

SUMMARY

Report on the Activities of the Commissioner for Human Rights in 2024



Rzecznik
Praw Obywatelskich

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Report on the Activities of the Commissioner for Human Rights and on the State of Observance of Human and Civil Rights and Freedoms in 2024



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Report on the Activities of the Commissioner for Human Rights in 2024 and on the State of Observance of Human and Civil Rights and Freedoms – Summary

In 2024, the office of the Commissioner for Human Rights was held by Marcin Wiącek

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Foreword by the CHR

Dear Readers,

The seriousness and authority of the state is to a large extent determined by the stability and consistency of the activities of its constitutional institutions. Citizens want the state to protect their freedoms and rights in a reliable, consistent and transparent manner. However, it is no secret that for some time, we have been experiencing serious problems in this regard in our country. The status, functioning and even legality of certain state bodies give rise to strong, publicly expressed controversy and debate. As a result, a part of society feels lost and confused, and citizens have problems assessing the current legal situation and recognising the competences and actual scopes of powers of particular state institutions.



One of the main tasks of the Office of the Commissioner for Human Rights in 2024 was to reduce, by as much as possible within its statutory powers, the undoubted lack of legal stability and certainty. To convince citizens that every case, every application and every inquiry addressed to the CHR would receive an appropriate and competent response. This required a great amount of work, as people's needs in this area remain extremely high: in 2024, the CHR Office received 77,925 applications for assistance – but we feel that we have succeeded. Wherever possible, we took up cases for clarification, and in other cases we provided information on whom to contact about them. We also undertook numerous initiatives and made requests to the competent authorities to improve the law and streamline the functioning of public institutions.

When I took office in 2021, I declared: “The Commissioner for Human Rights should be an independent advocate for the whole of society. I will be such a Commissioner.” In my fourth year in office, I am pleased to say that we are succeeding in realising this vision. And most importantly, the vision is working. Thanks to this, we enjoy continued trust of citizens. They appreciate the fact that even in such a dynamically changing political and legal situation in the country, an institution that respects the Constitution and the rules of a democratic state and serves to protect the rights of individuals continues to operate.

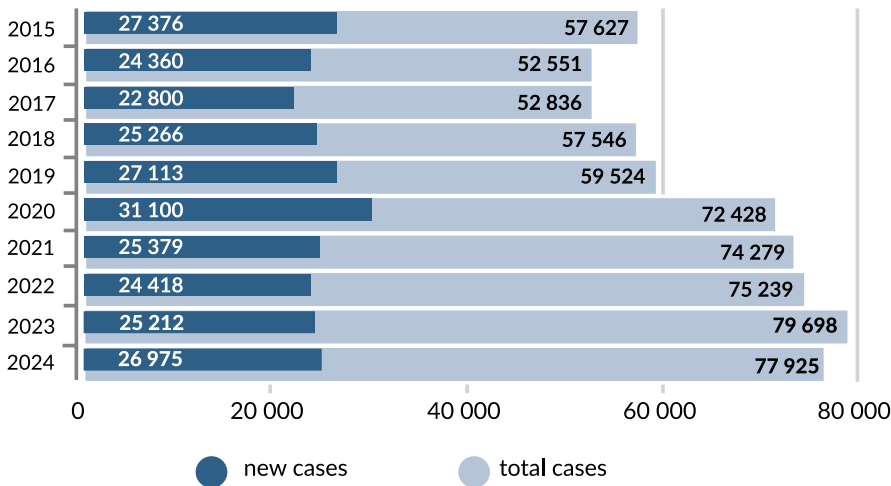
I strongly recommend reading this summary of the Report on the Activities of the Commissioner for Human Rights in 2024, as well as its full version available on the website bip.brpo.gov.pl.

Marcin Wiącek
Commissioner for Human Rights

Introduction

In 2024, the number of applications for assistance submitted to the Commissioner for Human Rights remained very high and reached 77,925 (for comparison, in 2019 the number of incoming applications was 59,524). Also, the Office employees provided advice by telephone in 31,268 cases, and received 2227 in-person visits of citizens seeking assistance at the CHR Office or the Commissioner's Regional Representative Offices. In addition, in the period covered by the report the Commissioner handled 395 cases on his own initiative.

Figure 1. Inflow of applications to the CHR Office in the last ten years (2015–2024) (the data is also presented in table 1 in the section “Tables”).



The constant very large inflow of applications has been caused e.g. by the Commissioner's power to apply extraordinary remedies frequently unavailable to the parties to court proceedings (cassation appeals in criminal cases, extraordinary complaints), a widening group of applicants who seek the protection of their rights (an increasing number of cases concerning foreigners, including Ukrainian citizens seeking refuge from the war). In addition, the increasing complexity of the legal system causes confusion as to the current legal situation. As a result, applicants often do not expect the Commissioner to take action to protect their freedoms or rights, but rather ask the Commissioner to explain the complexities of the applicable law and to determine what effects this law has on the applicants. Therefore, in 2024, in 50.1% of the cases examined, the Commissioner's

action was limited to the provision of explanations or information to the applicants on the measures and remedies available to them. In 37% of the cases relevant proceedings were started in the form of explanatory proceedings undertaken independently by the CHR, or in the form of requests to relevant bodies to examine the matters. These statistics point to the problem of a lack of legal exist. This situation obviously also affects the level of protection of the rights of individuals. People who do not have adequate legal information and those who are misinformed cannot effectively assert their rights or freedoms.

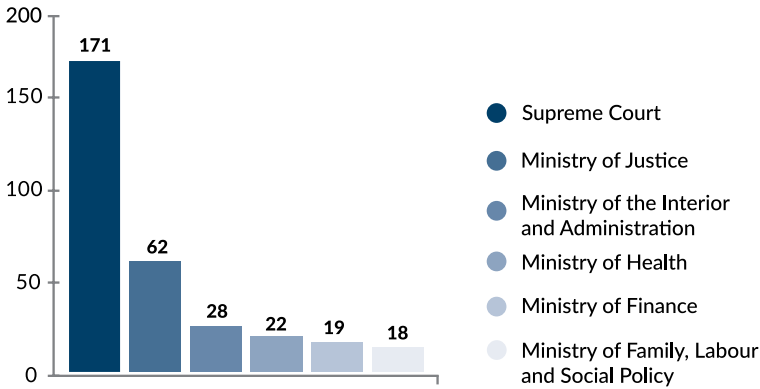
■ **What matters does the Commissioner for Human Rights deal with?**

The Act on the Commissioner for Human Rights empowers the Commissioner to make assessments and comments that go beyond the scope of individual cases. The need to use this measure arises when, in the course of examining individual cases, problems of a general nature come to light, indicating a persistent practice of applying the law by authorities and institutions in a manner that violates the freedom or rights of individuals. Such a need also arises when, in the course of examining complaints, the Commissioner concludes that the source of the violation of an individual's freedoms or rights is not the incorrect application of the law, but the deficient law. In 2024, using the powers granted to him in this regard, the Commissioner addressed 269 problem-specific letters of intervention to the competent authorities, including 144 letters containing a request to take legislative action.

In addition to the intervention letters that are a persuasive means aimed at convincing the addressee through the legal arguments used in them, the Commissioner made use of procedural measures available to him under the law for the protection of people's freedoms and rights. In the period covered by the report, the Commissioner joined 15 proceedings before the Constitutional Tribunal, filed 77 extraordinary complaints and 92 cassation appeals regarding criminal cases with the Supreme Court. He also lodged 8 complaints with administrative courts, and joined 25 proceedings before

national common courts by declaring his participation or requesting the initiation of proceedings.

Figure 2. Main addressees of the Commissioner's general intervention letters and case-specific legal remedies (the data is also presented in table 2 in the section "Tables")

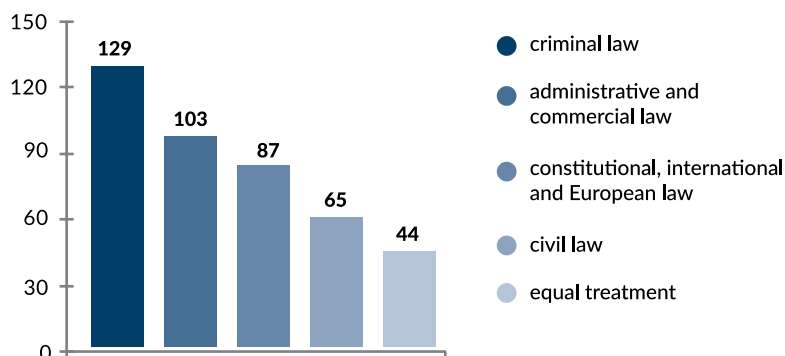


In the exercise of the mandate of the National Preventive Mechanism within the meaning of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Commissioner carried out 113 preventive visits to places where people were deprived of their liberty (in 2023, 76 preventive visits were carried out in the framework of this mechanism).

The Commissioner also safeguards the observance of the principle of equal treatment. He does not only examine applications submitted to him with regard to this area (in 2024, 703 applications concerned equal treatment) but also carries out research on discrimination. He analyses, monitors and supports equal treatment of all people.

The Commissioner has also been designated by the legislator as Poland's national independent mechanism for supporting, protecting and monitoring the implementation of the Convention on the Rights of Persons with Disabilities. When carrying out the task, the Commissioner acts in favour of implementing the provisions of the Convention by submitting letters of intervention, appeals, opinions on draft legislation and conducting research, etc.

Figure 3. The Commissioner's general intervention letters and case-specific legal remedies in 2024 (the data is also presented in table 4 in the section "Tables").



In 2024, the Whistleblower Protection Act imposed new tasks on the Commissioner for Human Rights such as the receipt of external reports from whistleblowers, their preliminary verification, their submission to the competent authority for investigation, and taking follow-up action. The Commissioner was also required to provide whistleblowers with advice on their legal protection. In accordance with the Whistleblower Protection Act, the Commissioner will also draw up an annual report based on reports from public authorities and submit it to the Sejm, Senate, and European Commission. The provisions of the Whistleblower Protection Act concerning the tasks of the Commissioner entered into force on 25 December 2024, and therefore more detailed information on their implementation will be included in the next Annual Report on the Activities of the Commissioner for Human Rights.

In 2024, the office of the Commissioner for Human Rights was held by Marcin Wiącek. The positions of Deputy Commissioners were held by Wojciech Brzozowski, Stanisław Trociuk and Valeri Vachev.

Key problems relating to human rights in Poland

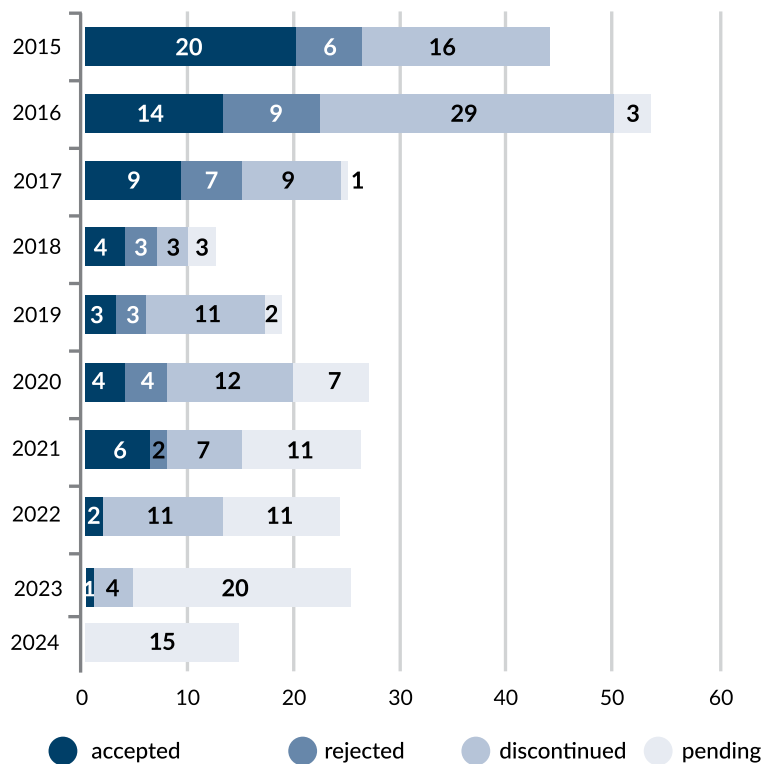
In 2024, the state of observance of human and civil rights and freedoms did not change significantly. In some areas of social and economic life, improvements could be observed, while in others, the situation remained unsatisfactory from the point of view of protecting individual rights. Therefore the assessments contained in the Report on the Activities of the Commissioner for Human Rights in 2023 remain valid.

The crisis in the functioning of courts, including the Supreme Court, remains unsolved. It started with the change of the procedure for electing judges to the National Council of the Judiciary. It was exacerbated by the successive changes in the functioning of common courts, administrative courts and the Supreme Court. Instead of improving the functioning of the courts, there was a regression manifested in increasingly lengthy court proceedings. At the same time the guarantees of independence of judges and the judiciary were undermined. This situation led to a series of judgements passed by the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU), the implementation of which requires fundamental changes in the appointment of judges and the functioning of courts. The ECHR also challenged, to some extent, the new extraordinary appeal procedure called extraordinary complaint (also granted to the Commissioner for Human Rights), introduced into the Polish legal system. The judgments of the European courts have still not been enforced, which exacerbates legal chaos, leads to increasingly lengthy court proceedings (in many cases, proceedings begin with the determination whether the judicial panel meets the standards established in European case law). It also gives rise to disputes as to whether and what legal effect has the court ruling issued by the judicial panel that does not meet these standards.

The European Court of Human Rights also challenged (in the cases of *Xero Flor v. Poland* and *M.L. v. Poland*) the functioning of the Constitutional Tribunal issuing judgments with the participation of persons appointed as judges in violation of the law. As a result, the participation of persons not authorised to adjudicate in the Constitutional Tribunal is considered by a significant part of the relevant stakeholders, including numerous courts, as a factor that undermines the binding force of its judgments.

Furthermore, the judgments of the Constitutional Tribunal, including those favourable from the point of view of the protection of citizens' rights, are not published, for which there is no legal basis. The Act adopted in this regard, introducing amendments, did not enter into force because it was referred by the President of the Republic of Poland to the Constitutional Tribunal for preventive review.

Figure 4. Applications examined by the Constitutional Tribunal: to find laws and regulations inconsistent with the Constitution; constitutional appeals; motions and questions of law to the Tribunal, joined by the CHR in 2015–2024 (the data is also presented in table 5 in the section “Tables”)



The amendment, introduced into the criminal law, that allows to pronounce life imprisonment sentence in criminal proceedings without the possibility to apply for release on parole has not been repealed yet. This means that the provision that violates the prohibition of cruel

and inhuman punishment, arising from the Polish Constitution and international law binding Poland, is still in force.

There was no improvement in the repeatedly reported problem of lengthiness of pre-trial detention. This problem, identified both in the case law of the European Court of Human Rights and in the case law of the Constitutional Tribunal, has not yet been resolved. The Polish law does not yet unambiguously determine the rules of extending pre-trial detention, which make it possible to predict its maximum duration after the judgment of the first instance court. They also allow for the use of pre-trial detention solely on the basis of the severity of the penalty facing the suspect.

There is a systemic problem involving the use of excessive and unjustified direct coercive measures, primarily handcuffs, by police officers and other authorised services during procedural activities and escorting. Handcuffs (including combined handcuffs) are routinely used on persons under the authority of officers, even though the law requires officers to individualise these measures, i.e., to determine the need for and manner of their use on a case-by-case basis, depending on the circumstances. The use of handcuffs, including combined handcuffs, without justified need on detained and remanded persons leads to a violation of the prohibition of degrading treatment.

Visits conducted by the Commissioner showed that the living conditions in temporary detention cells are such that the detainees may reasonably raise allegations of inhuman treatment.

The legal situation in the area of covert interference by the police and other state services with people's right to privacy and freedom of communication has not changed. The Constitutional Tribunal's judgment of 2014 has not been implemented into the legal system. Therefore, the provisions in force allow the police and other services to use operational control on a large scale and to collect telecommunications, postal and Internet data without any limitations. At the same time, these provisions do not ensure effective, independent control over the acquisition of these materials and data. Despite the passage of almost 20 years since

the announcement of the judgement of the Constitutional Tribunal, the authorities have not implemented the signalling decision on the need to introduce an obligation for the police or other state services to inform the person subjected to operational control of the completion thereof if the control has brought no results and no further procedural activities have been conducted with regard to the person. The legislator has also failed to enforce the judgment of the European Court of Human Rights of 28 May 2024 in the case of Pietrzak, Bychawska-Siniarska and others v. Poland

The migration crisis provoked by the Belarusian authorities on the Polish-Belarusian border is still ongoing. Foreigners who cross the Polish border against the law are still pushed back to the border line of Belarus. This is done pursuant to regulations that do not only exceed beyond the powers provided for in relevant parliamentary acts but also, in the case of people intending to apply for the refugee status, contradict Poland's international obligations and other national regulations. The jurisprudence of administrative courts in these cases confirms the opinions formulated by the Commissioner for Human Rights.

In 2024, a temporary ban on staying in a specific area in the border zone adjacent to the border with Belarus was also maintained by issuing subsequent regulations. Therefore, the Commissioner's position remains that the provisions of the Act on the Protection of the State Border, insofar as they do not specify the maximum period for which a ban on staying in a specific area in the border zone may be imposed, violate the constitutional freedom of movement within the territory of Poland in an unacceptable manner. These provisions give the minister issuing the regulation complete discretion in determining the temporal aspects of the restriction of this constitutional freedom in a situation where this should be done by way of a legal act.

The Constitutional Tribunal judgment of 2016, stating that the National Broadcasting Council, which is the constitutional state body that should act as the guardian of the public interest and of the freedom of speech, has been deprived of its influence on the structure of bodies that manage the operations of the public broadcasters, has not been implemented yet. The

Council's responsibilities in this respect were taken over by the National Media Council, an extra-constitutional agency, which is not apolitical. Thus, the current legal situation pertaining to the functioning of public broadcasting companies does not meet the Constitutional standards as it does not guarantee a non-political process of appointing members of the bodies of public broadcasting companies.

