reviewed by three providers of special care. In the following term, the aim of the project is to support the activities of providers and producers of special care services in the implementation of the tool.

Cooperation with other authorities encompassed Valvira, regional state administrative agencies and the National Non-Discrimination and Equality Tribunal. Cooperation with regional state administrative agencies was related to inspections and the selection of inspection sites.

Members of the Disability Team participated in disability rights events organised by the parliamentary group on disability matters (*vammais-Asian yhteistyöryhmä*, VAMYT). Two members of the Disability Team participated as separately invited experts in meetings of the legal team for the handbook on disability services (*Vammaispalvelun käsikirja*, maintained by the Finnish Institute for Health and Welfare), on topics including the latest case law relating to disability services and the monitoring of the reform of the Act on Services and Assistance for the Disabled.

A member of the Disability Team also participated in the work of the Act on the Provision of Digital Services Monitoring Group. During the term under review, the Monitoring Group focused on monitoring the implementation of accessibility regulation and supporting the Regional State Administrative Agency for Southern Finland in its implementation of the monitoring of the requirements of the Act on the Provision of Digital Services (306/2019).

A member of the Disability Team had also been appointed an expert member of the Advisory Board on the Rights of Persons with Disabilities (VANE). The task of the Advisory Board is to promote the national implementation of the UN Convention on the Rights of Persons with Disabilities and to take into account the rights of persons with disabilities in all areas of government. During the term under review, the Advisory Board focused on preparing a national action plan for the UN Convention on the Rights of Persons with Disabilities. The HRC also gave its own expert views as an independent actor at a hearing in which the drafted action plan was assessed. At the hearing, the Centre highlighted, amongst other things, the need to reinforce the measures in the action plan in order to combat discrimination against persons with disabilities. The Centre also proposed that entries on preparedness for exceptional circumstances should be highlighted, persons with disabilities from a Roma background should be taken into account in the action plan and measures supporting the inclusion of persons with disabilities in employment should be strengthened.

On the initiative of the Disability Team, training related to the theme of disability was organised in the Office. The training focused on two topics: challenging behaviour and the right to self-determination of persons with intellectual disabilities, as well as ageing and intellectual disability (25 November 2020). The instructor was a Psychologist specialised in Neuropsychology, Oili Sauna-aho, PhD, PsycLic.

A member of the Disability Team gave a guest lecture on the rights of persons with disabilities and the activities of the Ombudsman at the University of Helsinki on the course on disability research on 28 January 2020, in the Assistentti.info development webinar on 29 September 2020, and at the meeting of the regionalised network of services for persons with disabilities (*maakunnallistuvat vammaispalvelut*) on 4 December 2020.

During the term under review, the HRC intensified its cooperation with the secretaries of the disability advisory councils. A representative of the Centre participated in a cooperation meeting for the secretaries of the disability advisory coun-

cils twice during the term under review. At the first meeting, the representative of the Centre introduced a subject and held a discussion with the secretaries on how to implement the inclusion obligation of the UN Convention on the Rights of Persons with Disabilities at local level. The second meeting introduced and discussed the theme of how to implement the obligations of the Convention on the Rights of Persons with Disabilities in a cross-cutting manner in local government.

A member of the Disability Team was consulted as an expert in two studies related to the employment of persons with disabilities. One was a study carried out by a research group at the University of Amsterdam and it examined the reasons behind the weaker labour market participation of people with a disability in the member states of the European Union. The research publication is available online (“Explaining the disability employment gap in European countries: the influence of labour market policies and public opinion towards people with a disability”). The second study explored the structural obstacles to the employment of persons with a disability in Finland. This report was published by the Ministry of Economic Affairs and Employment (“Structural obstacles to the employment of persons with a disability”).

### INTERNATIONAL COOPERATION

As a result of the coronavirus pandemic, international cooperation decreased significantly in comparison to previous years. During the term under review, all meetings of the ENNHRI CRPD working group were remote meetings, and the focus of the working group’s activities shifted to assessing and monitoring the impact of measures related to the coronavirus pandemic. The working group regularly shared information on the measures taken in different countries to protect the rights of persons with disabilities and to safeguard their health. During the term under review, the working group’s work programme was also updated.

The annual Conference of States Parties to the UN Convention on the Rights of Persons with Disabilities was cancelled in the spring and final-

ly organised as a remote conference in December. The main theme of the conference was the implementation of the CRPD and the 2030 Agenda for Sustainable Development for all persons with disabilities. The sub-themes of the conference were older persons with disabilities, inclusive environments and the right of persons with disabilities to work. Members of the Disability Team attended discussions during the three-day conference. The members of the Disability Team also followed the discussion on the rights of persons with disabilities (particularly issues related to coronavirus) and international decision policies (such as the CRPD Committee).

During the term under review, a representative of the Disability Team participated in a debate on Article 13 of the Convention on the Rights of Persons with Disabilities organised by the UN Special Rapporteur on the Rights of Persons with Disabilities. This Article obliges the contracting parties to ensure effective access to justice for persons with disabilities on an equal basis with others. At the event, the participants commented and discussed in detail the guidelines drawn up by the Special Rapporteur on the content of the Article. The guidelines were published later during the term (“International Principles and Guidelines on Access to Justice for Persons with Disabilities”).

### 3.4.3 OPERATING ENVIRONMENT AND CURRENT LEGISLATIVE PROJECTS

It has been estimated that there are some 50,000 persons with intellectual disabilities in Finland. In the service structure of care for people with disabilities, a trend that favours assisted living rather than institutional care has continued throughout the 2000s. In the 2012 government resolution on the individual living arrangements of persons with intellectual disabilities and service provision, the target was that after 2020 no person with disability would live in an institutional setting. However, the intention has been to implement the change without forced transfers, taking into account people’s age and life situation. The objective of the national plan is that children with

intellectual disabilities should no longer be placed in institutions.