The changes introduced in 2016, which resulted in senior civil service positions being filled without open and competitive recruitment, have not been reversed either. As a result, the legal situation in this area continues to violate the constitutional standard of equal access to public service for Polish citizens.

It is necessary to enforce the judgment of the European Court of Human Rights of 12 December 2023 stating that Poland violated the right to respect for private and family life in connection with the lack of institutionalisation of same-sex unions (). The ECHR indicated that the choice of measures to implement its judgement is up to the Polish authorities, defining at the same time certain minimum standards that same-sex unions should meet.

Access to housing for low-income individuals remains a persistent issue in Poland. Municipalities maintain extensive waiting lists for individuals seeking housing from municipal resources. Moreover, municipalities have no housing units for people evicted pursuant to a valid court ruling in a situation where the court ruling requires the provision of social housing to evicted persons. Thus, the constitutional directive regarding support to the development of social housing has not been implemented.

Income criteria for social benefits that are too low cause many families to remain outside the support system. The mechanisms and deadlines for verifying income criteria and benefit amounts laid down in social assistance regulations need to be modified, as they do not take inflationary factors into account. As a result, families in a difficult financial situation often do not receive sufficient assistance from public authorities at the right time.

Complaints received by the Commissioner reveal the problem of excessively lengthy time of waiting for a disability certificate. The consequences of the situation are borne by people with disabilities who are unable to exercise their rights. The inefficient procedure of disability degree assessment leads to the impossibility of the exercise by such persons of their constitutional right to assistance in securing their subsistence, adaptations at work and social communication. Furthermore, in order to adequately guarantee freedoms and rights of persons with disabilities, including their dignity, a personal assistance system should be introduced and the institution of legal incapacitation in its present form should be abolished.

Threats to the protection of children's rights arise from the lack of foster care. The inability to enforce a guardianship court's decision to place a child in foster care due to its limited availability not only undermines confidence in the justice system, but also violates the rights of the child. This leads to a situation where, despite legislative solutions that are directionally correct by increasing the protection of children against violence, children remain in an environment that is dangerous for them.

There is a persistent problem of doctors working under civil law contracts who provide health care services in excess of daily and weekly working time standards and in violation of regulations on mandatory resting time. Replacing employment based on an employment contract with a civil law contract allows these standards to be circumvented and staff shortages to be alleviated. At the same time, however, it increases the risk of errors being made by doctors and lower quality of medical care. This phenomenon is linked to the long-standing problem of a shortage of doctors and nursing staff and the underfunding of the public healthcare system. As a result, access to publicly funded healthcare services remains difficult and does not meet constitutional standards.

In the field of environmental protection, the provisions concerning forest management plans remain unchanged. Despite the judgement of the Court of Justice of the European Union, the legislator has not opened

legal recourse to courts in cases involving the drawing up of forest management plans.

As regards tax matters, the complex and casuistic system of applicable regulations makes it impossible for taxpayers to determine the scope of their tax obligations beyond doubt. This gives rise to disputes with the tax authorities before administrative courts and undermines trust in the state and the law.

To a large extent, the above-described problems were addressed in the Commissioner's reports on the observance of human and civil rights and freedoms in previous years. However, they have not been resolved yet and they are the direct cause of complaints filed with the Commissioner in subsequent years. The problems and other issues relating to the protection of individual freedoms or rights are described more precisely in the detailed version of the Report on the Activities of the Commissioner in 2024.

In this publication, the numbers under which cases are handled at the CHR Office are given in brackets. More detailed information may be obtained at the Office. Those interested should quote the case number or find the case on our website bip.brpo.gov.pl.

Elections

2024 was an election year, the citizens elected Members to the European Parliament and representatives to the local government. In this context complaints were received by the Commissioner.

■ Problems relating to postal voting

Voters pointed out to the lack of a procedure for dealing with ballot papers or referendum papers received as part of postal voting but not returned. They pointed out that, according to the interpretation of the National Electoral Commission, the destruction of one's own ballot paper in elections or referendums is punishable by law, and they asked how they should proceed. The Commissioner referred the matter to the Chairman of the National Electoral Commission.

The Chairman of the National Electoral Commission stated that there are no legal grounds for voters (persons entitled to participate in the referendum) to hand over unreturned ballot papers to the relevant precinct electoral commission, the municipal office or the Delegation of the National Electoral Office. Furthermore, the National Electoral Commission is not authorised to determine the procedure to be followed by voters with ballot papers which, due to their conscious decision, they do not wish to return to the relevant electoral commission. This issue should be regulated by law. (VII.602.3.2021)

■ Accessibility of elections for people with disabilities

The accessibility of elections for people with various disabilities has been the subject of the Commissioner's activities for many years. Despite the efforts of public authorities at the legislative level and ongoing work at the local government level, the problem of the lack of widespread accessibility of elections and difficulties in exercising voting rights by this group of citizens remains relevant and continues to be systemic in nature. Of key importance is the accessibility of polling stations, which requires further coordinated efforts.

Before the local elections, the Commissioner requested local authorities to familiarise themselves with the comments made, among others, in the report on the inspection of polling stations classified as adapted to the needs of people with disabilities, and to take them into account as widely as possible. The Commissioner also encouraged the members of the local election commissions to familiarise themselves with or to be equipped with the assessment sheets used during inspections. (VII.602.6.2014)

The issue of accessibility of elections and MPs and senators' offices was also the subject of one of the meetings of the.



Not all polling stations are fully adapted to the needs of people with disabilities

■ Inspection of polling stations classified as adapted for voters with disabilities: a report

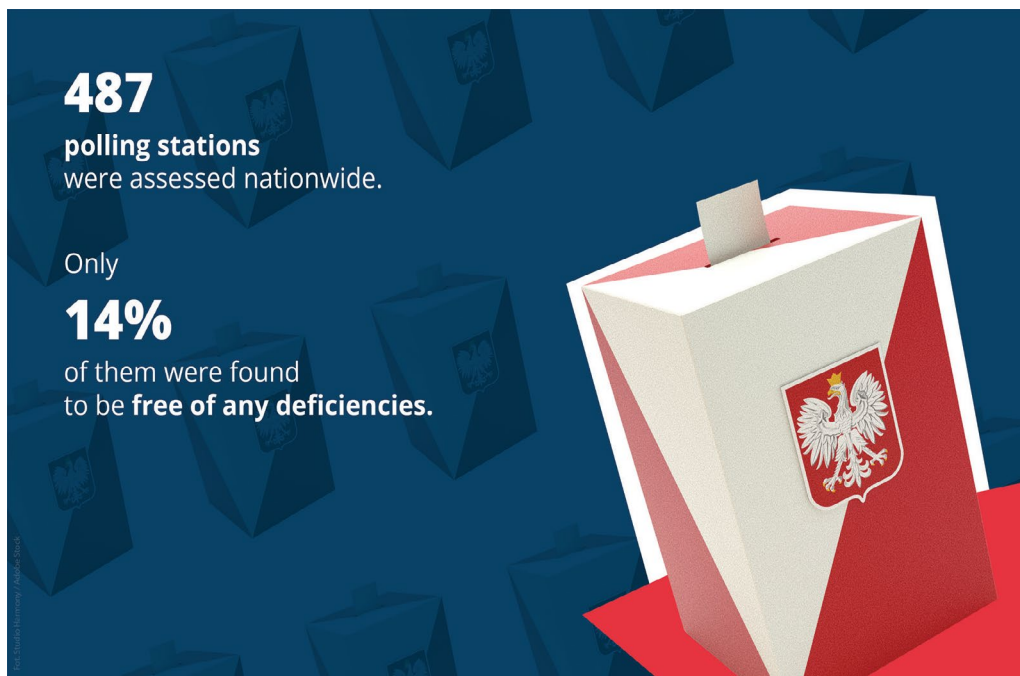
As in the previous years – in elections to the European Parliament and local governments – employees of the CHR Office inspected selected polling stations classified as accessible to voters with disabilities. The CHR encouraged everyone who cared about the idea of elections accessible

for all to join the initiative. One hundred and seventy five social activists were involved in the inspection. In addition to a significant increase in the number of polling stations inspected and the territorial scope of the inspection, this led to the strengthening of the community of people united around the idea of universal and equal elections.

Employees of the CHR Office and representatives of civil society assessed the accessibility of 487 polling stations. Only 67 of them were found to be free of any deficiencies. The inspections carried out allowed attention to be drawn to the most common problems, i.e. lack of additional lighting at the polling station, lack of two appropriately adapted heights at the place for voting, announcements and information from the National Electoral Commission placed at an inappropriate height, lack of marking on the edges of steps and thresholds, too high ballot boxes, slippery floors, and lack of marking on transparent partitions in the polling station. The vast majority of the deficiencies identified did not concern architectural barriers in the buildings, but rather the organisation of the polling station itself.

The inspection revealed that in 121 (25%) polling stations there were barriers preventing access to the building. The accessibility of polling stations still needs improvement, and a proactive approach, such as equipping polling stations with magnifying glasses for voters or preparing and marking toilets adapted for people with disabilities, can effectively contribute to achieving this goal.

The inspection showed that greater attention needs to be paid to the preparation of polling stations by village administrators and town and city mayors. In many cases, members of electoral commissions were not provided with training, adequate infrastructure and tools to carry out voting in accordance with legal requirements.



■ Lack of possibility for persons deprived of their liberty to vote in local elections

Persons deprived of their liberty, despite having the right to vote, were unable to vote in local elections. They are excluded from voting because they do not have the status of permanent residents of the municipality in which they are serving their sentence. In turn, they cannot vote at their permanent place of residence due to their deprivation of liberty. Since 2016 the CHR has been raising this issue, which recurs with each local election. In 2024, he wrote again on this matter to the Director General of the Prison Service.

The Director explained that the procedure is based on the applicable regulations. On the day of the announcement of the regulation on election, the Prison Service ensures the efficient organisation and conduct of voting in elections held in separate polling stations set up in penitentiary units and their external branches, respecting the rights of persons deprived of their liberty. (VII.602.72.2015)

■ Cases of denying the right to vote in European Parliament elections

Citizens complained about being denied voting cards in Poland for the European Parliament elections after being removed from the electoral register due to their inclusion in the electoral register in another EU Member State. The Commissioner asked the Minister of Digitalisation to consider an amendment that would introduce an obligation to inform Polish citizens about their removal from the electoral register due to their inclusion in the electoral register of another EU country.

The Minister pointed out that Poland did not have the technical or legal means to verify the reliability, accuracy or timeliness of data received from other EU countries. He also explained that a change solely at the level of national regulations might not bring the expected results. (VII.602.76.2024)

The right to a court and the system of justice

One of the main problems in the protection of human rights and freedoms in Poland, namely the lack of sufficient safeguards of independence of the judiciary and impartiality of judges, remains unsolved. Relevant judgments of the European Court of Human Rights and the Court of Justice of the European Union remain unimplemented.

■ Status of judges appointed in 2018–2024 at the request of the deficient Council of the Judiciary

On 14 October 2024, the Venice Commission and the Directorate General of Human Rights of the Council of Europe issued an opinion on European standards regulating the status of judges. It was stated that persons appointed to judicial offices in 2018–2024 at the request of the deficient National Council of the Judiciary are judges, and therefore protected by constitutional and European guarantees of non-removal, although their appointments are marred by a legal flaw that requires systemic solutions. The Commissioner asked the Prime Minister to take a position on the

opinion and take its recommendations into account in the work on the reform aimed at regulating the status of judges appointed in 2018–2024 and the rulings issued by them. He emphasised that the assumption that persons appointed to judicial positions from 2018 are not judges and that the rulings they issue are non-existent is unfounded.

The opinion of the Venice Commission states in particular, which is consistent with the of the Commissioner's position, that it cannot be inferred from the judgments of the ECHR and the CJEU that judicial appointments or rulings are null and void (have no legal effect). The effect of these judgements is different and their execution should consist in creating a legal basis for regulating the status of judges appointed since 2018 and also enabling, in specific circumstances, the challenging of the rulings in an appropriate procedure. The legal basis in question should respect the constitutional requirements relating to the status of judges (in particular Article 180(2) of the Constitution) and the stability of final judicial decisions.

The Minister of Justice replied that the Venice Commission's opinion concerns an important matter, namely the type of legal and institutional mechanism by which order could be brought to the institutional situation in the Polish justice system. He assured that all recommendations and comments of the Venice Commission would be subject to thorough analysis in the course of further work on restoring constitutional order in the judiciary, so as to comply with them to the greatest extent possible, determined by the institutional rules of the judiciary and the legal system framework. (VII.510.48.2024)

■ **The need to change the current form of the extraordinary complaint institution**

For over six years an extraordinary complaint has been used – an extraordinary measure for challenging final judgments. It enables the elimination of final judgments that are grossly unfair and unlawful, violating human freedoms and rights. The form of the extraordinary complaint has raised doubts since its introduction, and the CHR has made comments on the practice of its functioning.

The most controversial issue was the time limit for lodging an extraordinary complaint, which enabled the challenge of final judgments dating back to almost 25 years. In the opinion of the Commissioner, an extraordinary complaint is compatible with the principle of legal certainty and the principle of *res judicata*, provided that it is not used arbitrarily or as a routine tool to remedy all cases of misinterpretation of the law, but as an exceptional instrument for reversing judgments affected by fundamental legal flaws that cannot be remedied in any other way.



Furthermore, in its judgment of 23 November 2023 in the case of *Wałęsa v. Poland* (application no. 50849/21), the European Court of Human Rights questioned the current form of extraordinary complaint. This judgment requires that legislative activities be undertaken to amend the provisions on extraordinary complaint. Its enforcement requires: the creation of guarantees that extraordinary complaint will be heard by a

court composed of judges whose legality of appointment is beyond doubt; clarification of the grounds for complaint; repealing the possibility of challenging a final judgment on the grounds of a contradiction between the findings of fact and the evidence; considering the introduction of guarantees to prevent the instrumental use of extraordinary complaint; and setting a shorter time limit for lodging complaint. The Commissioner referred the matter to the Minister of Justice.

The Ministry responded that it recognised the need for change, but that the issues raised are multifaceted and refer to institutional matters. The issue was referred to the Commission for the Codification of the System of Common Courts and Public Prosecutor's Office, as it is necessary to make comprehensive legislative changes to resolve the systemic problems identified in the ECHR judgment. (IV.511.23.2024)

■ **Problem of citizens asserting their rights against a deficient tax decision after the expiry of the limitation period**

Citizens asked the CHR how they could assert their rights against a tax decision with a qualified legal flaw that could not be reviewed under extraordinary proceedings (declaration of the decision invalidity) due to the expiry of the limitation period. The Commissioner had doubts as to whether the applicable tax procedure regulations are in compliance with constitutional standards, in particular the right to a court and the right to compensation for unlawful actions by public authorities. The essence of the problem does not concern the elimination of a deficient final administrative (tax) decision – by declaring it invalid or reopening the proceedings – but the possibility of obtaining confirmation that the decision was issued in violation of the law. The condition for initiating compensation proceedings is to obtain a preliminary ruling in the relevant proceedings. In principle, this is impossible for decisions issued later than 5 years after the date of its delivery. The Commissioner referred this matter to the Minister of Finance and asked for his opinion and consideration of initiating legislative changes.

In response, the Minister pointed out that the current wording of Article 249 (1)(1) of the Tax Ordinance, which sets a time limit for initiating proceedings to declare a final decision invalid, beyond which such proceedings are inadmissible, does not infringe on the taxpayer's ability to exercise his subjective rights, i.e. the right to a court and the right to compensation for unlawful actions by a public authority, and that there was no need to amend this provision. (V.511.462.2023)

■ Life imprisonment without the possibility of parole

From 1 October 2023, courts may impose a life imprisonment sentence without parole. This solution, adopted in Article 77(3) and (4) of the Penal Code, is not only contrary to the prohibition of cruel and inhuman punishment, but also to the understanding of this prohibition in conformity with the case law of the European Court of Human Rights, as laid down in Article 3 of the European Convention on Human Rights. In 2023, in response to the last letter of intervention on this subject, the Minister of Justice wrote that he was not conducting any legislative work in this area. The CHR again asked the Minister of Justice to take a position on the reasoning presented and to consider initiating legislative work on the whole issue.

Recognising the need to review current regulations and possible amendments to criminal law, the Minister announced the establishment of a Codification Commission. As part of the Commission's work, a thorough assessment of the current model of substantive and procedural criminal law would be carried out. The Commissioner's proposals would then be analysed with the view to the implementation of constitutional and convention standards in criminal law. Regardless of this, the Minister of Justice was considering the possibility of initiating a separate legislative process aimed at introducing the most urgent amendments to criminal law. Regulations concerning life imprisonment would also be taken into account as part of this work. (II.510.569.2023)

■ Enabling the resumption of proceedings for imposing fines

The Commissioner received requests concerning the possibility of reopening proceedings for imposing fines. According to the applicable regulations, only refusal to accept the fine opens up the possibility for the accused to present all the circumstances of the incident in their favour before the court. Acceptance of the fine should not result in the deprivation of the right to judicial review of the non-judicial authority's decision on the fine. Today, it is not possible to revoke a valid fine if the public officer committed a gross violation of the law when imposing it. This should be possible when a prohibited act affecting the proceedings was committed while imposing the fine, or when new evidence emerges after the fine becomes final, proving that the person punished did not commit the act. The Commissioner referred this matter to the Minister of Justice.

In response, the Minister wrote that the proposal to amend Article 101 of the Code of Procedure in Petty Offence Cases with regard to extending the grounds for reopening proceedings for imposing fines, would be considered in the course of work carried out by the Ministry of Justice aimed at amending the Code of Procedure in Petty Offence Cases.

(II.510.873.2023)

■ Problem of simultaneous existence of several court rulings regarding inheritance from the same person

The problem of simultaneous existence of several court rulings regarding inheritance from the same person is still valid and requires a systemic solution. The Commissioner sent letters of intervention to the Minister of Justice on this matter before. Although the working meeting was held in 2022 with the participation of representatives of the Ministry of Justice and the CHR Office, no regulations were adopted to resolve the problem. Meanwhile, the Commissioner continues to receive requests related to this issue. Therefore, in 2024, the Commissioner again sent the letter of intervention to the Ministry of Justice on this matter.

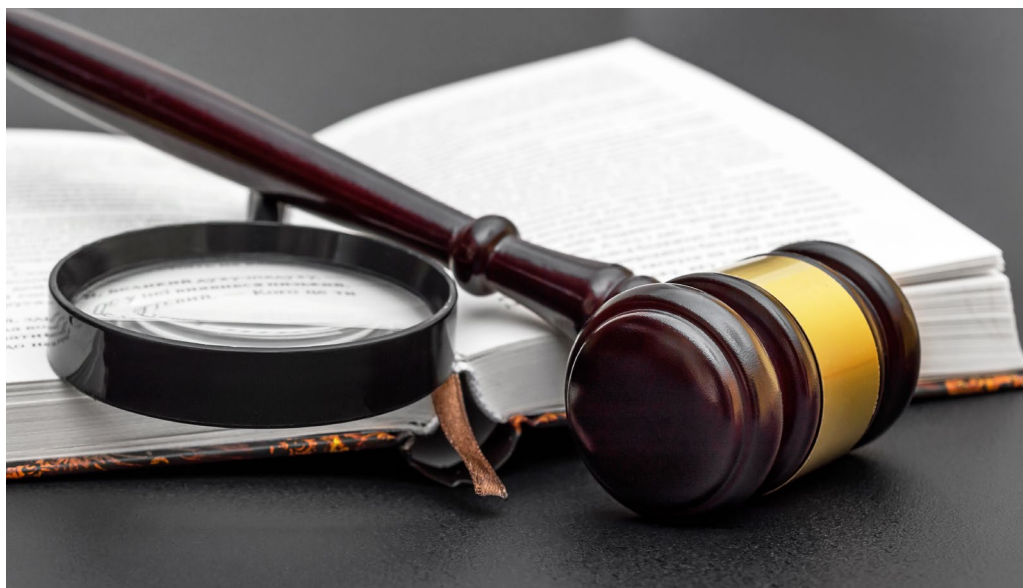
The Minister informed the CHR that the Institute of Justice drafted an opinion on, among other things, the causes of the problem, and on

the basis of its conclusions, legislative work was undertaken. In mid-2024, a draft amendment to, inter alia, the Code of Civil Procedure was proposed, according to which the revocation of the second (deficient) ruling regarding inheritance from the same person will be possible at any time, ex officio by the court, without the need for a request from a party or an authorised entity. The course of further legislative work would be monitored by the Commissioner. (IV.511.221.2020)

■ The need to change the remuneration system for court experts

The fact that the rates paid to court experts depend on the base amount for persons holding senior government positions, which has not been indexed for years, means that experts' remuneration is disproportionately low in relation to the amount of work involved and the knowledge required. The situation would be improved by linking the remuneration of experts to the average salary. The Commissioner asked the Minister of Justice to analyse this issue and consider amending the regulations.

The Minister responded that work was underway on comprehensive statutory regulation of appointing court experts. This also includes determining the rules for remunerating experts. In addition, the Ministry started working on amending the regulations of the Ministry of Justice, in which it is planned to restore the possibility for experts to document their expenses by means of a declaration, and not only by means of invoices or receipts. (II.7002.2.2022)



The CHR sent a letter of intervention to the Minister of Justice concerning the changes needed in the remuneration of court experts

■ Appeal against the suspension of a driving licence by a police officer

Drivers made complaints to the CHR concerning the lack of right to appeal to an administrative court against the suspension of a driving licence by a police officer. The Commissioner for Human Rights asked the Minister of Infrastructure to consider initiating legislative work to introduce a legal basis for appealing against the suspension of a driving licence by a police officer.

The Minister stated that the implementation of the proposed initiative would be an additional bureaucratic solution, significantly reducing the effectiveness of measures aimed at improving road safety. Concern for the individual rights of persons who violate the legal order cannot overshadow the right of all citizens to use the roads safely. At the same time, the Minister announced that the Commissioner's comments would form the basis for analysis while carrying out legislative work on amendment to the Act on drivers, related to, for example, the obligation to adapt national regulations to the new Directive of the European Parliament and of the

Council on driving licences, debated currently in the European Parliament. (II.510.555.2023)

■ **Recording image and sound of procedural actions taken in criminal proceedings**

The issue of recording image and sound of procedural steps taken in criminal proceedings has already been addressed by the Commissioner in the past. In the CHR's opinion, steps entered in the minutes of investigations and trials should be recorded on a mandatory basis. It would reduce the risk of violating the rights of persons being heard, particularly at the beginning of an investigation, especially when they do not have a defence lawyer. It would also protect police officers and prosecutors from allegations of abuse of power. The Commissioner's position was presented to the Minister of Justice, however, the latter expressed the view that "under the current legal framework, the guarantees for persons participating in procedural steps entered in the minutes, in terms of controlling their content, remain at a relatively high level. Therefore, there is no need to record by means of image or sound every procedural step, regardless of its significance for the criminal proceedings." The Ministry did not plan to undertake legislative work in this area, so the Commissioner again requested the Ministry of Justice to analyse the issue and consider taking an appropriate legislative initiative. The Commissioner did not receive a reply to this request. (II.519.1039.2017)

■ **Prohibition of public attendance at court hearings**

For several years, complaints have been made about prohibition of public access to court hearings and trials imposed by some court presidents, who justify this on the grounds of concerns for the safety of judges, parties, attorneys and witnesses. This is because some courts lack a sufficient number of court police officers to enforce court decisions to remove persons disturbing the peace and order from the courtroom. The court president should not be forced to choose between the safety of judges and the transparency of proceedings. In addition, imposing such

prohibition by means of internal regulations is unacceptable in the light of the constitutional system of sources of law. The Commissioner asked the Ministers of Justice and of Internal Affairs and Administration to consider the possibility of quickly assigning additional officers to protect court hearings.

The Ministry of Justice did not share the Commissioner's position and stated that, given the small scale of the problem, the applicable regulations seemed to be sufficient and there was no need to introduce an additional mechanism to respond to threats to peace and order in courts. In the opinion of the Ministry of the Interior and Administration, the solution proposed by the Commissioner should eliminate the introduction by judges of prohibitions of public access to court hearings and sessions due to safety considerations. The Ministry also declared that if the Ministry of Justice undertook work on developing new solutions, both the Police and the Ministry of the Interior and Administration would actively participate in this process. (VII.613.1.2023)

■ The right to legal recourse to court upon operational control

The Commissioner announced his participation in proceedings before the Constitutional Tribunal in the case of a constitutional complaint concerning the examination of the constitutionality of a provision of the Act on the Internal Security Agency and the Intelligence Agency. The complaint was lodged by a citizen who was wiretapped due to contact with a person who was subject to operational control. The CHR requested that the absence of the right to file in such a situation a complaint about the court's consent to the tapping of telephone conversations be recognised as incompatible with the constitutional right to a court, to legal recourse to court and its non-closure, the right to appeal against judgments and decisions, and the right to two-instance proceedings in conjunction with the principles of equality and proportionality. After the completion of extrajudicial operational control, the person subject to such control should have the right to lodge a complaint against the court's decisions regarding the operational activities carried out against them. This right should be accompanied by the obligation to inform the person concerned

of the operational activities (after their completion) carried out against such person. The case is pending before the Constitutional Tribunal. (II.510.86.2024)

■ Access to case files for a detained person who has not been charged, in the context of the possibility of lodging a complaint against detention

The citizen who was detained, released the next day, and then not charged brought a matter before the Commissioner. Despite his efforts, the citizen was not granted access to the case files due to the lack of a legal basis in the Code of Criminal Procedure. No provision explicitly prohibits such access, but at the same time, there is no provision that would allow it. According to the Code of Criminal Procedure, during the preparatory proceedings, the parties, defence counsel, attorneys and legal representatives are given access to the files, they are allowed to make copies or transcripts, and are issued with certified copies or transcripts against payment.

The detainee who has not been charged is not a party to the preparatory proceedings, does not obtain the status of a suspect, and therefore does not have the right to access the files of the preparatory proceedings or the files related to the detention on remand. However, the constitutional right to defence is not only a fundamental principle of criminal proceedings, but also a basic standard of a democratic state governed by the rule of law. In the Commissioner's opinion, this is a loophole in the law that cannot be justified in the light of constitutional standards. Therefore, he asked the Minister of Justice to respond to these comments and to consider initiating appropriate legislative actions.

The Minister pointed out that the Ministry recognised the need to ensure that detainees have the right to access case files. Therefore, it formulated a proposal for legislative changes, which was submitted to the Commission for Criminal Law Codification for an opinion. The draft would be submitted to the Commissioner for an opinion. (II.511.437.2019)

■ **Granting persons with significant disabilities the right to receive assistance from a court-appointed lawyer or attorney-at-law**

The Association for Support and Legal Aid for Vulnerable, Sick and Disabled Persons 'HELP' appealed to the CHR to grant persons with significant disabilities the right to a court-appointed defence lawyer or attorney-at-law, at their own request or that of another authority, in all types of cases and without the right of refusal on the part of the court or authority. The Commissioner does not support depriving common courts of the possibility of assessing the legitimacy of appointing a legal representative ex officio. However, it would be reasonable to consider legislative actions that will enable courts to appoint a defence lawyer or attorney-at-law ex officio in civil cases for any person for whom the courts deem such assistance necessary, even without their request. Currently, the regulations provide for such a possibility in proceedings for legal incapacitation and in proceedings conducted under the Mental Health Protection Act. The Commissioner referred this matter to the Chair of the Commission for Civil Law Codification.

In response, it was stated that amendments to procedural law that would implement the proposal to create, for persons with a significant disability, the right to receive, at their request or at the request of another authority, the assistance of a court-appointed defence lawyer or attorney-at-law in all types of cases, were being considered by two cooperating problem-solving teams of the Commission for Civil Law Codification. (IV.5150.1.2024)

Rights of persons with disabilities

■ Personal assistance for persons with disabilities

The Commissioner presented his opinion on the presidential draft Act on personal assistance for persons with disabilities as part of public consultation held by the Chancellery of the President of the Republic of Poland, emphasising that this is extremely important and necessary. The CHR has repeatedly stressed the importance of involving persons with disabilities in the work on regulations that directly affect them. As early as in the course of work on the draft Act, the Commissioner made comments on the proper consideration of the standards of the Convention, but these were not reflected in the document. Therefore, the Commissioner drew attention to the issues important at further stages of work on the draft, which should be analysed thoroughly again.

In his opinion he has pointed out, among other things, that with the entry of the Act into force, a dualism of “systemic” and “programme” assistance will emerge. The assistance provided for in the draft is a solution that is more favourable to beneficiaries as compared to programme-based assistance. It would be desirable to cover as wide a group of beneficiaries as possible with a potentially more effective solution, rather than limiting it to a narrow group of recipients. Referring to the solution whereby persons aged below 18 would not be covered by the Act, the CHR has pointed out that children and young people with disabilities may also require support in order to be able to spend time and participate in recreational activities with their peers. The Commissioner has also noted, among other things, the insufficient number of hours of support per month and the incomplete list of activities that an assistant could carry out. The Commissioner has emphasised that the availability of assistance services is one of the most important aspects of the deinstitutionalisation process and respect for the individual's right to independent living, in accordance with their autonomous choice. For these reasons, the measures planned should also take into account the need to strive for a comprehensive and coherent reform of the support system for persons with disabilities. (XI.503.4.2016)

■ Introduction of systemic personal assistance for persons with disabilities

In connection with the inclusion of the government's draft Act on personal assistance in the list of legislative and programming activities of the Council of Ministers, the Commissioner drew the Prime Minister's attention to issues that may prove important during the work on the aforementioned draft. The Commissioner emphasised the need to introduce a systemic personal assistance system for persons with disabilities in the context of the protracted work on subsequent draft acts providing for this form of support.



It would be desirable to include in the draft Act on personal assistance as wide a group of beneficiaries as possible, rather than limiting it to a narrow group of recipients (photo: Pexels)

The introduction of personal assistance services requires change of the disability assessment system and the abolishment of legal incapacitation. This is indispensable for realising the principle of independent living for persons with disabilities. Poland has committed itself, among other things, to ensuring persons with disabilities a wide range of support

services provided at their place of residence, including personal assistance necessary for living and inclusion in the community as well as preventing isolation and social segregation. Persons with disabilities have the right to choose support services and service providers in accordance with their own requirements and preferences. These services must be available to all persons with disabilities as close as possible to the communities in which they live, both in urban and rural areas. A complementary element of the system should be the so-called “personal budget” to finance the necessary services, i.e. a package of financial resources allocated to a person with a disability who needs permanent support. The funds allocated under the personal budget are used to provide support in the form of, for example, personal assistance, respite care, medical devices and products, technical aids, individual means of transport, health services and others. The budget for personal assistance must be allocated on the basis of individually defined criteria and must take into account human rights standards for decent employment. In this model, the person with a disability controls the funds by allocating them to pay for any assistance required based on the assessment of their needs and living conditions. Thanks to such solution, the person with a disability retains full control over the personal assistance service and decides for themselves what support they need most at any given moment. Another form of personal budget is the freedom to choose an assistant or the scope of support provided in the case of indirect financing, which is understood as the transfer of funds to the institution supporting the budget user. In the Commissioner’s opinion, the issue of personal budgets requires analysis and further discussion, especially since none of the proposals for systemic regulation of personal assistance has so far envisaged such a solution.

The CHR requested the Prime Minister to urgently take action to ensure systemic personal assistance, taking into account the active participation of persons with various disabilities and the individuals and social organisations working for their benefit. The government’s draft Act on personal assistance for persons with disabilities was entered into the Public Information Bulletin (BIP) of the Government Legislation Centre and is therefore subject to public consultation.

The Speaker of the Sejm informed the Commissioner that he expected the government to immediately submit the draft Act. He emphasised that the situation of people with disabilities is of particular importance to the Sejm in its 10th term. Furthermore, the Chancellery of the Sejm is undertaking numerous activities aimed at inclusion of people with disabilities. Work is also underway to increase the accessibility of the Sejm for deaf people, including translating Sejm debates into the Polish Sign Language (PSL). (XI.7061.5.2023)

■ **Accessibility of offices of Members of Parliament and senators**

According to the information obtained by the Commissioner for Human Rights, adapting many buildings that house offices of Members of Parliament and senators would require costly investments, sometimes extensive renovations. Therefore, it is essential to pay attention to accessibility issues already at the stage of searching for suitable office space. Barriers faced by people with special needs include: a lack of a lift or stairs leading to the so-called “high ground floor” where lifts are located; ramps that are too steep for wheelchairs; lack of access to Polish Sign Language interpreters; publication of inaccessible files on websites; and locked toilets for people with disabilities. The Commissioner asked the heads of the Chancelleries of the Sejm and Senate to analyse the problem and pass on information about the planned actions that would improve the accessibility of MPs’ offices for people with special needs.

The Head of the Senate Chancellery informed the CHR on the calls received by the Senate and a survey prepared in collaboration with the community of persons with disabilities, which was sent to senators’ offices. The responses would allow, among other things, to determine which expectations regarding the accessibility of senators’ offices could be met immediately, within this year’s budget, and which would require a longer-term perspective. The Head of the Sejm Chancellery stated that he was aware of the existing problem and saw the need to take action to draw the attention of Members of Parliament to the need to enable people with disabilities to truly participate in public life. Although MPs’ offices do not perform public administration tasks and are not part of the Sejm

Chancellery, he assured that, given the seriousness of the issues raised by the Commissioner, he would forward them to the Sejm Committee on Rules, MPs' Affairs and Immunities for possible action to resolve the issues. (XI.815.52.2023)

■ Lengthy procedure of allocating the support benefit

The Commissioner received complaints about the lengthy proceedings, conducted by voivodeship disability assessment teams, for examining applications for decisions determining the level of support needed. The right to the support benefit is dependent on obtaining such a decision by a person with a disability. This benefit entered into force on 1 January 2024. Citizens have the right to expect that the state, by imposing on them the obligation to have a specific disability decision, should organise its services in such a way that their case is resolved within a reasonable time. Therefore, requesting that a case be resolved within a reasonable time is a citizen's right, and the administrative body has an obligation to do so. The Commissioner requested information from the Government Plenipotentiary for Persons with Disabilities on actions taken to streamline the assessment process and shorten the waiting time for a decision on the level of support needed.

In response, the Plenipotentiary pointed out that disability assessment teams received approximately 383,000 applications for decisions determining the level of support needed. Most of these were received immediately after the Act on support benefit entered into force. Despite increased staffing levels and the organisation of offices, the voivodeship teams were not prepared for such a large number of applications submitted so quickly. He also explained that the vast majority of applications were submitted on paper, despite the fact that such functionality was implemented on the Emp@tia portal, this made the entire process longer. Continuous efforts were being made to improve the mobility of assessment bodies, both in terms of increasing staff resources and improving organisational efficiency. (BPG.7064.5.2024)

■ **The need to implement legal solutions taking into account the needs of persons with disabilities in the context of evacuation in a situation of risk**

In September 2024, a draft Act on population protection and civil defence was submitted to the Sejm. This Act should initiate a discussion on population relocation in situations of risk, with particular emphasis on vulnerable groups, including persons with disabilities. Currently, generally applicable laws seem to overlook the special needs of these individuals in crisis situations. Given the current geopolitical situation, the experience of the emergency situation during the COVID-19 pandemic, and the threat of natural disasters, steps should be taken to develop and implement crisis management procedures, as well as to amend regulations that would address the specific needs of evacuated people with disabilities. Furthermore, regulations, plans, standards and guidelines regarding evacuation should be as precise as possible and address the needs of people with various types of disabilities, broken down by disability. The Commissioner submitted detailed comments and proposals to the Minister of the Interior and Administration and requested an analysis of these issues and consideration of the development and implementation of legal solutions taking into account the needs of people with disabilities in the context of evacuation in situations of risk.