According to a statistical report compiled by the Finnish Institute for Health and Welfare, there were 452 long-term residents at institutions at the end of 2019 (631 in 2018 and 920 in 2016). Long-term residents are deemed those placed in long-term care by a decision or those who have been in care for over 90 days. Despite the objectives, the proportion of children living in an institution increased slightly. At the end of 2019, 131 of the long-term residents were under the age of 18 (118 in 2018), but the number of those aged 0–7 remained the same as in the previous year (13 children). Short-term treatment periods in an institution typically last less than 7 days. The total number of persons with disabilities in institutional care was 556 at the end of the year (795 in 2016 and 962 in 2015). The proportion of institutional care varies from region to region, with the highest proportion of institutional care taking place in South Savo (14%) and the lowest in Päijät-Häme (0.5%). In the whole country, institutional care involves 6% of all people with disabilities in 24-hour residential care, and is mainly implemented in the units of public service providers (91%).

The number of clients in 24-hour residential care (assisted living) has increased by an average of 7 per cent a year in the 2000s, while the number of clients in institutional care has decreased by an average of 8 per cent a year. At the end of 2019, the number of clients in assisted living for people with intellectual disabilities was 9,155, and the number of clients increased by 6 per cent from the previous year. Public service providers accounted for 50 per cent of all service providers in assisted living.

As agreed in Prime Minister Sanna Marin's Government Programme, a Signed Memories (*Viitotut muistot*) research project was launched in the summer of the year under review to collect information on violations against the rights of deaf people and the sign language community from the beginning of the 20th century to the present day. Data collected in the research project is to be used in the planning of the reconciliation process and, later, in the actual reconciliation process. A multidisciplinary research group commis-

sioned by the Government includes the University of Helsinki, the Finnish Institute for Health and Welfare, Tampere University, the Humak University of Applied Sciences and the University of Eastern Finland.

In December of the year under review, the Ministry of Social Affairs and Health published a report by the Inclusion Working Group on efforts to secure the inclusion of persons with disabilities in the services for people with disabilities. In the future, the intention is to make use of the working group's report and the related statements when drafting the Government's proposal for a comprehensive reform of the legislation on services for persons with disabilities. The goal of the Inclusion Working Group was to secure and further increase the participation of persons with disabilities in the decision-making and organisation of services concerning themselves, and to clarify the legal remedies related to choosing the way in which the services are provided. The aim was also to improve the quality of services, to strengthen the right to services based on individual needs, and to increase the equality of persons with disabilities.

The reform of the disability legislation mentioned in the Government Programme and the development of legislation relating to the right of self-determination were often brought up in discussions with authorities and organisations.

#### 3.4.4 OVERSIGHT OF LEGALITY

The Ombudsman oversees the realisation of the rights of persons with disabilities concerning all authorities and private bodies performing public tasks, regardless of the administrative sector of the authority. In statistics, complaints are primarily filed under the authorities and administrative branch (social welfare, social insurance, health care, education, and cultural authorities, etc.) that are discussed in the decisions. Some decisions taken in the course of the oversight of legality relating to the rights of persons with disabilities involved several different administrative branches. This section deals with areas that are vital for the implementation of the rights of persons with dis-



abilities regardless of which administrative branch the matter involved.

The Ombudsman's annual reports and action plans have emphasised the importance of the rights of persons with disabilities since the year 2014, which was the first time that the annual report included a section dedicated specifically to the oversight of legality related to the rights of persons with disabilities.

The oversight of legality related to the rights of persons with disabilities focuses, in particular, on fundamental rights, such as access to adequate social welfare and health-care services, equality, legal protection, and accessibility, as well as individual autonomy and inclusion in society.

Disability services provided by local authorities are an important area from the perspective of the oversight of legality. Many complaints relate to shortcomings in service plans and special care programmes, the advice and guidance given in relation to services, as well as delays and procedural errors in decision-making and other aspects of case management.

Inspections are vital for the oversight of legality, as persons with disabilities are not always able to file complaints themselves. On inspection visits, supervisory measures are targeted at public and private actors providing disability services and their self-monitoring systems, and the local authorities responsible for the provision and supervision of services. The Ombudsman also oversees other special supervisory authorities, such as Valvira and the regional state administrative agencies.

## COMPLAINTS AND OWN INITIATIVE INVESTIGATIONS

The number of complaints and own-initiative investigations falling into this category on which decisions were issued was 306. The number was higher than in the previous year (281) and in 2018 (257). The Ombudsman investigated 14 cases in total on his own initiative. Nine of these mainly involved shortcomings related to the coronavirus pandemic in matters concerning elderly people with memory disorders, and four involved deficiencies in accessibility and securing the con-

fidentiality of polls at certain advance polling stations. A larger number of investigations warranted further action than in previous years, that is, 97 cases in total (32%). Similarly to previous years, the percentage of cases warranting further action was higher than average at the Office of the Parliamentary Ombudsman (14,5). A reprimand was issued in five cases, and a proposal was made in six cases. Two reprimands were issued in education and health care, and one in social welfare. The Ombudsman gave his opinion on 63 (65) cases, and 16 (4) cases led to other measures. Due to the high number of cases that led to measures, it is not possible to give an account or mention of all decisions concerning disability rights. An increasing effort is being made to publish the decisions on the Ombudsman's website [www.oikeusasiamies.fi](http://www.oikeusasiamies.fi).

As in previous years, the social welfare category had the highest number (215) of decisions concerning persons with disabilities (179 in 2019 and 150 in 2018). The reason is that local authorities are responsible for the provision of social services, such as special care for persons with intellectual disabilities, services and support measures provided on the basis of disability and services for persons with memory disorders. Of the services provided under the Act on Services and Assistance for the Disabled (137 decisions), 35 decisions (26 in 2019 and 38 in 2018) concerned personal assistance, 44 cases (30 in 2019 and 19 in 2018) involved transport services and 29 cases (25 in 2019 and 28 in 2018) concerned the rights of persons with intellectual disabilities. Interpreting services for persons with disabilities were also included in the social welfare category, in which Kela, the Social Insurance Institution of Finland, serves as the service provider. Seven of these cases were addressed in the year under review (28 in 2019 and 11 in 2018). During the year under review, a number of complaints were resolved (at least 43) concerning the treatment of elderly people with memory disorders in care units during the pandemic and the ban on visiting relatives and loved ones (see separate section 4 on issues related to coronavirus).

During the year under review, decisions related to social insurance were made 32 (46 in 2019 and 28 in 2018), 51 issues related to health care (57 in

2019 and 55 in 2018) and 15 issues related to education (5 in 2019 and 7 in 2018).

Complaints relating to service provision under the Act on Services and Assistance for the Disabled concerned e.g. decision-making related to services and customer charges, guidance and advice related to services, complainant's treatment in a customer service situation or residential unit, assessment of service needs, delayed processing of an application or a complaint, and local authorities' service provision and application directives. The practices of the Social Insurance Institution (Kela) were assessed as an organiser of interpretation services and a body granting benefits, such as disability and rehabilitation allowances. In the health care sector, cases were related to the care and treatment of persons in mental health rehabilitation, the funding of a medical rehabilitation aid, the provision of medical rehabilitation and adequate health care provision.

### INSPECTION VISITS

Practically all inspections of psychiatric hospitals and residential and institutional units for persons with disabilities combine the two special mandates that the Ombudsman has under international conventions (CRPD and OPCAT). Inspections are carried out to ensure that client treatment and services are implemented in a manner that respects the fundamental rights and human dignity in compliance with the legislation.

The Ombudsman's inspections focus particularly on the implementation of the rights that persons with disabilities have under the United Nations Convention on the Rights of Persons with Disabilities in respect of, for example, individual autonomy, the use of restraints, opportunities for participation, and the accessibility of facilities. In his capacity as Finland's National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture, the Ombudsman also strives to prevent the ill treatment of persons who have been deprived of their liberty and violations of the right to individual autonomy. The inspectors talk to the management, staff, and clients of the residential units, and inspect docu-



*Vaalijala expertise and support centre, the spacious common area at Luotain residential home for young people.*

ments, the communal areas of the units; and the surrounding area, as well as clients' private rooms with their permission.

Due to the coronavirus pandemic, the audits were carried out as remote inspections, mainly by consulting the clients and their relatives by telephone and requesting documents and clarification from the audited entity. The remote inspections focused on investigating the effects of the pandemic on the content and quality of services and the use of restraints. Remote inspections were carried out in Rinnekoti (3649/2020) run by the Helsinki Deaconess Institute Foundation, the joint municipal authority of Vaalijala (3650/2020), institutional and residential services for persons with disabilities provided by the social welfare sector of Satakunta Hospital District and the Antinkartano rehabilitation centre (3651/2020), residential services for persons with intellectual disabilities in the municipality of Loppi, and the Pajukoti residential unit for persons with intellectual disabilities (3652/2020), institutional and residential services for persons with intellectual disabilities in the city of Pietarsaari (3653/2020), and Validia house run by Validia Oy's residential services in Lahti, (3654/2020).

Inspection findings related to coronavirus are described in section 4. For details of the observations made by the Ombudsman in his role as the National Preventive Mechanism, see section 3.5 of this Annual Report.

### 3.4.5 DECISIONS

#### SOCIAL WELFARE

##### Shortcomings and procedural errors in the implementation of the rights of children with disabilities

According to Article 7 of the UN Convention on the Rights of Persons with Disabilities, States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

In the case 5086/2019, the Parliamentary Ombudsman considered the procedures of disability services provided by the South Savo Social and Health Care Authority completely unacceptable in matters involving a child with severe disabilities in need of special support. In addition to the assessment of the need for services, decision-making on applications for personal assistance for school mornings and activities outside the home were unlawfully delayed.

According to the decision, section 36.3 of the Social Welfare Act is unconditional in that the assessment of service needs of a child in need of special support must be completed no later than 3 months after the time a case becomes pending. The Ombudsman generally emphasised the importance of the service plan in the individual planning, organisation and implementation of services for persons with disabilities. The service plan is an action plan drawn up by the authorities and the client cooperatively, and based on the assessment of the client's service needs.

When assessing the seriousness of the delay, the Ombudsman considered the fact that the authorities had already been aware of the child's need for help during school mornings approximately five months before school had begun. Despite this, the decision was delayed. In the Ombudsman's opinion, the decision on aid for the child's school mornings should have been made well in advance before school started. In terms of the second application, the Ombudsman considered that the delay was due to a procedural error by the authority. According to the Ombudsman, the authority should have informed the complainant at an earlier stage that an informal statement is sufficient in the case of personal assistance.