In response, the Minister underlined that the Commissioner's observations and recommendations regarding the inclusion of the needs of people with disabilities in generally applicable regulations would be taken into account in future legislative work. The Ministry of the Interior and Administration recognised the need to undertake work, particularly on the methods of notifying people with special needs of the threat in case of fire and ensuring appropriate technical and organisational measures for their evacuation. (XI.7050.1.2022)

■ **Ensuring full accessibility for the deaf and hard-of-hearing persons of any natural disaster announcements**

The Commissioner received information that the Director of the Television Information Agency of TVP and the Director of the TVP

Corporate Affairs Office received a call to ensure full accessibility for deaf and hard-of-hearing individuals of all national government, local government, and emergency service announcements about floods and other natural disasters. The call emphasised the need to translate crisis announcements into the sign language and to provide them with subtitles, as a means of improving accessibility for various audiences. According to the requests submitted to the CHR, the obligation to ensure accessibility of announcements was not fully met due to the lack of subtitles or translation into the Polish Sign Language (PSL). Therefore, the Commissioner requested from the General Director of TVP S.A., being under a winding-up procedure, clarification and information on what actions were taken or were planned to ensure the accessibility of national government, local government, and emergency service announcements about floods and other natural disasters.

The Polish Television emphasised its commitment to ensuring the accessibility of its broadcasts for people with a hearing disability. It declared that it would apply the guidelines regarding transcription and translation of the programmes broadcast. The TVP INFO would continue to expand its programming offer based on accessibility criteria. It also welcomed the increasing use of sign language interpreters at important public events – TVP INFO pays attention to their right display on the screen. (XI.815.46.2024)

■ **Non-ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities**

Upon ratification of the Convention on the Rights of Persons with Disabilities, Poland committed itself to taking all appropriate legislative, administrative and other measures to implement the rights laid down in the Convention. Although progress has been made in this regard in recent years, one of the fundamental challenges is ensuring the effectiveness of the Convention provisions through legal measures. One of these is the Optional Protocol to the Convention, which grants the Committee on the Rights of Persons with Disabilities the responsibilities to consider individual notices from persons or groups who claim to be

victims of a violation of the Convention provisions by the state-party to the Convention. After considering a complaint, the Committee may issue recommendations to the state in question. However, this entitlement is not available to individuals under Polish jurisdiction due to the non-ratification of the Optional Protocol. The Commissioner has been seeking its ratification since Poland became bound by the Convention. However, this request has not been taken into account yet. The Commissioner once again asked the Minister of Family, Labour and Social Policy to initiate the process of ratification of the Optional Protocol to the Convention.

In response, it was pointed out that the hitherto Poland's position on the possibility of ratifying this Protocol was being examined with a view to its possible revision. It was clarified that, under the current legal framework, the non-ratification of the protocol providing for a complaints procedure does not mean the inability to assert and enforce the rights guaranteed by the Convention. Furthermore, the non-ratification of the Protocol does not mean that Poland may not observe the Convention or that it may waive the rights enshrined therein. The Minister reaffirmed his readiness and willingness to take steps to sign and ratify the aforementioned Protocol. It was assured that the issue of exercising the rights of persons with disabilities, including procedural guarantees for their implementation, was constantly the focus of the Minister and the Government Plenipotentiary for Persons with Disabilities. (XI.516.1.2015)

■ **Contact between family members and a legally incapacitated adult**

In 2024, the Commissioner again raised the issue of whether close relatives can maintain contact with a fully incapacitated adult when their guardian hinders or prevents such contact. According to the Commissioner as well as common courts and the Supreme Court, the applicable regulations lack legal means by which close relatives can obtain a court-ordered decision on contact with a fully incapacitated adult when their guardian hinders or prevents such contact. In 2022, the Ministry of Justice pointed out that work was underway on a bill aimed at introducing to the Family and Guardianship Code the proposed amendments.

Unfortunately, this bill did not become law and was not even submitted to Parliament. Therefore, the Commissioner requested information from the Minister of Justice on the status of work on the bill.

The Minister assured that regulating the issue of contact with a legally incapacitated person remained a matter of interest to the Ministry. The original guidelines, once further detailed and supplemented, would be incorporated into the upcoming proposal to amend the Family and Guardianship Code, unless the institution of legal incapacitation is abolished in Polish law first. Then, the relevant solutions would be adapted to such situation. In the framework of inter-ministerial cooperation, with the active participation of social organisations dealing with the protection of people with disabilities and representatives of academic circles, optimal solutions would be developed to build a system of supported decision-making and to abolish the institution of legal incapacitation. (IV.7024.22.2018)

■ **Local governments' provision of transport for students with disabilities to education institutions – CHR's study**

One of the fundamental issues concerning access to education for children and students with disabilities is ensuring free-of-charge transport and care to and from educational institutions. Given the concerns and problems associated with this, as well as the incoming requests, the Commissioner for Human Rights conducted a study entitled "Local Governments' Provision of Transport for Students with Disabilities to Educational Institutions", addressed to local governments, parents of children, representatives of municipalities, representatives of social organisations, student guardians, and representatives of transport companies involved in student transportation. The aim of the study was to determine whether and to what extent municipalities are fulfilling their obligations to transport students with disabilities to educational institutions, what are the possible factors responsible for this goal not being achieved or achieved to a limited extent, how the existing regulations are understood and applied, and what are the consequences of the interpretation of the regulations on students' transport for various stakeholder groups. The

Commissioner for Human Rights' report on the study was scheduled to be published in 2025. (XI.420.2.2024)

■ **Support of Ukrainian war refugees that belong to vulnerable groups**

The Commissioner monitors the situation of refugees from Ukraine, with particular emphasis on vulnerable groups, including people with disabilities. In 2024, he requested the Prime Minister to initiate the necessary legislative actions to adapt the system of support for refugees from Ukraine to the needs of persons from vulnerable groups. More information on this topic can be found in the section on the protection of rights of foreigners. (XI.543.445.2024)

■ **Support of students with disabilities**

The CHR drew up the report "Support provision to students with disabilities by teachers co-organising the education process, assistant teachers and personal assistants of students with special educational needs". Its goal was to determine the scope of support needed by these students to ensure them an effective exercise of the right to education and to identify difficulties and barriers. The Commissioner submitted the recommendations adopted in the report to the Minister of Education with a request to consider taking measures to implement them. More information on that topic can be found in the section on education. (XI.7036.18.2024)

■ **The need to take into account individual needs of people with disabilities in access to health services**

In the framework of the ongoing dialogue, the Commissioner presented to the Minister of Health the current problems faced by women and girls with disabilities seeking gynaecological and obstetric care, including accessibility of offices and communication with medical staff. Although the situation is gradually improving, the Commissioner believes the pace of change is highly unsatisfactory. The current state of equipment in medical facilities does not provide patients with disabilities with access

to gynaecological services on an equal footing with others. Creating and implementing accessibility standards for medical offices and larger healthcare facilities is of key importance and should be achieved through the development of generally applicable legal acts. This is the only way to have a real impact on accessibility for people with disabilities. This mode is consistent with the Strategy for People with Disabilities for 2021/2030. (XI.815.64.2022)

■ **Accessibility of elections for people with disabilities**

For years the Commissioner has been engaged in actions aimed at full accessibility of elections for people with various disabilities. Prior to the local elections, the Commissioner addressed the issue to the local governments (VII.602.6.2014). The issue of accessibility of elections and MPs and senators' offices was also the subject of one of the meetings of the Expert Commission on Deaf People. As in the previous years – in elections to the European Parliament and local governments – employees of the CHR Office inspected selected polling stations classified as accessible to voters with disabilities. Employees of the CHR Office and representatives of civil society assessed the accessibility of 487 polling stations. Only 67 of them were found to be free of any deficiencies. There were also barriers in the surroundings of polling stations (25%) The Commissioner encouraged people to join the campaign and check their own polling station to see if it met the accessibility requirements laid down in the regulation.

Protection of the rights of foreigners, minorities and the situation on the border

■ Support for war refugees from Ukraine that belong to vulnerable groups

Since the beginning of the Russian Federation's aggression against Ukraine, the Commissioner has been monitoring the situation of refugees from Ukraine, with particular emphasis on vulnerable groups, including people with disabilities, people of Roma origin, people with health problems, the elderly, and those who have experienced torture, sexual violence, or other infringements of international law. The current legal framework regulating the system of support for refugees from Ukraine is not adapted to the needs of people with disabilities, health problems, or limited mobility. The burden of providing such individuals with necessary assistance, including reception, arranging specialised transportation, and accommodation adapted to their needs, rests with non-governmental organisations. Meanwhile, Poland, as a party to the Convention on the Rights of Persons with Disabilities, has an obligation, inter alia, to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk. The support system should be supplemented so that the needs of refugees with disabilities or in poor health are recognised and adequately addressed. The Commissioner for Human Rights referred this matter to the Prime Minister.

The Minister of the Interior and Administration assured that the government consistently takes multi-sectoral actions which, since the outbreak of the armed conflict in Ukraine, have made it possible to provide assistance to anyone fleeing war who requests it. In a comprehensive 17-page response, the Ministry of the Interior and Administration presented in detail the state's actions in favour of war refugees from Ukraine, including those from vulnerable groups. (XI.543.445.2024)

■ Irregularities in the treatment of foreigners detained on the Polish border

The Commissioner received information on irregularities in the treatment of foreigners detained or apprehended by officers of Border Guard Posts near the state border with the Republic of Belarus. According to the information, the foreigners' legal representatives are not allowed to participate in proceedings against their principals, and letters and decisions are not served on them. Furthermore, Border Guard officers question the credibility of the declarations of intent to apply for international protection in Poland, which foreigners carry with them upon detention. This results in the return to the border line of individuals who declare their intention to apply for international protection in Poland both verbally and in writing. These irregularities were confirmed during visits conducted by employees of the Commissioner for Human Rights' Office to selected Border Guard Posts in 2024. The Commissioner requested the Commander-in-Chief of the Border Guard to address the issues described above.

The Commander-in-Chief assured that the Border Guard operated solely on the basis and within the limits of the law, respecting the regulations governing administrative procedures in ongoing proceedings. If a foreigner is discovered to have illegally crossed a state border that is an external border of the EU, the Act on Foreigners requires the preparation of a state border crossing report and the issuance of a decision to the foreigner to leave the territory of the Republic of Poland. The regulations leave no room for discretion, imposing on the Border Guard the obligation to take specific action. The statement that the Border Guard was not supposed to collect declarations and applications for international protection was not reflected by the facts and statistical data, which confirmed that the Border Guard did collect applications for international protection from foreigners who expressed their will in this regard. (XI.543.423.2024)



The situation on the Polish-Belarusian border has been a matter of interest to the Commissioner for Human Rights since the beginning of the crisis

■ Lengthiness of administrative proceedings conducted by voivodes aimed at legalisation of foreigners' stay in the territory of the Republic of Poland

The complaints lodged with the Commissioner concerned the lengthiness of administrative proceedings conducted by voivodes with the aim to legalise foreigners' stay on the territory of the Republic of Poland. The number of residence applications submitted by foreigners was too high for the available staffing resources to process them efficiently. Following its audit conducted in the period 2021-2023, the Supreme Audit Office (NIK) negatively assessed the handling of matters related to the provision of services to foreigners at voivodeship offices. Information obtained by the Commissioner indicates that some voivodes did not receive additional financial, personnel, or organisational support in connection with the

increased workload associated with providing assistance to war refugees from Ukraine. In their complaints to the Commissioner, foreigners also raised other issues related to the lengthiness of proceedings, such as a long waiting time for appointments to appear in person and provide fingerprints as well as for obtaining a passport stamp confirming the submission of an application and thereby the legality of their stay. Foreigners experienced difficulties obtaining information about the status of the proceedings, and there were also problems when attempting to book an office appointment online. Therefore, the Commissioner requested the Minister of the Interior and Administration to address the irregularities identified.

In a comprehensive response, the Minister assured that the Head of the Office for Foreigners took a number of actions to enable voivodes and the second instance authority to improve the effectiveness of procedural activities undertaken in the course of proceedings aimed at legalising foreigners' stay. He stated, among other things, that work was underway on an amendment to the Act on foreigners, which would allow foreigners to submit digital copies of applications and waive the requirement to appear in person to submit an application in these proceedings. (XI.541.31.2021)

■ Problems with the UKR status of war refugees from Ukraine

From the first days after the outbreak of the armed conflict in Ukraine, the Commissioner has been monitoring the situation of Ukrainian war refugees arriving in Poland. Invariably, a high number of complaints concern difficulties obtaining, restoring, or re-granting the UKR status and the loss of the associated rights under the Act on Assistance to Ukrainian citizens in connection with the armed conflict in the territory of Ukraine. There arise problems relating to the inability to simultaneously enjoy temporary protection on the territory of more than one EU member state.

Many refugees travel to Ukraine to obtain a new document, most often a passport. In this situation, crossing the border upon departure from Poland is recorded based on the old document, while upon returning to Poland, foreigners use a new document issued in Ukraine. Then, information about their return is often not recorded in the register, and

the data contained therein indicates that the foreigner left the territory of the Republic of Poland for a period of more than 30 days, which causes the loss of UKR status. Another problem concerns the electronic document Diia.pl, confirming the identity and legal stay of Ukrainian refugees in Poland and enabling them to travel within the EU. Based on complaints filed with the CHR, it appears that after Ukrainian citizens whose stay in Poland was previously legal under the Act on Assistance to Ukrainian citizens obtain a residence permit, they lose the ability to use the Diia.pl electronic document, even if their child is still a beneficiary under the Act on Assistance to Ukrainian citizens. Consequently, the parents lose access to their child's digital document. The CHR has previously informed the Ministry of the Interior and Administration that issuing only an electronic document confirming legal residence in Poland and authorising border crossing could pose difficulties not only for minor foreigners but also for people with disabilities and the elderly. Therefore, the Commissioner requested the Minister of Interior and Administration to address these issues.

The Minister stated that cases of losing the UKR status were due to a number of factors, e.g. when Ukrainian citizens failed to indicate their status when asked by Border Guard officers during border checks, resulting in their status not being recorded in the check-in system. Another example was the lack of appropriate travel documents in the form of individual passports. Inquiries related to obtaining, restoring, or re-granting the UKR status and the consequent loss of associated rights by Ukrainian citizens were being examined on an ongoing basis by the Border Guard Headquarters. (XI.541.139.2022)

■ **Draft Act Amending the Act on Foreigners and Certain Other Acts**

The Commissioner made comments on the draft Act amending the Act on Foreigners and certain other acts. One of its main goals is to change the procedure for submitting applications for temporary residence permits, permanent residence permits, and long-term EU resident permits by replacing the obligation to file paper applications with that to file them

electronically. The possibility to submit applications for residence permits exclusively through the MOS system may pose a significant obstacle for foreigners who lack sufficient digital skills. The solutions provided for in the draft Act may prove insufficient to ensure full access to procedures for legalising stay in the Republic of Poland.

The Commissioner noted the need to clarify certain legal regulations regarding the procedure for granting international protection to unaccompanied minors. He referred to the proposed solution, according to which foreigner's access to social assistance at the centre as well as medical care would be suspended by law if the foreigner stays outside the centre for a period longer than two days. The category of individuals for whom medical care is not suspended does not include all special situations that may pose a threat to the foreigner's life or health, nor does it take into account that a foreigner may stay outside the centre for a legitimate reason.

The proposed amendments may unjustifiably deprive foreigners, who may still be subject to proceedings for international protection, of access to medical care. Given that some of the solutions included in the Act may have negative consequences for the protection of foreigners' rights, the Commissioner requested that the Minister of the Interior and Administration take these comments into account in the course of the legislative actions carried out. (XI.541.302.2024)

■ **Situation of the Roma minority**

In 2024, the Commissioner continued monitoring the situation of the Roma minority in Małopolska region, particularly the actions taken by local authorities aimed at sustainable improvement of social and living conditions in the Koszary and Maszkowice housing estates. Despite the involvement of the Małopolska Voivode, the Minister of the Interior and Administration and the Commissioner for Human Rights, this situation had not improved for many years.

In connection with disturbing information on the planned demolition of residential buildings located in the Koszary housing estate, the

Commissioner sent a letter to the Mayor of Limanowa Municipality. In his letter the Commissioner noted that any interference with the right to respect for one's home, protected by Article 8 of the European Convention on Human Rights, which would create a risk of its loss, must be preceded by a detailed examination of its proportionality and justification. (XI.816.27.2023)

The issue of the planned demolition of residential buildings in the Koszary housing estate was also raised in the letter sent to the Małopolska Voivode. It also highlighted the questionable lack of representation of residents of the Koszary and Maszkowice housing estates in the teams, appointed by the Voivode, to address the housing as well as social and living conditions of the Roma community in Maszkowice and Koszary. (XI.816.27.2023)

Since the actions of the municipal authorities and the Małopolska Voivode did not improve the social and living conditions in the Koszary and Maszkowice housing estates, the Commissioner requested the Minister of the Interior and Administration to address this issue. The Commissioner noted, among other things, that the Roma Social and Civic Integration Programme in Poland for 2021–2030 provides for the allocation of funds from the earmarked reserve to commission research on various aspects of the Roma community situation in Poland. Therefore, he requested the Minister to consider using these powers by allocating funds to commission a social diagnosis of the Roma community living in the Koszary housing estate, preparing an update to the existing social diagnosis of the residents of the Maszkowice housing estate, and, as the next step, commissioning the development of plans for the comprehensive revitalisation of the aforementioned housing estates. (XI.816.27.2023)

Issues related to the situation of the Roma minority in Poland as well as the problem of the difficult situation of Ukrainian refugees of Roma origin were raised during the meeting between representatives of the CHR Office and those of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE).