The Ombudsman stated that, at the early stage of the process, it is of paramount importance that the authorities ensure that sufficient additional information is obtained. If the applicant refuses to provide the requested additional clarification, a decision must be made in the matter immediately, unless it is appropriate to obtain an alternative clarification in the matter. The authority shall advise and instruct the applicant on all options and stages of the process. The Ombudsman stated that if the authority itself requests further clarifications, it shall supervise and monitor that the required additional statements are delivered. When requesting additional information from the applicant (client), the authority shall provide clear guidance on what impact the requested information will have on the decision, and how the clarification will affect the schedule of the decision-making.

Another decision 2893/2019 also concerned unlawful delays in decision-making in the processing of applications involving a child in need of special support. The delay remained unacceptable despite the fact that the child's summer time care and support family had been arranged by family social services instead of services for persons with disabilities to whom the application was submitted. The Ombudsman emphasised that, from the perspective of clients' legal protection, it is particularly important that they receive a decision that is

eligible for appeal on the basis of their application without undue delay or otherwise within the statutory deadline.

In case 412/2019, the Ombudsman stated that in its decision on support for informal care, the local government official should explicitly justify the start date of support for informal care if it deviates from the date requested. The Ombudsman considered that the decision on support for informal care of a child in need of special support and the payment of such support had been unlawfully delayed. The Ombudsman emphasised that the leave referred to in the Act on Support for Informal Care must be expressly agreed in the agreement. The agreement must also specify how and where the leave will be organised.

In the case 320/2020, the Ombudsman considered that the authority had failed to reply to the complainant's reminder within a reasonable time. The Ombudsman considered the procedure to be highly reprehensible because the reminder had concerned a child with severe disabilities.

### Placing a child with intellectual disability in a residential school for a period of special care

The Deputy-Ombudsman examined the case 2727/2019 on her own initiative, and called the attention of the Social Services of the City of Turku to the matter that the disability of a child should be taken into account in the provision of services included in substitute care. The child had been diagnosed with intellectual disabilities during the special care period in a residential school. Thereafter the child had been placed in a unit that provides substitute care which also has competence in the care of children with intellectual disabilities. The child's intellectual disability had only been noticed during the period of special care, although, according to the Deputy-Ombudsman, the child's state of health should also have been investigated before the start of the special care period, when assessing how to arrange substitute

care for the child in a manner that would serve the child's best interest during the period in special care.

The Deputy-Ombudsman emphasised that when changes occur or are observed in the child's circumstances that may affect the content of the substitute care provided, the child's client plan must be reviewed in the manner required by the change, while also assessing the ways and means of arranging substitute care for the child in the future. The Deputy-Ombudsman had not been able to find out from the report submitted whether such an assessment regarding the child's intellectual disability had been carried out, even when special care was continued.

The Deputy-Ombudsman also stated that special care services could have been arranged for the child already earlier because the documents indicated that the child had been diagnosed with atypical autism and ADHD prior to being placed in a period of special care. In any case, such diagnoses would have required a more in-depth assessment of the child's state of health. On the basis of the child's diagnosis, the Deputy-Ombudsman considered that the possible intellectual disability of the child should also have been investigated in this context. If the city's social services had done so in the capacity of an authority responsible for arranging substitute care for the child, the special care period would perhaps not have been arranged in the residential school. In any case, it would have been arranged some other way, taking into account the child's disability and the special needs arising from it.

According to the Deputy-Ombudsman, the report strongly suggested that the planning of services for the child and the related social work had not been successful in all respects. This may have led to a failure to identify all special needs arising from the child's disability and to resolve the child's problems and essential questions related to the need for services and their provision in an appropriate, correct and timely manner.

### A joint municipal authority neglected the preparation of a service plan and the revision of the special care programme

For future reference, the Ombudsman issued a reprimand to a joint municipal authority operating under the South Savo Social and Health Care Authority, as no special care plan or other decision had been made for the complainant's adult daughter, which would have appropriately determined how to arrange her housing services in the changed situation after her assessment and treatment period in an institution 4063/2019.

In its decision, the Parliamentary Ombudsman drew the attention of the joint municipal authority's social services to the fact that a decision regarding an individual's need for services or termination of the right to a certain service cannot be legally made by means of a statement presented at a network meeting or by a notification given by a person in charge of a residential home. The legal procedure requires that, before making a decision, the client is appropriately consulted in a manner laid down in the Administrative Procedure Act, an individual assessment of the client's service needs is drafted, and an appealable decision is issued on the termination of the service. From the perspective of realising the legal protection of the complainant's daughter, it would have been particularly important to obtain a written decision in order to enable her or the complainant to exercise their lawful right of appeal in the situation in which the public official had issued a decision by announcing it verbally at the closing meeting of the examination period, despite the objection expressed by the daughter and her mother. The Ombudsman also drew the attention of the joint municipal authority to the fact that an incomplete service plan does not prevent making a decision on the service.

From the perspective of legal protection, the Ombudsman considered the negligence of decision-making to be highly reprehensible, as the case involved a person with intellectual disabilities with long-term need for support. Moreover, the provision of the service in question is part of the special duty of the joint municipal authority. In this case, an effort must be made to arrange the client's support so that the continuity of services

is ensured, unless it is in the client's interest to change the services. The Ombudsman also drew the attention of the joint municipal authority to the fact that, by law, the special care plan must be reviewed as necessary.

In the same decision, the Ombudsman considered that the complainant's daughter's service needs should have been assessed and a new service plan should have been drawn up for her without delay. This should have been done as soon as it had become apparent that the supervised housing services provided by the residential home were no longer suitable for her. The Ombudsman considered it inappropriate to justify the delay in the drafting of the service plan by the fact that the complainant had raised the possibility of acquiring a private apartment for her daughter at a network meeting. In the Ombudsman's opinion, the acquisition of a private apartment would have been a new reason for revising the service plan. However, it was not an appropriate justification for not drafting a service plan and assessing the service needs at the time when the complainant's daughter could no longer return from an institution to her privately rented accommodation supervised by residential services.

The Ombudsman emphasised that the service plan should ensure the individuality and continuity of services provided for a client, and the different services should be harmonised into a seamless whole. The purpose of the plan is also to guide the client to seek services and support measures determined as necessary.

According to the Ombudsman, the conduct of the disability services was neither appropriate nor customer-oriented. The documents did not reveal that the client had been informed of her rights and obligations or different options for arranging the services, or that the service needs had been assessed in a situation in which the supported housing service was no longer considered possible and the circumstances relevant to her access to the service had changed significantly. The Ombudsman stated that the assessment of service needs of a person with a disability is particularly important when their service needs have increased and can no longer be met with the services granted earlier. An individual service plan is particularly

important when a person with a disability and an authority disagree on how the services should be organised and implemented.

In another decision 3689/2019, the Ombudsman also considered that the joint municipal authority of wellbeing had neglected its duty to draft a special care programme for the complainant's daughter. The Ombudsman emphasised that services arranged as special care must be based on a special care plan. Moreover, in order to ensure the continuity of services organised in special care, it is important to start reviewing the special care plan well in advance before the planned deadline. A regular review of the special care plan is important for the full implementation of the rights of persons with intellectual disabilities. In addition, the Ombudsman stressed that the obligation to consult and cooperate is not eliminated by the fact that no significant changes to the services of persons with intellectual disabilities are in the pipeline regarding the preparation of the special care plan.

In the decision 2811/2019, the Ombudsman again emphasised that if conflicts of problems arise during the organising of services, the clients should be informed of their rights and obligations, the different alternatives and their effects, as well as other matters of importance to their own case.

### Obligation to draw up a service plan

The substitute for the Deputy-Ombudsman stated that even appropriately completed entries about the client do not remove the authority's statutory obligation to draw up a service plan for a person with a severe disability. In this case, the substitute for the Deputy-Ombudsman took the view that social services had neglected the duty to prepare a timely multidisciplinary and multiprofessional service plan. The substitute for the Deputy-Ombudsman emphasised that a multidisciplinary and multiprofessional service plan allows considering the individual needs of a person with severe disabilities, and contributes to the implementation of cooperation between authorities in different

administrative branches. The aim is that social welfare, health care and, if necessary, other administrative sectors will form an entity that serves the best interests of clients. In light of the above, a person with a severe disability has a special need and the statutory right to receive a service plan without undue delay 2549/2019.

In the opinion of the Ombudsman, in cases when the client does not contribute to the preparation of the service plan, the authority should draw up the service plan on the basis of the information and documents available. The Ombudsman stressed that a decision on the extension of a fixed-term decision on services for persons with disabilities should be made in good time before the earlier decision expires (138/2020).

### Delays in decision-making and neglecting the authority's duty to make decisions

The most common shortcomings found in the oversight of legality by the Ombudsman involve delays in processing applications for benefits or services granted to persons with disabilities and neglecting the authority's duty to make decisions. These procedural errors jeopardise the implementation of legal protection of persons with disabilities, as the customer's appeal is delayed. The decisions emphasise that support for persons in need of long-term support must be organised in such a way that the continuity of services is ensured.

In case law, it has been consistently considered possible to lodge a complaint to an appeal instance regarding the implementation (method of implementation) of a service concerning subjective right. In the Ombudsman's practice of legal oversight, it has been considered that if the employer model for personal assistance in accordance with the Act on Disability Services and Assistance is not suited to a client with a severe disability, alternative methods of organising the service must be examined and offered to the client (service voucher model, outsourced service, local authority's own activities and a combination of these methods) and, if necessary, alternative providers of personal assistance services should be mapped out.

The organising of services for persons with disabilities and the selection of methods to organise them must always respect the client's right to self-determination and strengthen the client's independent initiative. Decisions on services and support provision under the Disability Services Act must be issued without undue delay and in any case within three months from the date of the application for a service or support measure by a person with disability or his or her representative.

In case 1271/2019, the Ombudsman considered that the enforcement of an official decision concerning a professional support person had been delayed unlawfully. The Ombudsman considered the procedure to be reprehensible because there was no acceptable reason for the delay. The complainant had not been offered a compensatory service in the situation when the professional support person could not be arranged.

In connection with complaint 431/2020, it became apparent that the city's common practice was not to write an administrative decision on the so-called minor apartment alterations granted to clients through disability services. The Deputy-Ombudsman concluded that the city's social and health services centre had acted contrary to the law in that it had not given the complainant a written decision on an application for apartment alterations in accordance with the Act on Services and Assistance for the Disabled.

Another case 6233/2019 showed that the city had not carried out housing alterations in accordance with the Act on Disability Services and Assistance. The stated reason was the fact that the complainant had expressed her willingness to move in the service plan. The Ombudsman concluded that the provider of disability services had acted unlawfully. The Ombudsman drew the attention of the authorities responsible for the provision of disability services to the fact that decisions on an individual's rights cannot be made in the service plan. The Ombudsman considers that, in such a situation, the disability services official must deliver a negative decision to the complainant, enlisting reasons for not carrying out the alterations

to the apartment. The Ombudsman drew the attention of disability services to the fact that the authorities are required to pay special attention to the expediency of the processing of the matter with regard to subjective rights under the Act on Services and Assistance for the Disabled, such as alterations to apartments.