■ Organisation of education for national minorities

In the framework of monitoring the state's obligations to protect the rights of national and ethnic minorities and communities using regional languages, including the right of minorities to learn their own language and study other subjects in their own language. In 2024 the Commissioner sent comments to the Minister of National Education on the current legal regulations regarding the organisation of education for minorities, which should be clarified with the view to the right of minorities and communities using regional languages to learn their own language, history, and culture also in separate public schools. More information on this topic can be found in the section on education and schooling. (XI.816.7.2023)

Health care and social security system

■ The need to develop a plan for treatment of rare diseases

The Commissioner has repeatedly raised the issue of the need for state action in the area of rare diseases and stressed the need to adopt a National Plan for Rare Diseases. Hence, he noted with satisfaction that the government had adopted the Plan for Rare Diseases – a model of care dedicated to patients with rare diseases, offering the prospect of improved access to diagnostic and therapeutic processes. This Plan, however, is still not operational. The 2021 resolution adopting the Plan expired on December 31, 2023. At the same time, despite the tremendous work on the Plan for Rare Diseases carried out by experts, the solutions contained therein have not yet been implemented. The Commissioner asked the Minister of Health to take a position on the issue, in particular to indicate what comprehensive actions and goals for implementation of various elements of the Plan have been taken and implemented, and what are the plans of the Ministry of Health with regard to the Plan for Rare Diseases. In an exhaustive response, the ministry discussed in detail the assumptions of the Plan and the degree of implementation in each of the areas covered by it, including, among others, diagnostics for rare diseases, access to medication and foodstuffs for special nutritional uses. With the deadline for some of the tasks included in the Plan set for December 31, 2024, in a subsequent letter the Commissioner asked the Minister of Health for information on implementation of the Plan for Rare Diseases.

In response, the Commissioner was informed that on 13 August 2024, the Council of Ministers adopted a resolution on the adoption of the Plan for Rare Diseases for 2024–2025. Due to the nature of the document and the innovative solutions it contains, work on the amendment of the Plan for Rare Diseases has been prolonged, although tasks such as those related to the area of Rare Disease Expert Centres (OECR) are still being carried out without interruption. The Commissioner addressed the Minister of Health again, pointing out that adopting the Plan for Rare Diseases for 2024–2025 deserves recognition. At the same time, the Commissioner stated that he

could not consider the response sufficient. The position presented lacks information on the expected time of implementation of the Plan for Rare Diseases, both in its entirety and in its individual parts. This is particularly important for patients suffering from rare diseases and their families, who devote all their attention to fighting the disease and expect clear information from the Ministry of Health. (V.7013.173.2024)

■ Nationwide drug safety

The European Commission, together with the European Medicines Agency and national agencies, has published a list of 200 active substances that are critical to EU healthcare systems and for which continuity of supply must be ensured in order to avoid shortages. This list is an important tool in the EU's efforts to ensure drug safety. National drug manufacturers have pointed to recurring shortages of drugs that are essential to citizens' health, calling for the creation of a national list of critical substances and a contract manufacturing system. The need for such a list was also emphasised during the 9th Health Challenges Congress, with experts calling for better coordination of drug policy between the Ministry of Health and the Ministry of Economic Development and Technology. The Commissioner has approached both ministries on this matter.

In its response, the MoEDaT pointed out that the problems of drug availability exacerbated by the COVID-19 pandemic highlighted the risk of relying on global supply chains. As part of the National Recovery Plan, the ministry planned activities to support the development of the domestic pharmaceutical sector and creating a list of key pharmaceutical substances crucial to ensuring health security of citizens. The Minister of Health confirmed that measures are being taken to monitor and improve availability of drugs, but stressed that local shortages cannot be completely eliminated. The Ministry shared the Commissioner's opinion on the need to strengthen domestic production and published the first National List of Critical Medications, comprising 301 substances. (V.7013.375.2024)



The Commissioner for Human Rights drew attention to the need to build drug security, including strengthening domestic drug production and publishing a list of critical medications (photo by Ivan Traimak/Adobe Stock)

■ Protracted proceedings for diagnosis and confirmation of occupational diseases

Complaints to the Commissioner show that for many years there has been a problem of long waiting times for examinations confirming an occupational disease. Currently, people have to wait up to two years for such examinations. The problem is particularly acute in the assessment and certification process in the level II assessment unit. The only unit of this kind that recognises appeal cases from all over Poland is the Professor Jerzy Nofer Institute of Occupational Medicine in Łódź. Moreover, legislation does not specify deadlines for assessment units to issue certificates. The long waiting time for a medical certificate translates into a very long time for the State Sanitary Inspection units to confirm an occupational disease. On the other hand, holding a certificate confirming an occupational disease is an essential condition for the person concerned to apply for the benefits set out, inter alia, in the provisions of the Act on social insurance for work accidents and occupational diseases. For this reason, the Commissioner asked the Minister of Health to take action to

streamline the assessment and certification procedure for recognising occupational diseases, e.g. by introducing deadlines and thus shortening the waiting period for obtaining a medical certificate in this respect.

The Minister responded that in the COVID-19 pandemic, assessment and certification proceedings for reported suspected occupational respiratory diseases requiring functional testing with a high risk of SARS-CoV-2 virus transmission were suspended. Assessment and certification proceedings for occupational diseases are performed for diagnostic purposes only, so it was reasonable to postpone them until the epidemiological situation in the country was under control, at which time admissions to the Occupational Diseases Unit for patients requiring diagnosis of work-related respiratory diseases resumed. At present, patients from 2023 and 2024 are awaiting examination appointments at the Institute of Occupational Medicine in Łódź, and the diagnostic tasks are being carried out consistently within available resources, guaranteeing the financing of respective tasks. (III.7051.1.2024)

■ Access to medical services related to childbirth and perinatal care

Problems in perinatal care have been flagged up by the Commissioner for many years. In letters to successive ministers of health, he raised issues such as the respect of patients' rights to dignity and privacy (with regard to the conditions of providing services, the possibility to choose the doctor's gender), physiological versus medicalised childbirth, natural feeding, so-called kangaroo care, legal environment for perinatal care standards or access to anaesthesia during childbirth. Article 68 of the Constitution (the right to healthcare) obligates public authorities to provide citizens, regardless of their material situation, with equal access to healthcare services financed from public funds, and in relation to, inter alia, pregnant women and children, to provide special healthcare. Such special care should relate to the entire perinatal period. The standard of perinatal care speaks, inter alia, of respecting the right to informed participation in making decisions related to pregnancy, childbirth, the postpartum period and the care of the newborn.

This topic was addressed by the Commissioner's Committee of Health Experts. The experts, including representatives of NGOs, pointed out significant problems regarding upholding the rights of pregnant women and women giving birth as well as the ineffective functioning of the perinatal care standards. Among other things, the Committee noted problems related to medical interventions without the patient's consent, lack of freedom of movement in childbirth, especially in the second period of labour, or obstetric and gynaecological violence. The low rate of perinatal anaesthesia as well as increased pricing for perinatal procedures remained an issue. Insufficient monitoring of perinatal care standards compliance and the lack of consequences for violations of these standards are among the most significant causes of the current situation in perinatal care. For this reason, the Commissioner addressed the Minister of Health on this issue.

In his response, the Minister advised that work has been undertaken to amend the regulation on the organisational standard of perinatal care. (V.7010.68.2024)

■ **The need to accommodate particular needs of persons with disabilities in accessing health services**

The Commissioner continues to engage in dialogue with the Ministry of Health on the need to accommodate particular needs of persons with disabilities in accessing health services. He particularly emphasizes the urgent need to improve conditions related to gynaecological and obstetric care. Problems faced by women and girls with disabilities who want to use gynaecological and obstetric services include architectural barriers to accessing clinics. Developing and implementing accessibility standards for doctors' offices and larger healthcare facilities is crucial and should be effected through drafting generally applicable laws. This is the only way to have a real impact on ensuring accessibility for persons with disabilities. Another serious challenge faced by patients with disabilities is communication with medical staff. Reasonable expectations of persons with disabilities that they should not feel discriminated against, mistreated, or even insulted in doctors' offices require that staff be trained

as extensively as possible to work with persons with disabilities and that employees be made aware of disability issues and the difficulties faced by individual persons. Efforts should be made to include this content in medical school curricula. The Commissioner asked the Minister of Health to analyse these problems and respond to the issues raised.

In his comprehensive response, the Minister assured the CHR that the Ministry of Health is taking ongoing measures to improve accessibility of medical care for women with disabilities. Between 2019 and 2023, a project entitled 'Accessibility Plus for Health' was implemented, under which Accessibility Standards for primary healthcare facilities and hospitals were developed, and grants were awarded to facilities to improve their accessibility for people with special needs. There is also an analysis being carried out on the possibility of including in the Regulation of the Minister of Health on the organisational standard of perinatal care a provision requiring entities providing medical services in the field of perinatal care to ensure access for people with special needs, as appropriate to the health services they provide. (XI.815.64.2022)

■ **Insufficient level of benefits for individuals and families in need of social protection**

The Commissioner receives complaints concerning insufficient amounts of family and care benefits, payments from the alimony fund, social assistance, as well as limited access to these benefits due to excessively low income criteria. In the current socio-economic reality, given the significant increase in cost of living, decreasing value of money and the prospect of rising energy prices, the amount of benefits provided to individuals and families in need of social protection is insufficient. Income criteria set at too low a level mean that many individuals and families in need remain outside the support system. The Commissioner was greatly concerned by the government's proposals to the Social Dialogue Council regarding the income-based eligibility criteria for social assistance benefits as well as family criteria and benefits. The mechanisms, procedures and deadlines for verifying both the income-based criteria and the amount of benefits need to be reviewed and modified accordingly. Therefore, the Commissioner asked the Minister of Labour and Social Policy to analyse

the comments presented and undertake corrective measures to secure social protection for people in need and at risk of poverty, and to present his position on the matter.

The minister explained that the income-based eligibility criteria for social assistance benefits are reviewed every three years, taking into account the results of social intervention threshold studies conducted by the Institute of Labour and Social Affairs. The next review of income criteria and social assistance benefit amounts has been carried out in 2024. The Council of Ministers adopted a regulation on the increase in income-based criteria for social assistance. The change in income criteria amounts will also result in an increase in the maximum amount of the permanent benefit. In addition, a Team for the Reform of the Social Assistance System has been appointed as an advisory and consultative body to the Minister of Family, Labour and Social Policy. The Team's purview will also include reforming income criteria and the benefit system.

In continuing the correspondence regarding shortcomings in the system of benefits for families with children, persons with disabilities, and persons and families in difficult personal and financial circumstances, the Commissioner requested that the Minister of Family, Labour and Social Policy respond to the remaining issues raised in the letter.

The minister noted that the ministry provides a wide range of support instruments for families and institutions assisting them, dedicated to the care and upbringing of children. In addition, analyses have been undertaken with regard to effecting systemic changes in the area of family benefits. In addition to instruments targeted to families with children, state assistance is also available to children who despite being entitled to alimony from a parent are not receiving it due to ineffective enforcement; this assistance takes form of benefits from the alimony fund. The Ministry has prepared a draft Act raising the maximum amount of benefits from the alimony fund by 100%, from PLN 500 per month to PLN 1,000 per month. Referring to the issue of support for families raising children with disabilities, the Minister stated that the system of benefits dedicated to carers of children with disabilities is based on special and

preferential solutions that correspond to their needs and expectations as closely as possible. New provisions of the Family Benefits Act regulating the conditions for granting care benefits are in force since 2024. (III.7065.165.2022)

■ Operation of prison healthcare

The Commissioner monitors the implementation of the right of persons in custody to medical care while in prisons and remand prisons, emphasising the important role of medical staff in preventing torture, inhuman and degrading treatment or punishment. In connection with the announcement of prison healthcare reform, the Commissioner sent a letter to the Minister of Justice providing a list of issues that need to be addressed. This is discussed in more detail in the section concerning the prevention of torture. (KMP.571.24.2024)

Freedom of expression and freedom of the media

■ Fight against disinformation

The Commissioner for Human Rights has analysed issues related to protecting constitutional freedom of expression and the right to information, indicating the need to effectively fight disinformation. As per European Commission's definition, disinformation is false or misleading information disseminated for the purpose of gaining an advantage or manipulating public opinion, which undermines democracy and trust in institutions.

The European Parliament stresses the need to raise public awareness and strengthen resilience to disinformation. The key document is the 2017 Joint Declaration, and in 2018 the European Commission presented an action plan including, among other things, enhancing the capacity of institutions to detect disinformation, mobilising the private sector and educating the public.

The Commissioner asked the Minister of Digital Affairs to incorporate these issues into the government's activities. The Minister affirmed that the ministry is taking appropriate measures and that the Centre for Digital Competence Development is implementing projects aimed not only at mitigating the impacts, but above all at eliminating dangerous content. The ministry also publishes educational materials and has announced further activities in this area. (VII.7033.60.2022)

■ The need to amend the Homeland Defence Act

The prohibition of taking photographs introduced in the Homeland Defence Act restricts the freedom referred to in Article 54(1) of the Constitution. This provision stipulates that everyone shall be guaranteed the freedom to express their views and to obtain and disseminate information. Photographing, filming or otherwise recording an image or likeness falls within the scope of the constitutional freedom to obtain information.

National security undoubtedly justifies restrictions on the freedom to obtain information. However, the wording of Article 616a(1)(1) of the Homeland Defence Act clearly indicates that the prohibition of taking photographs may apply not only to sites that are particularly important for national security, but also to 'sites belonging to the Ministry of National Defence that are not considered particularly important for national security or defence'. This means that the prohibition of taking photographs may also apply to facilities that are not important from the point of view of national defence or security, as long as they are facilities of the Ministry of National Defence.

The Commissioner expressed doubts as to the constitutionality of the provision of the Homeland Defence Act that prohibits photographing critical infrastructure facilities not designated by the Council of Ministers as being of particular importance to national security. In such cases, the prohibition is issued by the facility's security, based solely on the threat to its security. This may violate the constitutional freedom to obtain information (Article 54(1) of the Constitution), as this premise does not meet the criteria set out in Article 31(3) of the Constitution. The Commissioner asked the Minister of National Defence to consider amending the legislation.

The minister explained that the proposals raised in Commissioner's letter may be analysed in detail during potential work on amending the Homeland Defence Act. (II.510.670.2023)

■ **Restricting freedom of expression and the right of access to public information on social media profiles of public institutions**

The Commissioner for Human Rights receives numerous complaints concerning the profiles (accounts, websites) of public institutions on social media. Complainants point out that their freedom of expression and right of access to public information are being restricted by way of arbitrary deletion of comments and blocking of access, often without any warning or means of appeal. This problem pertains to many bodies and offices of

public administration, both governmental and local government, as well as other public institutions and organisations.

The Commissioner considers removing content or blocking citizens' access to public institutions' accounts on social media to be an action that restricts the constitutional freedom of expression, which should be based on an act of law.

The Commissioner has asked the Minister of Digital Affairs to prepare a draft Act regulating the rules for maintaining profiles of public administration bodies and offices and other public institutions on social networking sites, as well as procedures for blocking users and removing information published by them.

The Minister of Digital Affairs declared his openness to dialogue and cooperation in the possible implementation of solutions to the problem presented. (VII.564.65.2024)



Education

■ Support for students with disabilities

As part of independent study focusing on discrimination, the Commissioner prepared a report entitled 'Support for students with disabilities by teachers co-organising the educational process, teaching assistants and personal assistants for students with special educational needs'. Its purpose was to determine the scope of support these pupils need in order to effectively exercise their right to education and to identify difficulties and barriers.

The study has produced recommendations aimed at developing solutions for launching assistance support for special needs students in kindergartens and schools, taking into account the provisions of the UN Convention on the Rights of Persons with Disabilities. The recommendations include, among others, the need for systemic regulation of the position of assistant to students with special educational needs, shortening the waiting time for a diagnosis of special educational needs, implementing appropriate procedures for handling discrimination incidents, promoting cooperation between schools and parents of children with special educational needs, ensuring the appropriate organisation and adaptation of physical education classes, and eliminating architectural barriers. The Commissioner asked the Minister of Education to analyse these comments and consider taking action to implement the recommendations. (XI.7036.18.2024)

■ Organisation of education for national minorities

The Commissioner monitors the state's performance regarding its obligations to protect the rights of national and ethnic minorities and communities that use regional languages, including the right of minorities to learn their own language and to be educated in their own language. Since 2023, the Commissioner has been conducting an investigation into the consequences of interpretative discrepancies between the provisions of the Act on the Education System and the Education Law Act with regard

to the organisation of minority language teaching in public schools, where all students are required to learn that language. In response to the requests received in this regard, the Commissioner has communicated to the Minister of National Education his comments on current legal regulations concerning the organisation of minority education, which require clarification in terms of the implementation of the right of minorities and communities using a regional language to learn their own language, history and culture, including in separate public schools.

The Minister advised that the issues raised by the Commissioner with regard to organisation of teaching of national and ethnic minority languages and regional languages, including operation of schools providing education in national minority languages, are being addressed by the Education Team established under the Joint Commission of the Government and National and Ethnic Minorities. The first meeting of the Education Team took place on 8 October 2024. The government and representatives of minorities identified their priority tasks and problems to be solved in the area of minority education. (XI.816.7.2023)

■ Principles for organising volunteering in primary schools

The Commissioner received a request concerning the rules for organising volunteering in primary schools and its impact on enrolment to secondary schools. The number of points on a school report card may affect a student's further education, so the interpretation of the criterion taken into account during the enrolment process should be uniform for all schools. The regulations stipulate that 3 points can be awarded on the report card for volunteering. However, they do not specify how much time a student should devote to volunteer activity in order to satisfy this condition. The rules governing volunteering in individual schools depend on the decisions of the school principal, the student council, teachers and other persons directly involved in volunteering at a given school. Therefore, there may be significant differences in the approach of schools to this form of activity among children and young people. In practice, school principals decide whether or not to award points for volunteering based on information about a specific student or internal school

regulations. Some schools added up the time spent on volunteer activity from the fourth grade onwards, while others expected involvement in the seventh and eighth grades. Such differences may be perceived as unfair, and therefore consideration should be given to regulating this matter in generally applicable law. In this regard, the Commissioner asked the Minister of Education to present his position on the rules for organising volunteering in schools.