In the Parliamentary Ombudsman's practice of overseeing legality, it has been emphasised that the Act on Services and Assistance for the Disabled does not leave the authority responsible for special care any discretion power with regard to whom a special care plan is prepared. Instead, it requires that a special care plan is prepared for all persons in need of special care. In addition to the special care plan, separate official decisions subject to appeal can be made regarding possible client fees, the number of services arranged as special care services, and their individual implementation methods.

### Transport services provided under the Act on Services and Assistance for the Disabled

In Decision 1551/2019, the Ombudsman considered it a shortcoming that the statement on the right of a client to apply for a standard taxi right had been removed from the client instructions for transport services under the Act on Services and Assistance for the Disabled, as these special rights had been particularly significant for the realisation of transport services for several clients. The Ombudsman drew the attention of Siun sote (Joint municipal authority for North Karelia social and health services) to the authority's duty to provide advice and clarification. He emphasised that the authority must inform the clients and provide them with clear and consistent instructions on the application procedure for special rights related to transport services. The Deputy-Ombudsman emphasised the fact that, due to their nature as a subjective right, transport services for persons with severe disabilities cannot be organised by local application directives in such a way that the use of transport services, and thus the mobility of a person with severe disabilities outside their home would, in practice, be made impossible.

In another decision 2821/2019, the Ombudsman considered that the reasons given for the decision made by the authority did not show sufficiently clearly which factors affected the decision of rejection and how. The Ombudsman considered that the processing of the transport service application was unlawful and reprehensible because the assessment of the service needs and the client plan had been incomplete and the complainant had not been informed of the negative decision. The Ombudsman found the procedure to be reprehensible despite the fact that the complainant's decision on transport services was extended for three months after the error had been noticed. For the purposes of the complainant's legal protection, it would have been particularly important to receive a written decision in a situation in which the complainant was about to obtain a negative decision after a positive decision had remained in force for long. In the decision, the Ombudsman also drew attention to the fact that, on the basis of the report, the additional time was not used for correcting the shortcomings in the assessment of service needs or the preparation of the service plan.

The Ombudsman stressed that the granting of services is based on an assessment of severity of a disability in relation to the required service. The matter must be resolved by assessing the impact of the disability or illness on the need for transport services for persons with severe disabilities. The Ombudsman stated that, on a general level, the ability to work or access to an informal carer are not legal grounds for not granting a transport service to a person with disability. Instructions issued by local authorities or joint municipal authorities cannot deviate from the provisions laid down in law.

In decision 1482/2019, the substitute for the Deputy-Ombudsman considered that social welfare services had violated the requirements of the Administrative Procedure Act, because they had not waited for the additional report (doctor's certificate) as notified by the complainant in advance, nor had it asked the complainant about the report before making the decision. Moreover, the complainant had not been given a deadline for submitting the additional report. In this respect, the sub-

stitute for the Deputy-Ombudsman considered the procedure of the social welfare services unacceptable, even though an attempt had been made to process the claim for rectification concerning the provision of transport services as an urgent matter as required by law. In the view of the substitute for the Deputy-Ombudsman, the complainant could rightly have expected, in the circumstances of the case, that the authority would have waited for the additional clarification to be completed and submitted in accordance with the prior notification, before making a decision on the matter.

In the same case, the complainant had not appealed against the decision made by the social welfare board to the administrative court. However, in a reminder to the director of social and welfare service, the complainant had requested that their principal's case be reviewed by the social welfare board. In the view of the substitute for the Deputy-Ombudsman, the social services authority should have asked the complainant whether they would like the matter to be dealt with as a new application on the basis of the additional clarification. In addition, in this unclear situation, the authority should have clearly advised the complainant that the only legal remedy is to appeal in accordance with the instructions for appeal.

### Reporting home visits and responding to client feedback

In the case 6795/2019, the Ombudsman drew the attention of the city's social welfare services to the fact that the appropriate processing of a matter involves respecting the privacy of the client so that the authorities agree on home visits in advance with the client. In this case, it is also necessary to jointly agree on which authorities take part in the visit, and what the purpose of the visit is. In addition, the Ombudsman drew the attention of the social welfare services to the fact that the processing of letters from clients, such as client feedback and reminders, should take place flexibly, easily and within a reasonable time.

In this case, the complainant had not received a reply to her feedback, and the social welfare ser-



vices had only provided the Ombudsman with a clarification after a complaint had been made in the case. Had the complainant had been contacted within a reasonable time by a letter, a copy of this letter could have been attached to the report sent to the Ombudsman. The Ombudsman also drew the attention of the social welfare services to the need to draw up a self-monitoring plan to ensure the quality, safety and appropriateness of social welfare services.

### Shortcomings in the accuracy of information in a guide prepared by an authority

In his decision 4993/2019 on the complaint made by Heta ry (the Association of Employers of Personal Assistants), the Ombudsman considered Vantaa City's conduct to be reprehensible in the drafting of a guide for persons with disabilities acting as employers and their assistants, as the content of the guide deviated from the legislation on employment relationships in various parts. The Ombudsman emphasised that when a local authority is responsible for paying the salary of a personal assistant, it must contribute to the payment taking place appropriately and lawfully as required by the regulations.

Since the city had already taken corrective measures in the matter, the Ombudsman was only required to draw the attention of the City of Vantaa to the fact that an authority is responsible for ensuring that its guide to the clients of disability services corresponds to the legally valid decisions of the case law and that it is otherwise lawful, and the information it contains is correct and up-to-date. The guide published by the authorities is of great practical importance for persons with disabilities who act as employers for their personal assistants. The Ombudsman considered it important that persons with disabilities acting as employers are provided with information on the determination and payment of salaries and other compensation for personal assistance. However, the guide is not legally binding and the instructions it contains do not allow for derogations from obligations established by law.