In response, the Minister advised that achievements stemming from undertaking activities for the benefit of others, especially in the form of volunteering, are scored in accordance with the Ordinance on the Enrolment Process. A pupil's community involvement, including volunteering, which is eligible for points, should cover the entire period of schooling at a given school level, and not only activities undertaken by the pupil in the final year of schooling. (VII.7031.35.2023)

■ **Protection of rights of participants in scholarship programmes created by local governments**

During the investigation, a problem was revealed, concerning protection of rights of local government scholarship programmes participants. Complaints received by the Commissioner allege that the method of awarding scholarships to gifted students raises concerns. Citizens complained that the decisions of local government bodies on scholarships for gifted students are not administrative decisions. The few administrative court rulings in these cases do not allow identifying a dominant line of jurisprudence. In the Commissioner for Human Rights's opinion, the position that these matters should be dealt with in the form of administrative decisions is commendable, as it provides the parties with broad procedural guarantees and thus greater protection of civil rights. Furthermore, the rule of law and transparency of the actions of administrative bodies are a prerequisite for implementation of the principle of openness in public life and the principle of protecting citizens' trust in the state and the law it enacts. Therefore, the Commissioner requested the Minister of Education to take appropriate legislative action

to clarify the provisions of the Act on the Education System. To date, the Minister has not responded to this request. (VII.7031.8.2024)

■ The Commissioner's comments on the so-called Kamilek Act

The Act amending the Family and Guardianship Code and certain other acts (known as the "Kamilek Act") introduced regulations designed to make child protection systemic and thus more effective. The Commissioner presented his opinion on this Act, highlighting the need to analyse certain solutions contained in the amendment. There are fundamental problems regarding correct understanding and application of certain regulations, as well as concerns that the imposed obligations regarding strict verification of persons who have contact with children at work may deter potential employees, co-workers and volunteers of entities whose activity is geared towards, among other things, upbringing, education or pursuit of other interests by minors. Organisations and entities express doubts about personal scope of the applicable regulations and have problems determining whether they are obligated to comply with the provisions of the Act. Employees and volunteers who have been working closely with children for years have expressed concerns that introduction of standards will limit their freedom to work with children due to the risk of ambiguous or problematic situations arising. In the Commissioner's opinion, there are legitimate concerns about the correct application of the legal solutions introduced by the so-called Kamilek Act. Therefore, it is reasonable to undertake information activities and legislative efforts aimed at amending this Act so that its provisions do not raise doubts and do not lead to consequences unintended by the legislators. He has therefore asked the Minister of Justice for his opinion.

In the opinion of the Minister of Justice, difficulties arise primarily with regard to understanding of the concepts of 'admission to activity' and 'care, education, upbringing and recreation'. Based on inquiries addressed to the ministry, areas requiring legislative intervention were identified and legislative process was initiated in order to remove ambiguities and increase the functionality of the regulations. With regard to standards for the protection of minors, it was pointed out that this is a long-awaited and

long-asked-for tool. The standards are a set of rules designed to ensure a safe environment for children and an a priori established procedure for intervention in the event of harm being revealed. (III.502.14.2024)

■ Learning German as minority language

The process of restricting access of German minority in Poland to teaching their own language and learning in that language was initiated by the adoption of the budget act for 2022, which envisaged a reduced allocation of state budget funds for subsidies for teaching national and ethnic minority languages. The Commissioner addressed the Speaker of Senate, the Prime Minister and the Minister of Education and Science on this matter. He pointed to the need to restore the full number of hours of teaching German as a national minority language, on a supplementary tuition basis, on an equal footing with other minorities. Thus, the Commissioner welcomed the solutions contained in the draft ordinance, which provided for standardisation, as of 1 September 2024, of weekly number of hours of national minority language teaching for all students belonging to national minorities. It would take the form of additional language teaching amounting to 3 hours in each grade of primary school, general secondary school, technical secondary school, first-level vocational school and second-level vocational school. The Commissioner did not comment on the solutions contained in the draft, but emphasised that, with the passage of time, negative effects of restricting the German minority's right to learn their own language will become increasingly difficult to reverse, therefore, restoring German language education on an equal basis should take place as early as the second semester of the 2023/2024 school year. The Commissioner asked the Minister of Education to take the opinion presented into account in the course of legislative work.

The Minister shared the Commissioner's view on the need for positive action by the state to preserve cultural and linguistic identity among national minority communities. He pointed out that, due to applicable regulations on school work organisation, in particular the obligation to specify the number of teachers employed at a given school in the

organisation worksheets, the amended provisions of the ordinance would enter into force at the beginning of the new school year at the earliest. Ultimately, the amendment to the regulations restoring the legal status conforming to constitutional standards came into force on 1 September 2024, and from that date, the full scope of teaching German as a minority language in form of an additional subject was restored. (XI.813.18.2021)

■ **Transportation of students with disabilities to educational institutions by local governments – CHR survey**

In 2024, the Office of the Commissioner conducted a survey entitled 'Transportation of students with disabilities to educational institutions by local governments'. The objective of the study was, among other things, to find answers to the questions of whether and to what extent municipalities fulfil their obligations to transport students with disabilities to educational institutions, and what factors may prevent this objective from being achieved or result in its limited implementation. Publication of the Commissioner's report on the study is planned for 2025. More details on this topic are provided in the section on the rights of persons with disabilities. (XI.420.2.2024)

Equal treatment and the principle of non-discrimination

■ **ECtHR judgments on same-sex partnerships**

European Court of Human Rights ruled that Poland had violated Article 8 of the European Convention on Human Rights by failing to provide legal recognition and legal protection for same-sex relationships. In two judgments from 2023 and 2024 (the case of Przybylska and others v. Poland and the case of Formela and others v. Poland), the Court found that lack of appropriate legal regulations leads to infringement of the right to respect for private and family life of persons in such relationships.

The Commissioner asked Prime Minister Donald Tusk how the government intended to comply with these judgments. He emphasised that the ECHR guidelines could be implemented without violating Article 18 of the Polish Constitution, which defines marriage as a union between a woman and a man.

The ECHR ruled that the measures currently available in Poland, such as civil contracts and powers of attorney, are insufficient. It pointed to the need to create a stable legal framework covering, among other things, inheritance, taxation, maintenance, medical care and pension benefits. The Court emphasised that legal protection cannot be merely theoretical, but must be real and effective.

The Commissioner asked the Prime Minister for information on the planned measures and timetable, with time provided for public consultations. (XI.504.1.2024)

■ **Opinion of the Commissioner on the draft Act on registered domestic partnerships**

Following the publication of draft legislation on registered domestic partnerships and provisions implementing the Act on Registered Domestic Partnerships, the Commissioner generally welcomed the proposed legislative solutions aimed at institutionalising same-sex relationships. He pointed out that the introduction of same-sex partnerships by means of an Act in its proposed form does not violate the provisions of the Constitution, including Article 18.

It is, however, necessary for the draft Acts, especially the implementing provisions, to remain consistent with the provisions already in force in axiological and terminological terms. In this regard, doubts have been raised by the automatic extension of the personal scope of rights and obligations currently assigned to spouses to persons in registered partnerships, while the dissolution of such a partnership is to be significantly simplified compared to the dissolution of a marriage and is not subject to court review, as is the case with marriage. In the case of unilateral dissolution of a civil partnership, not only the wishes but also

the situation of the other partner are not taken into account. Meanwhile, the dissolution of the partnership may lead to a significant violation of the rights of the other partner or jointly raised children. The procedure for unilateral dissolution of a registered domestic partnership provided in the draft Act also makes it impossible to examine and take into account the situation and well-being of children in the care of the partners. This may raise doubts from the perspective of the state's obligation to ensure adequate protection of children's rights (Article 72(1) of the Constitution). The Commissioner also recommended that the right to enter into a civil partnership should also be granted to persons who are completely incapacitated. (XI.022.1.2024)

■ **Interventions by the Commissioner regarding Local Government Family Rights Charters**

In response to individual requests concerning the so-called Local Government Family Rights Charters (SKPR), the Commissioner asked the legislative bodies of four local government units that had adopted such resolutions to consider withdrawing them from legal circulation or modifying them accordingly. The resolutions do not give rise to the same reservations as the resolutions on 'LGBT ideology' adopted by some local governments, but the concept of 'family' used by the SKPR should be understood in a manner that takes into account the interpretation of this concept adopted in the Constitution and the case law of the European Court of Human Rights. Doubts arose with regard to provisions that could lead to the exclusion of single parents from protection and to unacceptable differentiation in non-governmental organisations' access to funding for their activities.

In their responses, the local governments declared that they would re-examine the content of the resolutions in order to develop solutions that would take into account the Commissioner's comments, with one local government deciding to repeal its resolution. (XI.505.18.2023)

■ Unequal legal situation of men and women blood donors

From the perspective of the equal treatment principle, the Commissioner had doubts about the less favourable treatment of female blood donors compared to male donors in a situation where the same amount of blood, exceeding 1,800 ml, is used as a criterion making blood donors eligible for certain rights or privileges. This is the result of different treatment in terms of the frequency of blood collection from women and men per year, which may be justified by physiological differences between genders. However, this leads to a situation where women need more time to donate the same amount of blood as men, assuming they donate the maximum amount and frequency per year. As a result, women are treated less favourably, since the same amount of blood is used as a criterion for benefits, entitlements and awards, including the “Blood Donor – Contributor to the Health of the Nation” badge. The Commissioner has addressed the Minister of Health on this matter.

The Minister declared that the issues of equalising the legal situation of women and men who donate blood, particularly with regard to acquiring entitlements to benefits, privileges and awards, will be further analysed and taken into account in the course of legislative work. The case will be monitored by the Commissioner. (XI.815.43.2021)

■ Need to regulate the procedure for legal recognition of gender

One important issue was supporting non-heteronormative persons in gender determination proceedings. The Commissioner continued to monitor such cases, drawing attention to the absence of comprehensive legal regulations that would allow transgender persons to obtain the expected decision immediately after a transparent and uncomplicated procedure. An analysis of applications from transgender persons indicates that the only way currently available to align the gender recorded in official records with the gender actually felt, i.e., by suing for gender determination, is problematic for transgender persons and their parents. It also raises doubts as to its compliance with international standards set by, among others, the UN and the case law of the European Court of Human Rights.

The lengthy nature of evidentiary proceedings often results from long waiting times for court hearings to be scheduled or the lack of clear rules and regulations governing this specific type of proceeding. The applicants also point out that cases of this type often take place in an antagonistic atmosphere, especially when the defendant parents oppose the wish of the transgender person and submit numerous motions for evidence on legally irrelevant circumstances in order to delay the decision.

The Commissioner presented this problem to the Minister of Justice, pointing out that the experience of attorneys representing transgender persons and complaints submitted to the Commissioner show that lack of provisions on gender recognition causes judges to take actions that are inappropriate or excessive from the perspective of resolving the case. The judge's priority should thus be to ensure protection of the dignity of the transgender person and to conclude the proceedings as quickly as possible. As a result of this action, work began on a draft ordinance and cases concerning gender recognition were ultimately included in the list of urgent cases.

The minister advised that the Ministry of Justice is working on a draft ordinance of the Minister of Justice amending the ordinance – Rules of Procedure of Common Courts. The draft envisages, among other things, including cases concerning legal gender recognition in the list of urgent cases. (XI.501.8.2024)

Moreover, in order to promote international standards and assist judges in conducting proceedings regarding legal gender recognition, the Commissioner has also issued a publication entitled "Proceedings in cases concerning gender recognition. A guide."



■ „Blue card” procedure

Domestic violence constitutes a violation of human rights and freedoms, and providing assistance to all those affected by it is an obligation of the state under a number of legal acts – both national and European law. The Commissioner considers prevention of domestic violence to be a priority issue, demanding that state institutions properly fulfil their obligations under relevant legal regulations and offer comprehensive assistance to victims of domestic violence. To this end, the Commissioner formulates recommendations aimed at ensuring that all persons who experience domestic violence can be sure that they will receive the necessary support if needed, and that perpetrators of domestic violence – in any form: psychological, physical, sexual, or economic – will not escape punishment for their behaviour towards their loved ones.

For these reasons, based on information received from persons involved in the “Blue Card” procedure, the Commissioner presented his concerns regarding functioning of the procedure under the amended Act on Counteracting Domestic Violence to the Minister for Equality. The Commissioner expressed his expectation that the minister would take action to amend the legal provisions that gave rise to doubts. (XI.518.4.2024)

■ Draft amendment to the Criminal Code concerning discrimination-motivated offences

The draft amendment to the Criminal Code, prepared by the Ministry of Justice, provides for the extension of criminal protection against violence and abuse motivated by, among other things, disability, age, gender, sexual orientation and gender identity. A new feature is the change in the wording of the provisions: instead of 'because of their belonging to [...]', the proposal is 'in connection with belonging to [...]', without specifying whose belonging is meant.

The Commissioner for Human Rights supports the general direction of the changes, but also raises objections to the new wording of the provisions. Introducing the catch-all phrase 'because of belonging to [...]' could significantly broaden the scope of criminalisation. The provisions could cover violence and insults not only against persons with protected characteristics (e.g. race or religious affiliation), but also against those who, for example, defend such persons or engage in activities on their behalf (e.g. participation in protests or statements in the media).

Such an interpretation could lead to criminalisation of behaviour that has not previously been a crime and to application of criminal liability in situations only contextually related to protected characteristics. The Commissioner also points out the possible incompatibility of the draft with the EU directive on the protection of participants in public debate against legal abuse. The Commissioner presented his opinion on the amendments to the regulations and called for the provisions to be clarified and the presented comments to be taken into account. (II.510.345.2024)

■ Digital exclusion of senior citizens

The Commissioner for Human Rights receives complaints concerning the problem of digital exclusion of senior citizens. One of the issues raised is digital reporting on the activities of foundations. Foundations submit annual reports on their activities. From 1 January 2023, such reports are produced in electronic format, using a form available in the Public Information Bulletin on the website of the office serving the Minister of

Justice. They should also bear a qualified electronic signature, a trusted signature or a personal signature.

In his address to the Minister for Senior Policy, the Commissioner pointed out that the automatic conversion of existing paper-based obligations into digital obligations, without providing for appropriate transitional provisions and possible exemptions justified by circumstances, raises concerns not only in terms of proper legislation, but also in terms of compliance with the constitutional prohibition of discrimination and proper respect for the rights of senior citizens to a dignified and independent life.

The Minister assured that all aspects of digital exclusion of older people raised by the Commissioner in his letter are aligned with the premises of senior policy, responding to the needs of senior citizens and demographic challenges. They are also consistent with the actions taken or planned to be taken in the course of duties performed by the Minister for Senior Policy. (VII.801.2.2022)

■ Survey on discrimination in sport

In 2024, the Commissioner also carried out a survey on discrimination in sport, in the form of harassment and sexual harassment. Information indicating occurrence of such negative phenomena had been brought to the attention of the Commissioner for years. The aim of the survey was to assess the scale of occurrence and manner of manifestation of harassment and sexual harassment among competitive athletes participating in sports competitions organised by Polish sports associations.

Almost half of competitive athletes (48%) had experienced harassment or sexual harassment. Women reported such experiences more often than men (60% vs. 39%). Psychological abuse affected 45% of respondents (57% of women, 36% of men). Physical violence affected 18% of the total (19% of women, 17% of men), while sexual harassment affected 10% of the total, with a large difference between women and men (19% vs 3%).

Half of the respondents declared that there were no internal regulations in clubs or sports associations to prevent harassment. People who had experienced harassment were more likely to say that there were definitely no such regulations. 63% of respondents said that they had never received training on equal treatment and appropriate relationships in sport.

The Commissioner for Human Rights strongly condemned all forms of violation of the dignity of male and female athletes, recognising them as a possible violation of the constitutional prohibition of discrimination on the basis of gender. (XI.036.1.2024)

Prohibition of torture and inhuman treatment

■ Introduction of torture as a criminal offence into national legislation

The Commissioner asked the Minister of Justice to take legislative action to criminalise torture and fully implement the UN Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Prohibition of torture is enshrined in Article 40 of the Constitution. The Criminal Code penalises the use of violence, unlawful threats or other forms of physical or mental abuse by a public official or a person acting on their behalf in order to obtain specific testimony, explanations, information or statements. These regulations are, however, insufficient. The UN Convention requires states to criminalise torture as a separate and specific offence, taking into account at least all the elements of the definition of torture contained in Article 1. This would be the first step towards building a system of torture prevention in national legislation and an expression of the will to prohibit this practice in all its forms.

In response to the Commissioner's letter, the Ministry of Justice indicated that they share the Commissioner's position and recognise that the issue of criminalising torture needs to be regulated in the Criminal Code. They

also added that this is one of the current issues being addressed by the Criminal Law Codification Commission. The Ministry declared its support for initiatives aimed at criminalising torture as a sui generis offence in Polish criminal law. (KMP.570.3.2018)

■ **Translation and dissemination of the Istanbul Protocol, the Bangkok Rules, and the Mendez Principles**

The Commissioner addressed the Ministry of Justice regarding the need to translate into Polish a number of documents that are relevant to prevention of torture:

- the updated version of the Istanbul Protocol – a manual for effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment or punishment;
- the Bangkok Rules – rules for treatment of women prisoners;
- the Mendez Principles – guidelines on the principles of conducting interrogations.

The Ministry of Justice agreed with the Commissioner's opinion and translated the above documents. Subsequently, it distributed the Istanbul Protocol to, among others, Prison Service officers, representatives of the National Prosecutor's Office, Courts of Appeal, and the National Council of Probation Officers. The ministry also announced further measures to disseminate the remaining two documents. In addition, the Commissioner asked the Director General of the Prison Service to include the Bangkok Rules and the SPT and CPT standards and guidelines addressing the issue of women in solitary confinement into the training programs for Prison Service officers and civilian employees. The Commissioner referred to the challenges faced by the prison system in relation to female prisoners, especially given the increase in their numbers in recent years. In response, the Director General of the Prison Service agreed that international standards for the treatment of this group of prisoners should be given greater consideration in the training process.

wo w stosunku do osadzonych kobiet, zwłaszcza wobec wzrostu ich liczby

w ostatnich latach. W odpowiedzi Dyrektor Generalny SW zgodził się, że standardy międzynarodowe dotyczące postępowania z tą grupą osób pozbawionych wolności powinny być szerzej uwzględniane w procesie kształcenia formacji. (KMP.571.6.2024, KMP.571.4.2024, KMP.571.5.2024, KMP.570.8.2021)

■ **Prison healthcare system**

The Commissioner monitors the enforcement of prisoners' right to medical care while in prisons and remand prisons, emphasizing the important role of medical staff in preventing torture, inhuman and degrading treatment or punishment.