### Enabling the travel of persons with intellectual disabilities living in a housing unit

In his decision 1008/2019, the Ombudsman considered that, from the perspective of the right to self-determination of a client with intellectual disabilities, the unconditional prohibition that a person with intellectual disabilities should, under no circumstances, be allowed to compensate for the costs of instructors was problematic. Similarly, in the housing unit, residents' travels are categorically restricted only because not all residents can travel due to their personal financial situation. The financial situation of people with disabilities living in the same housing unit may vary, and they should be able to use their funds as they wish. The Ombudsman considered it important that when the authorities make policies in the matter, the service users should be involved as extensively as possible in the preparation of the policies.

### Conduct of the Regional State Administrative Agency in a matter concerning the maintenance fee for a person with intellectual disabilities

In his decision 6749/2019, the Ombudsman considered the Regional State Administrative Agency's decision in the supervisory matter to be too absolute and categorical in terms of the costs that may be included in the maintenance fee for housing services for persons with intellectual disabilities.

The Regional State Administrative Agency had issued a reprimand to social welfare services on an unlawful procedure in the collection of housing charges for persons with intellectual disabilities. According to the supervisory decision, a client in assisted living may not be obliged to pay a certain amount per month for a service that they do not use. Moreover, the maintenance fee cannot include anything purchased for the unit's shared facilities or shared use.

The Ombudsman paid attention to the fact that the legislation on the maintenance fee for persons with intellectual disabilities and the practices based on it are difficult to understand and

interpret. Customer fees charged from people with intellectual disabilities and other housing service users with disabilities may be different depending on the law under which the service is organised. Assisted living can be organised as special care in accordance with the Act on Special Care for Persons with Intellectual Disabilities, assisted living in accordance with the Act on Services and Assistance for the Disabled, and assisted living and intensified assisted living in accordance with the Social Welfare Act. In addition, various forms of supported housing are available.

The Ombudsman is of the opinion that equal treatment is currently not sufficiently achieved in terms of determining fees for persons with disabilities using housing services. For this reason, the Parliamentary Ombudsman sent his decision to the Ministry of Social Affairs and Health for information and proposed that the above statement be taken into account in the overall reform of the Act on Client Charges and the reform of the legislation for the Disabled.

### Interpreting services for persons with disabilities

The duty to provide interpreting services for people with hearing impairments, hearing and vision impairments or speech impairments was transferred from local authorities to the Social Insurance Institution on 1 September 2010. As of 1 January 2014, Kela's Centre for Interpreting Services for Clients with Disabilities has provided interpretation services as part of its own activities. Interpreting services for persons with disabilities are aimed at promoting the non-discrimination of persons who require interpreting services compared to people without disabilities in order to facilitate their participation, communication and interaction with other people.

A person with disability is not entitled to interpreting services if he or she already has access to sufficient and appropriate interpreting on the basis of other laws. Such laws include the Basic Education Act and the Act on the Status and Rights of Patients.

In decision 276/2019, the Ombudsman considered that Kela's Centre for Interpreting Services for Clients with Disabilities had neglected its duty to ensure that it performs its tasks appropriately and effectively. In the Ombudsman's view, the Centre should have continued to look for interpreters and revised the situation of interpreter resources closer to the scheduled interpretation session in a situation where an appropriate interpreter had not previously been found for the interpretation order. The Ombudsman emphasised that the provision of interpretation services and the client's right to an interpreter should be implemented in such a way that the possibility of a person with a disability to act as an equal member of society is facilitated in all possible ways. The obligation of the UN Convention on the Rights of Persons with Disabilities to make reasonable adjustments must also be taken into account, as far as possible, in the organisation of services for a client in an individual case.

In case 3595/2019, the Ombudsman is of the opinion that Kela should have reacted more promptly to ensure the functioning of the list of interpreters in a situation where the complainant did not have any interpreters on the list, and in which the complainant did not usually want to use interpreters from outside the list of interpreters. However, when assessing Kela's conduct, the Ombudsman took into account the fact that, based on the statement, the difficulties in arranging interpreters were mainly caused by the fact that either the complainant had not accepted an interpreter on their list of interpreters, or that the interpreter had not wanted to be on the complainant's list of interpreters.

## SOCIAL INSURANCE

In two decisions 3866/2019 and 1022/2019, the Ombudsman criticised Kela for an undue delay in the processing of a medical rehabilitation application for a child with severe disabilities. The Ombudsman considered it important that in the future, Kela takes the increase in the amount of work resulting from the tendering process into account in advance and prepares for it, so that it will not affect the processing times of applications or the client's legal protection, as has happened in the cases under review. According to the Ombudsman, work resulting from tendering is not in itself a valid justification for the processing of an application to considerably exceed the set target date.

In the case 1904/2019, the social security appeal board neglected hearing a person with a disability as an interested party in the processing of a vocational rehabilitation matter. The Ombudsman considered it worrying that the procedure he considered wrong had been an established practice.

## EARLY CHILDHOOD EDUCATION AND TEACHING

In case 2720/2019, a child with severe disabilities was in a vulnerable position and had not received a place for early childhood education and care in the time and manner as required by the Act on Early Childhood Education and Care. In his overall assessment, the Deputy-Ombudsman decided to issue a reprimand to the local authority because it had neglected its duty to make a decision in the matter and because it had not taken action to examine the individual needs of the child as provisioned in the Act on Early Childhood Education and Care. The conduct of the local authority could have seriously jeopardised the individual rights of the child in question. Due to the passivity of the local authority, the complainant's possibility to have their case heard before a court of law has been significantly delayed.