In connection with the announcement of prison healthcare reform, the Commissioner sent a letter to the Minister of Justice presenting a list of issues that need to be addressed in order to effectively prevent torture. Among other things, he pointed to problems related to lack of mandatory medical examinations for all persons placed in penitentiary facilities, lack of procedures for reporting torture and documenting injuries, the role of doctors in context of application of direct coercive measures, and confidentiality of medical examinations. In his letter, the Commissioner pointed to the link between access to medical services and prevention of torture, and emphasized distinct needs of persons belonging to high-risk groups, i.e., among others, persons who are dependent on others, chronically somatically ill, elderly, women, and transgender persons. No response to the comments made by the Commissioner has been received to date. (KMP.571.24.2024)

■ **Treatment of foreigners subject to forcible return to third countries**

In recent years, the Commissioner has asked the Minister of Interior and Administration three times to amend the law so as to enable the full implementation of the Commissioner's mandate to monitor deportation operations. Under national law, the possibility of monitoring deportations is provided for in the Act on Foreigners, which establishes a list of entities authorized to do so, but it does not include the Commissioner. This

results in numerous organizational problems, including the inability of the Commissioner to perform the function of the National Prevention Mechanism in this area. In response, the Ministry of Interior and Administration indicated that work has been initiated to create an effective mechanism for monitoring forcible returns and that representatives of the Commissioner should participate in the work on the proposed solutions. (KMP.572.5.2018)

■ Condition of temporary cells in penitentiary facilities

The Commissioner examined the living conditions in temporary cells in one of the remand prisons. These cells are used to house prisoners in the initial period after their admission to the penitentiary. It turned out that most of them were in very poor condition.

There was damp on the walls and ceilings, peeling paint, falling plaster, and holes. In many cells, the walls were dirty, covered with graffiti, and the floor coverings were damaged, with numerous holes. Most of the cell furnishings were worn out. According to information provided by the inmates, water was leaking from the ceiling in the rooms. The sanitary facilities were also in poor condition, with damaged equipment, water leaking from the flushes, damaged doors without handles, and a lack of light. In addition, the very small area made it impossible to perform hygiene activities comfortably. A similar situation occurs in other prisons and remand prisons, where representatives of the Commissioner have repeatedly encountered inappropriate conditions in temporary cells.

The Commissioner considered holding detainees in such conditions to be inhumane and violating their dignity, and referred the matter to the Director General of the Prison Service. He requested a review of temporary cells in all penitentiary units in order to assess the living conditions therein and to take appropriate measures to restore the proper condition of the premises where necessary.

In response, the Director advised that the issue of ensuring humane conditions for prisoners is one of the priorities of the Prison Service management. It was therefore decided that in each case of an

inspection by the superior authorities, particular attention would be paid to the condition of temporary cells and any deficiencies found would be meticulously recorded in order to take appropriate action. (IX.517.110.2024)

■ Conditions of Mariusz Kamiński's detention in the remand prison

Information appeared in the media that Mariusz Kamiński, a former member of the Polish Parliament, was being held in bad conditions in a remand prison and that his health and life were at risk due to his hunger strike. The Commissioner took up the case ex officio.

Representatives of the Office of the Commissioner inspected the cells where Mariusz Kamiński was being held and reviewed documentation concerning his stay in the penitentiary. The findings did not confirm a violation of rights in terms of ensuring appropriate living conditions during his stay in remand prisons. However, many irregularities were found in connection with the use of force-feeding. Article 118 of the Penal Code provides that such a decision must be made in the event of a serious threat to life. However, neither the medical opinions nor the court's reasoning confirmed that this condition had been met. The request of the remand prison and the court's decision were therefore submitted and issued prematurely. In turn, the use of coercion in the form of immobilization with straps during forced feeding was unjustified and resulted in a violation of the prisoner's physical integrity and personal freedom.

The Commissioner informed the Director General of the Prison Service about the irregularities and requested that measures be taken to prevent similar misconduct in the future. In response, the Director stated that the measures taken were aimed at protecting the health and life of Mariusz Kamiński, and that medical procedures had been implemented in accordance with the state of his health, after obtaining the opinion of doctors and the consent of the competent penitentiary court. The Director assured that all of the Commissioner's comments had been analysed by the management of the Prison Service and that the material collected during the proceedings would be used in training and staff briefings.

In turn, the Commissioner forwarded his observations on the operation of the penitentiary court to the Director of the Department of Sentence Enforcement and Probation at the Ministry of Justice for the purpose of using the opinions presented to ensure that the rights of prisoners are respected. In response, the Director of the Department agreed with the Commissioner's proposal concerning court approvals for force-feeding. This issue will be further analysed and will be utilized in training penitentiary judges as well as during periodic meetings with the management of the Prison Service. (IX.517.110.2024)

■ **The case of priest Michał O. and Ms. Karolina K. and Ms. Urszula D.**

In connection with media reports concerning irregularities in treatment of Father Michał O., Karolina K. and Urszula D. during their detention, transfer to detention facilities, stay in those facilities, conduct of proceedings involving them, and their remand in custody, the Commissioner initiated an ex officio investigation. The investigation covered the correctness of treatment of the above-mentioned persons by officers of the Internal Security Agency (ABW), the Police and the Prison Service during their stay in the remand prison, as well as assuring the right to defence for those detained and later remanded in custody.

The findings did not provide grounds for concluding that the above-mentioned persons were subjected to torture within the meaning of the Polish Constitution and international law, but they did reveal a number of irregularities, including: ABW officers conducting proceedings lasting many hours, with the detainees being handcuffed throughout and not being provided with meals, use of excessive and unjustified direct coercion by Police officers, and violation of the right to contact a defence lawyer. The investigation reports were forwarded to the Minister of Interior and Administration – Coordinator of Special Services and the Minister of Justice with a request to review them, comment on their content and provide information on the measures taken. The reports were also made available to the Director General of the Prison Service. Furthermore, the Commissioner addressed general intervention letters to: the Minister of

Interior and Administration, the Coordinator of Special Services regarding ensuring the right of detainees to a humanitarian break during lengthy proceedings and the right to receive a meal, as well as regarding the use of excessive and unjustified direct coercive measures by police officers during proceedings and during transport; the National Public Prosecutor regarding the violation of Urszula D's right to defence, and to the Police Commander-in-Chief on assigning female police officers to duty in the rooms for detained persons whenever a woman is placed there.

The Ministry of the Interior and Administration replied, that the Deputy Police Commander-in-Chief had sent a letter to regional police commanders, requiring them to implement a uniform standard for providing meals to persons detained and placed in police isolation facilities. In the context of the preventive use of handcuffs, the Minister stated that it allows avoiding negative consequences and behaviour that could threaten the life, health or safety of a police officer, a person being transported or a bystander.

In response, the National Public Prosecutor did not share the Commissioner's assessment that the right to defence of the suspect Urszula D. had been violated and thus concluded that there were no grounds for taking action in this regard.

The National Police Headquarters stated in its reply that the case would be analysed and that information on the position taken would be provided once it had been worked out. The Police Commander-in-Chief obligated regional police commanders to introduce mechanisms guaranteeing that preventive checks would be carried out by police officers of the same sex as the person being checked. (IX.517.1073.2024, IX.517.1131.2024, II.519.521.2024)

■ NPM statements

The National Preventive Mechanism takes public positions on issues relevant to the prevention of torture and other forms of ill-treatment of persons deprived of liberty. The statements issued by the NPM in 2024 concerned:

- Publication of the report of the European Committee for the Prevention of Torture (CPT) and Poland's accession to the procedure of automatic publication of reports, along with the response of Polish authorities (Statement dated 5.03.2024);
- Situation of women in solitary confinement (Statement dated 8.03.2024);
- The death of a man who was the subject of an intervention by police officers from Inowrocław on 22 May 2024. (Statement dated 31.05.2024);
- Judgment of the Regional Court in Wrocław concerning torture and death in a Wrocław sobering-up station (Statement dated 7.06.2024);
- International Day in Support of Victims of Torture (Statement dated 26.06.2024);
- 40th anniversary of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Statement dated 10.12.2024).

Other important issues

■ Light pollution

Light pollution is a phenomenon that is increasingly recognised by citizens, the media and specialists. Excessive artificial light emissions in public spaces not only degrade the night sky and the fauna and flora of towns and villages, but above all cause discomfort to people and result in real health problems. The Commissioner has been corresponding with the Minister of Climate and Environment, the Minister of Health, the Chief Inspector of Environmental Protection and the Chief Sanitary Inspector about the lack of comprehensive regulations on outdoor lighting since 2022. The Commissioner argued that the provisions contained in technical and construction regulations are insufficient. The responses received indicated that the problem of light pollution has been identified, but in the absence of specific regulations, it cannot currently be resolved. To date, no legislative work has been initiated to change this situation. The law does not provide for comprehensive regulations specifying the permissible intensity of outdoor lighting, nor the

type of lighting, its positioning, the angle of inclination of lighting fixtures, or colour. Therefore, the Commissioner approached the Minister of Development and Technology on this matter.

In response, the Minister informed that, due to their nature, issues related to regulations intended to reduce light pollution, including protecting citizens from the potential harmfulness of LED lighting, do not constitute deregulatory changes that the ministry plans to undertake. (V.7203.30.2020)

The issue of light pollution was also raised by representatives of the Commissioner at meetings of the Senate and Sejm Petitions Committee. In the Senate, representatives of the Committee announced that they would ask the ministries of health, environment, infrastructure and technology, as well as other relevant institutions, for their opinions on the subject and for available research and analyses. The Sejm committee, on the other hand, decided to prepare a draft desideratum to the Prime Minister regarding amendments to relevant normative acts, to include artificial light in the definition of emissions, and thus pollution, as well as to introduce the mandatory application of lighting standards in construction projects.

■ The problem of disproportionate charges for municipal waste

The Commissioner's Office constantly receives complaints relating to the reform of the municipal waste management system. As a result of this reform, municipalities were tasked with organising the collection of municipal waste from residents in exchange for a fee. The most important allegations concern, among other things, the disproportionate nature of the fees paid to municipalities in relation to the actual amount of waste generated, quality of services provided by municipalities, procedures used to determine fees, and the rights of members of cooperatives/homeowners' associations within the system. The Commissioner has approached the Minister of Climate and Environment on this matter.

The minister assured that the issues of efficient and fair calculation of municipal waste management fees are being addressed by the Ministry. This work is being carried out in cooperation with local government representatives as part of the Advisory Team for Systemic Solutions in

Waste Management. The Team's recent work has included introducing solutions enabling municipalities to more efficiently verify information on the number of people living in a given property, so that the 'per person' method can be more easily and widely applied. In addition, amendments have been made to the Act to allow for a departure from collective responsibility in the event of failure to comply with the obligation to selectively collect municipal waste in multi-unit buildings. (V.7204.35.2015)

■ **No ratification of the Optional Protocol to the Convention on the Rights of the Child**

For many years, the Commissioner has been alerting that Poland has still not ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. However, the Commissioner's position has not yet been accepted by the government administration.

The Commissioner supported a petition by non-governmental organisations for the ratification of the Protocol and participated in meetings of the Senate Committee on Human Rights, Rule of Law and Petitions on this matter.

In response to the Commissioner's recent intervention, the Minister for Family, Labour and Social Policy announced that the ministry, in cooperation with other relevant ministries, had undertaken analytical work to determine the effects of ratifying the Optional Protocol to the Convention on the Rights of the Child. (VII.7021.1.2016)

■ **Availability of foster care**

An analysis of information provided by Voivodship Offices indicates that there is a shortage of places in both family and institutional care throughout the country, and despite local efforts by foster care organisers, the situation appears to be worsening. In the Commissioner's opinion, the situation regarding foster care is a crisis and requires analysis and remedial action, which is why he asked the Minister of Family, Labour and Social Policy for a position and for taking appropriate measures to improve the child care system.

The Minister advised, among other things, that after a meeting with voivodes, it was agreed that a crisis response team for foster care would be set up in each voivodship. Their tasks will include assessing the foster care situation in the voivodship and adopting action plans to execute court decisions on child protection. Work on long-term changes to the family support, foster care and adoption system, including comprehensive legislative changes, will be continued by a team for foster care reform set up within the ministry. (III.502.12.2023)

■ **The need to coordinate state activities in counteracting homelessness**

The problem of homelessness and counteracting it has been of particular importance in the Commissioner's work for many years. Homelessness is widely recognised as the most severe form of social exclusion. There is an of Experts Committee on Counteracting Homelessness established at the Commissioner's Office.

Statutory regulations on counteracting homelessness are scattered across many acts of law, and specific issues remain within the remit of various government departments. Therefore, since 2015, the Commissioner has been postulating appointment of a government -level plenipotentiary or team for counteracting homelessness and promoting housing inclusion, which would coordinate the work of various ministries.

Following the Commissioner's recent intervention with the Prime Minister, the Ministry of Family, Labour and Social Policy conducted inter-ministerial consultations and proposed to establish an inter-ministerial team on homelessness, which would collaborate with the Ministry of Justice, the Ministry of Finance, the Ministry of Family, Labour and Social Policy, and the Ministry of Development and Technology within the framework of their existing structures and human resources. In connection with the proposal, the Commissioner again asked the Prime Minister to inform him of the final position taken on this matter and of any measures taken. (IV.7217.89.2019)

■ Problems with overbooking in air transport and other violations of passenger rights

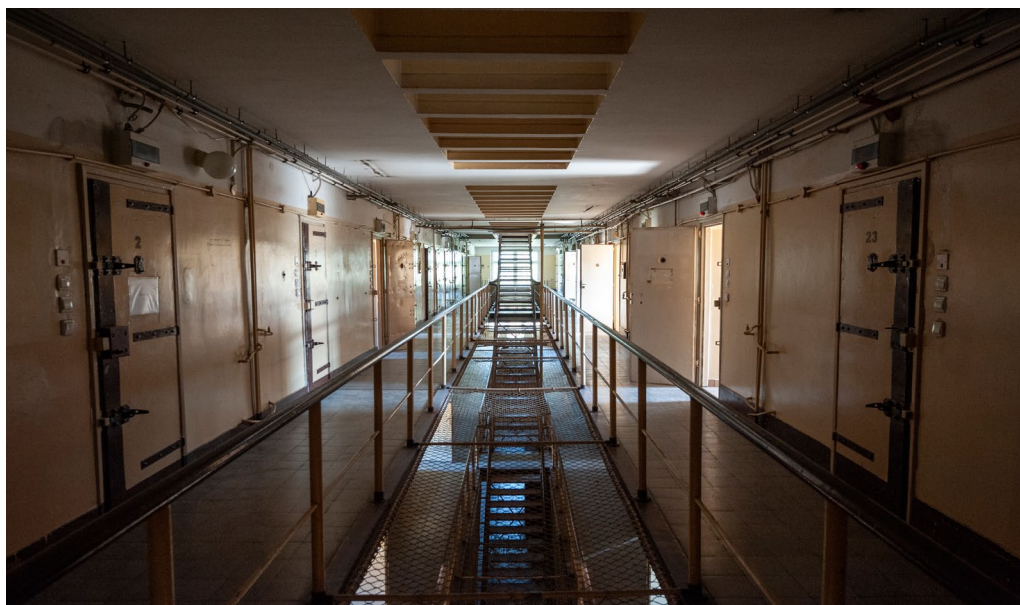
There are increasingly frequent problems with people who cannot fly because the carrier had sold more tickets for a flight than there were seats available. Overbooking is a way for airlines to minimize losses associated with the risk of flights with empty seats. In addition, passengers point to difficulties in exercising their rights under Regulation (EC) No. 261/2004 of the European Parliament and of the Council, which imposes certain requirements on carriers. These include full compensation for passengers who are denied boarding. Airlines should also offer the option of changing the travel plan on comparable terms and at the earliest possible date. They also have a duty to take appropriate care of passengers in difficult situations and to inform them in good time, for example, of planned changes.

Protection of airline passengers' rights is also part of the consumer protection system. Therefore, the Commissioner for Human Rights asked the President of the Office of Competition and Consumer Protection to look into these issues. In response, the President of the Office of Competition and Consumer Protection advised that an investigation had been launched to make a preliminary determination as to whether there had been a violation that would warrant initiating proceedings in the matter of practices infringing the collective interests of consumers. (V.7108.90.2024)

■ Practices of applying and extending pre-trial detention by courts

Despite rulings by the Constitutional Tribunal, Polish law still does not specify clear grounds for extending pre-trial detention, making it impossible to predict its maximum duration after the first judgment of the court of first instance. The UN Committee Against Torture has indicated that detention should be used only in exceptional cases and that there should be a maximum duration. Poland should also discontinue the practice of extending pre-trial detention, especially extensions of six months after the first judgment of the court of first instance.

The Commissioner has long been concerned with the practice of courts applying and extending this most severe preventive measure. In 2024, the Commissioner once again asked the Minister of Justice to consider initiating measures to implement the judgments of the Constitutional Tribunal and the recommendations of the UN Committee Against Torture. In response, the Minister stated that he recognised the need for legislative changes that would, among other things, clearly define the conditions for extending detention and eliminate the severity of the punishment as an independent ground for its application. These proposals will be considered in the course of work being carried out by the Ministry of Justice to amend the Code of Criminal Procedure. (II.510.1292.2015)



Polish law still does not clearly define the grounds on which pre-trial detention may be extended

■ Concerns regarding parents' access to the grades of adult students

In accordance with education law, grades are disclosed to both the student and their parents. In practice, school principals have doubts about accepting statements from adult students that they do not consent to their parents

being informed about their educational situation. Absence of consent may be related to conflict with parents, restriction of their parental rights, broken relationships or the student's decision to live independently.