Cases 4230/2019, 1586/2019 and 2221/2020 involved shortcomings in decision-making concerning special support and assistance services.

## Reasonable adjustments to the matriculation examination

In case 2356/2019, the Deputy-Ombudsman's substitute proposed that the Matriculation Examination Board should improve their guidelines further so that the range of measures of reasonable accommodation is not unnecessarily limited in advance. The grading of test performances could pay special attention to the inadequacy of the arrangements for reasonable accommodation. The consideration of factors that weaken test performance in the assessment of the test should also be extended to other situations than only when a candidate is failing a test.

*The Matriculation Examination Board announced that at its general meeting on 11 December 2020, it amended the regulations and instructions concerning extenuating circumstances in the test performance. Changes and clarifications have been made to the regulations based on the decision.*

## HEALTH CARE

According to Article 25 of the UN Convention on the Rights of Persons with Disabilities, persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. The contracting parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. The contracting parties have agreed to provide persons with disabilities with the same range, quality and standard of health care as other persons.

In decision 101/2020, the Deputy-Ombudsman considers that the use of milk cartons as drink containers for isolated patients in psychiatric hospitals should be abandoned, because procedures that can be perceived as disparaging towards patients must be avoided particularly in involuntary care. Milk cartons have been used because they are regarded as safe water containers. According to the report, the use of rinsed milk cartons had been

taken under scrutiny in the ward, and more pleasant but still safe alternatives were being sought (1601/2020).

In the same decision, the Deputy-Ombudsman considered that a decision to restrict the telephone use of a patient placed in isolation should be made appealable, at least when the restriction takes place on the initiative of the staff. The Deputy-Ombudsman is of the opinion that patients placed in isolation are not in a position for their consent to be regarded as genuinely voluntary. As acknowledged in a statement submitted by the hospital, the procedure had been incorrect.

In case 285/2020, there were shortcomings in the provision of care for a resident with intellectual disability living in Rinnekoti between Helsinki University Hospital HUS and the City of Espoo. The client was forced to make an excessive number of visits to the city healthcare centre and Jorvi Hospital due to the lack of clarity regarding medication. The Ombudsman agreed with Valvira that, in terms of the condition in question, it would have been appropriate to arrange the client's care by one operating unit, the Espoo Hospital at Home. The Ombudsman noted that the joint municipal authority of the hospital district is obliged to plan and develop specialised medical care in cooperation with the municipality responsible for primary health care so that the primary health care and specialised medical care form a functional entity. The Ombudsman drew HUS's attention to the provisions of the Health Care Act on cooperation between specialised medical care and primary health care.

In the same decision, the Ombudsman agreed with Valvira that it would be a good idea for a social worker to meet the client at least once a year and to check whether the services received by the client correspond to their care and service plan. In this case, the Ombudsman estimated that the social worker of the disability services in the City of Helsinki had not met the client in person frequently enough.

In decision 2816/2019, the substitute for the Deputy-Ombudsman gave a reprimand to the psychiatry branch of HUS for future notice concerning an unlawful procedure, because a decision on restricting the contact between the complainant and the patient had not been drafted or communicated in accordance with the Mental Health Act.

In another case, 373/2019, the Deputy-Ombudsman also gave a reprimand to the hospital district on the grounds that the decision to take over the complainant's child's possessions had not been communicated in any way in accordance with the law. The hospital's conduct had jeopardised the possibility of the child's guardians to submit the matter for judicial review. Therefore the failure to notify was a serious mistake, particularly given that a decision to take over the possessions is not a temporary one, such as restrictions on contacts.

In decision 2295/2019 relating to the complaint of Inclusion Finland KVTL, the Deputy-Ombudsman considered it necessary that the Ministry of Social Affairs and Health reviews its instructions before publishing the next update of its guide (National criteria for the handing over of assistive devices for medical rehabilitation). According to the Deputy-Ombudsman, greater individual consideration should be used in the guide in the section that categorically prohibits the handing over of two-person tandem bikes and quadricycles for the purposes of medical rehabilitation.

### DECISIONS REGARDING THE ACCESSIBILITY OF POLLING STATIONS

At the beginning of the year, the Ombudsman issued decisions on four investigations on his own initiative 3332/2019, 3333/2019, 3334/2019 and 3335/2019, which concerned shortcomings detected at the polling stations of the Elections to the European Parliament observed during inspections carried out on the election day. The Ombudsman was pleased to note the fact that the cities of Somero and Riihimäki and the municipalities of Tammela and Loppi reported that they would



*Stairs leading to the polling stations for the European Elections in Tammela (left) and Loppi (right).*

take corrective measures and engage in other development activities as a result of the inspection observations. Due to the corrective measures announced by the municipalities and cities, the Ombudsman's own initiatives did not lead to any other measures in terms of oversight of legality carried out by the Ombudsman. The only exception was that the Ombudsman drew the attention of the Central Election Board and the municipal or city executive to problems arising from issues identified in the inspection minutes concerning accessibility and election secrecy.

In his decision on complaint 2615/2019, the Ombudsman drew the attention of the City of Tampere and its Central Election Board to the accessibility of advance polling stations, as the heavy old doors of the Central Office Building caused an accessibility problem. The Ombudsman was pleased to note that the City of Tampere had taken measures to improve the accessibility of the Central Office Building.



*A polling station equipped with privacy screens at the municipal government office in Jokioinen during the European Elections.*