According to the Commissioner, the regulations concerning schools divulging information to parents must be clear – they should take into account both the different legal situation of adult students and the complex relationships that may exist within the family. In response to the Commissioner's intervention on this matter, the Minister of Education stated that he recognises the need to review the educational regulations concerning students of legal age. The matter is being analysed by the Student Rights and Obligations Team at the Ministry of Education, which will recommend legislative changes concerning student rights to the Minister, taking into account the rights of students of legal age. (VII.7031.38.2023)

■ **Recalling prosecutors from secondments**

In connection with revocation of secondments of 144 prosecutors, the Commissioner asked the Minister of Justice for the reasons behind this decision and for an explanation of how the continuity and efficiency of preparatory proceedings conducted or supervised by the recalled prosecutors would be guaranteed. The Commissioner pointed out that the sudden recall of a prosecutor from a secondment may lead to a violation of their right to respect for private and family life, e.g. a sudden move, which may also entail the need to change the school their children attend. It may also adversely affect efficiency and reliability of investigations conducted and supervised. It will take time for the new prosecutor to familiarise themselves with the case files, which will lead to a prolongation of the proceedings.

In response, the Minister explained that the decision to issue an order to recall prosecutors from secondment had been preceded by an analysis of statistical data on the functioning of the National Prosecutor's Office, and in particular of district-level units. The data had then been compared with the number of prosecutors performing duties at the highest organisational levels. The measures taken were aimed at strengthening regional and district organisational units, which, as a result of excessive secondments to higher-

level units, had been weakened to such an extent that they were unable to perform their tasks properly. (VII.519.3.2024)

■ **Amended provisions of the Act on therapeutic activity**

The Commissioner had been receiving complaints about the amended provisions of the Act on therapeutic activity, which extended the powers of managers of healthcare facilities to use video surveillance in rooms where healthcare services are provided. According to the complainants, the new provisions excessively interfere with the right to privacy and the protection of patients' personal data. At the same time, the provisions do not specify the grounds for use of surveillance and do not give patients the option of refusing to consent to provision of healthcare services in a monitored room. The new regulations raise legitimate concerns from the perspective of proportionality of permissible limitation of the right to privacy and personal data protection. Therefore, the Commissioner requested the Minister of Health to address these concerns.

The minister emphasised that the reason for the amendment was to increase patients' safety. The amendment expanded the powers and responsibilities of healthcare facility managers. Use of monitoring, which is only possible in some of the healthcare facilities and requires determining the actual need for monitoring in a given place, will not be discretionary. The decision to install monitoring should be preceded by an analysis of the need for this solution. The Minister assured that the manager must balance the values of patient safety on the one hand and respect for their intimacy and privacy on the other. The provisions in question must be read, interpreted and applied in accordance with the spirit and letter of the Constitution. (VII.501.161.2023)

■ **Hunting regulations and landowners' rights**

For the past few years, the Commissioner's Office has been receiving complaints from owners of properties situated within hunting districts about the obligation to tolerate hunting activities imposed on them. Although hunting is necessary for game management and environmental

protection, it nonetheless should take into account the rights of landowners.

Hunting districts are established by voivodship assemblies. Property owners have no influence on this decision – they can only submit comments, which are rarely taken into account. These decisions are not subject to judicial review. This is a disproportionate restriction of property rights. Establishment of a hunting district means that the owner must tolerate the activities of hunters without receiving anything in return. They are not entitled to compensation, except in cases of damage to crops or damage caused by hunting. The value of the land declines, and the state does not compensate for this. Profits from the lease of hunting grounds go to the State Forests and county starosts. Only the owner – a natural person – can object to organisation of a hunt. An owner or perpetual usufructuary who is not a natural person has no legal means of objecting to hunting on their land. In case of collective hunts, the objection is considered by the hunt organiser themselves, and the decision is also not subject to appeal. A leaseholder or hunting district manager is not obliged to inform the owner of their intention to organise an individual hunt. The Commissioner asked the Minister of Climate and Environment to consider amending the provisions of the Hunting Law in such a way as to ensure that property rights of landowners are adequately protected.

The Minister announced a planned amendment to the Hunting Law, intended to better protect property rights and improve communication with owners with regard to hunting. It was acknowledged that the current regulations may not meet constitutional requirements, as they disproportionately curtail property rights. The Ministry also recognises that owner participation in establishing hunting districts is currently illusory. Changes are being considered that will allow hunting plans to be subject to environmental impact assessments. Work is also underway on a system for providing information on all types of hunting, so that the information is easily accessible. (VII.7202.11.2021)



The Office of the Commissioner for Human Rights receives complaints from citizens and NGOs who own property within hunting grounds regarding imposition of the obligation to tolerate hunting activities (photo by MikeHubert/Adobe Stock)

■ Flood leave for uniformed services personnel

The Commissioner was approached by police officers who had suffered as a result of the floods and had problems obtaining additional leave to deal with the aftermath of the disaster. Their superiors did not grant them additional leave on the grounds that the applicable regulations only apply to employees, not to persons in a service relationship. The problem is particularly acute for officers and soldiers directly involved in flood relief who suffered damages themselves. Their family homes are uninhabitable, and while they were helping others, they were unable to help themselves. Under the Act on special measures related to flood relief, an employee who has suffered damage is entitled to up to 20 days of leave from work in order to remedy the impact of the flood on their own property or that of a relative or non-relative with whom they have a de facto relationship, living and managing their household together. However, this applies only to persons in an employment relationship, which means that it does not apply to officers and soldiers in a service relationship. The specific nature

of the service relationship (in particular the availability requirement) fully corresponds to the involvement of officers and soldiers in removing the effects of flooding. However, if the state requires them to be particularly involved during a natural disaster, it should also enable the affected officers and soldiers to secure their own homes. The Commissioner has asked the Prime Minister to resolve this issue. No response has been received on this matter to date. (WZF.7043.215.2024)

■ Tax situation of single parents

The Commissioner frequently received complaints regarding tax situation of single parents. Following changes to the regulations in recent years, tax on the income of single parents may now be calculated at double the rate of tax calculated on half of the income of a single parent, upon request expressed in the annual tax return. Despite the objections raised, the legislators decided to introduce a significant restriction on the rules for joint settlement for single parents. A regulation has been introduced whereby the above method of taxation does not apply to a person who is raising at least one child jointly with the other parent or legal guardian, including when the child is in alternating care, in connection with which both parents have been granted a child benefit. Under the state of law applicable until 31 December 2021, administrative courts took a position favourable to taxpayers, according to which if a single parent is a person who takes care of the child alone at a specified time and actually raises the child without the involvement of the other parent, then in a situation where both parents care for the child separately, in different places, alternately, and therefore not jointly, each of them may be entitled to preferential taxation. The Commissioner observed with concern the practices of tax authorities, which refused to grant preferential tax treatment to divorced persons who were effectively raising a child alone, where the child was not subject to alternating custody but maintained contact with the other parent. Such actions seem to contradict the state's pro-family policy, which aims to provide systemic support for parents, especially in the case of single parents. The Commissioner approached the Minister of Finance on this matter.

The Minister expressed his conviction that the current tax solutions contained in the PIT Act implement the guideline that the welfare of the family should be a priority of the state's social and economic policy. This is evidenced by the variety of tax reliefs that are addressed, among others, to carers and parents, spouses, persons with disabilities or members of their families, as well as to persons in disadvantaged situations. The Minister currently sees no grounds for amending the current regulations or issuing tax explanations concerning them. (V.511.646.2021)

■ **No possibility to contest changes to the boundaries of municipalities before an administrative court**

For many years, the Commissioner has been receiving complaints from local government units and their residents concerning changes in the territorial division of the state adopted by the Council of Ministers. Although the Act sets out guidelines for making changes to the territorial division of the state, their generality gives the Council of Ministers a degree of freedom bordering on arbitrariness. As a result, decisions on setting up or changing the boundaries of municipalities depend not on substantive grounds, but on political will. Changes to the boundaries of municipalities are a source of constant conflict between local governments and their residents. The source of these conflicts is the lack of judicial control over the decisions of the Council of Ministers. The reason for the lack of control is the form in which the Council of Ministers exercises its powers, as provided for by the legislation, i.e., by means of an ordinance.

Calls for amending the procedure for establishing and changing the boundaries of municipalities have been repeated for many years by associations of local government units. The Commissioner has also raised this issue several times. Despite three occasions of the Constitutional Tribunal pointing out to the parliament and the government the need for amending the procedure by ensuring full judicial review of these decisions, no such changes have been made. A draft Act intended to address this problem was submitted to the Sejm during the previous term, but it has not been proceeded any further. Therefore, the Commissioner asked the Chairman of the Sejm's Local Government and Regional Policy

Committee to take an interest in this problem and for the Committee to undertake work with the goal of drafting an amendment to the regulations currently governing the procedure for establishing and changing municipal boundaries. (V.604.3.2024)

■ **The procedure for terminating EU treaties and safeguarding Poland's membership in the European Union**

In 2021, the Commissioner addressed the Marshal of the Sejm, the Marshal of the Senate, the Prime Minister, and the President of the Republic of Poland with a proposal to amend the provisions on the procedure for terminating EU treaties. He pointed out that this procedure should be analogous to the procedure for ratifying treaties, i.e., consent to their termination should be expressed by means of an Act adopted by a two-thirds majority in both chambers of parliament or by means of a nationwide referendum. The interventions remained unanswered, which is why the Commissioner repeated them in 2024.

The procedure for withdrawing from the EU is currently regulated by Article 22a of the Act on International Agreements, paragraph 2 of which stipulates that a draft decision on withdrawal from the European Union shall be submitted to the President of the Republic of Poland after obtaining the consent expressed in the Act. Thus, in contrast to the high procedural requirements associated with EU accession (Poland ratified the accession treaty after a nationwide referendum), the legislature decided that a simple majority of votes would be sufficient to pass an Act expressing consent to withdraw from the EU. Given the serious consequences for human and civil rights and freedoms associated with leaving the EU, this solution is, at the very least, insufficient and requires legislative action. Any consent to the decision to withdraw from the European Union should be expressed in a qualified manner, analogous to that provided for in Article 90(2) and (3) of the Constitution for the adoption of the accession treaty when joining the Union. It is therefore necessary to amend the Act on International Agreements in order to bring it into line with the Polish Constitution. (VII.516.2.2021)

■ Health insurance contribution payment rules for entrepreneurs

The Commissioner continued to receive complaints from entrepreneurs regarding the rules for paying health insurance contributions after the so-called Polish Deal came into force. Business owners most often complained about the complicated method of determining the basis for calculating health insurance contributions (income from business activities is defined differently for health insurance contributions than for tax purposes). Another problem was the inability to factor in losses incurred by people who, for reasons beyond their control, did not earn any income. Furthermore, it was pointed out that health insurance contributions effectively increase the tax base on which the amount of tax is calculated and thus become a quasi-tax. As early as 2023, the Commissioner received assurances from the Ministry of Health about the need to simplify the new solutions regarding health insurance contributions. Therefore, he again asked the Minister of Health and the Minister of Finance to present proposals for reforming the rules for calculating health insurance contributions and to indicate when the expected changes are planned to be implemented, together with a schedule of legislative work.

The Minister of Health admitted that the current provisions of the Healthcare Services Act regulating health insurance contributions for entrepreneurs from the perspective of this group of insured create an ineffective mechanism that increases the costs of running a business. Analyses have led to the conclusion that eliminating these problems requires changes at the statutory level. Work on a draft amendment to this situation was carried out by the Ministry of Health.

The amendment of December 6, 2024 introduced new rules for determining health insurance contributions by lowering the minimum contribution base and excluding income from the sale of fixed assets and intangible assets from the contribution base. (V.511.767.2022)

Selected cases before courts and tribunals

The Constitutional Tribunal

On June 4, 2024, the Constitutional Tribunal (case file no. SK 140/20) issued a ruling favourable to so-called early retirees. The Constitutional Tribunal challenged the mechanism whereby pensioners who took early retirement before June 6, 2012 (55 years of age for women and 60 for men) received smaller pensions after reaching the appropriate retirement age (granted after reaching 60 years of age for women and 65 for men) because they were reduced by an amount corresponding to the pensions previously received. Thanks to the ruling, which has not yet been implemented, the pension benefits of approximately 200,000 seniors may increase by up to PLN 1,200, and each of them may receive up to PLN 64,000 in compensation. (VII.7060.1.2024)

In 2024, the Commissioner withdrew his participation in cases before the Constitutional Tribunal after learning that persons appointed to the position of judge in violation of Article 194(1) of the Constitution had been appointed to the adjudicating panel of the Constitutional Tribunal, i.e. to positions filled by the Sejm of the 7th term, as resulting from the judgments of both the Constitutional Tribunal itself and the European Court of Human Rights, and formally confirmed by the resolution of the Sejm of the Republic of Poland of March 6, 2024, which, in the Commissioner's opinion, constitutes an act issued under Article 190(4) of the Constitution, i.e. serving to enforce the judgments of the Constitutional Tribunal.

The Supreme Court

A convict, performing work outside the prison and without an escort, left his place of work without permission. He was convicted of so-called self-liberation. In his cassation appeal, the Commissioner pointed out that at that time, such an offence could only be committed in a situation of actual isolation in a place of confinement or while under guard or supervision. On 20 February 2024, the Supreme Court (case file no. I KK 459/23) acquitted the defendant. (BPW.510.2.2023)

A court fined a citizen, finding that on 19 September 2022, he had driven a vehicle without a licence. However, it overlooked the information in the case file that the due date for returning the previously revoked driving licence was 10 September 2022. Following the cassation of the Commissioner of the Supreme Court, on 22 May 2024 (case file no. V KK 153/24), the Supreme Court overturned the judgment and referred the case back to the court. (II.511.84.2024)

On 27 June 2024, the Supreme Court (case file no. II KK 201/24), following a cassation appeal by the Commissioner, acquitted a citizen convicted of driving without a licence – he did not have his physical driving licence with him. It had previously been suspended for three months, and after that period had expired, he simply did not collect the document from the deposit. (II.511.118.2024)

A court divided an inheritance among all heirs as per the Act, even though the testator had disinherited her son in her will. A disinherited person cannot become a statutory heir and is treated as if they had not survived to the opening of the inheritance. On 5 November 2024, the Supreme Court (case file no. II NSNc 391/23) upheld the extraordinary appeal of the Commissioner. It overturned the contested decision and referred the case back to the court. (V.511.134.2023)

A court ordered pharmacological therapy for a female citizen accused of insulting police officers and destroying a report. In his cassation appeal, the Commissioner pointed out that the sole purpose of such therapy is to dampen sexual drive, not to correct behaviours that are unrelated to that drive. On 6 November 2024, the Supreme Court (case file no. IV KK 397/24) overturned the part of the judgment concerning the preventive measure and referred the case back to the court; the decision to impose therapy violated the law. (II.511.512.2024)

On 13 November 2024, the Supreme Court (case file no. II KK 199/24) upheld the Commissioner's cassation appeal and dismissed the case against the President of a limited liability company, convicted of failing to pay income tax advances for the period from January to December 2009. He took office in October 2010. According to the tax authorities, he

'assumed' criminal responsibility for someone else's actions or omissions in the period preceding his election. (II.510.201.2024)

A citizen was found guilty of defamation and insulting the judge in her case in letters to the court. The court found her guilty; it discontinued the proceedings and ordered her to apologise. The Commissioner filed a cassation appeal because she did not meet the criteria for the offences and acted within the scope of permissible criticism. On 19 December 2024, the Supreme Court (case file no. IV KK 287/24) found the cassation appeal to be partially justified and referred the case back to the court of first instance. (BPK.511.178.2023)

The Supreme Administrative Court and administrative courts

A woman was obligated to pay PLN 130,000 for the removal of hazardous waste from her plot of land, which she did not know was stored there. Following a complaint by the Commissioner, on 6 February 2024, the Voivodship Administrative Court in Bydgoszcz overturned this decision (case file no. II SA/Bd 504/23) as the authority had not fully investigated the case. (V.7204.11.2023)

A child, a citizen of the Republic of Poland, born to two women remaining in a relationship abroad, should receive a Polish identity card, but the "father" field should remain blank, according to the Voivodship Administrative Court. This was challenged not only by the complainant, but also by the Commissioner. Absence of an entry for the non-biological mother could lead to her parental relationship with the child being questioned. In order to prove it, she would have to use the British birth certificate each time. On 28 February 2024, the Supreme Administrative Court (case file no. II OSK 1303/21) dismissed the authority's cassation appeal. (XI.534.3.2016)

On 13 March 2024, the Supreme Administrative Court (case file no. II OSK 1630/21) upheld the ruling of the Voivodship Administrative Court in Warsaw stating that the Minister of Digital Affairs acted without legal basis

when in 2020 he forwarded citizens' data to Poczta Polska (Polish Post) for the purposes of announced mail-in elections of the President of the Republic of Poland. This is another ruling by the Voivodship Administrative Court consistent with the Commissioner's motion in a case related to the failed mail-in elections in May 2020. (VII.501.119.2020)

On 13 March 2024, the Voivodship Administrative Court in Rzeszów upheld the latest complaint filed by the Commissioner against the so-called 'anti-LGBT' resolution, declaring the resolution of the Municipal Council in Tuszów Narodowy invalid. As a result of the actions of the Commissioner, EU bodies, social organisations and activists for the LGBT+ community, all such local government resolutions have been repealed or invalidated. (XI.505.2.2023)

The ARMA ordered two rural housewives' associations from neighbouring villages to return the funding for a joint event encouraging COVID-19 vaccinations, which was confirmed by the Voivodship Administrative Court. The Commissioner challenged these decisions as inconsistent with the constitutional principle of citizens' trust in the state and the law. On 15 March 2024, the Supreme Administrative Court (case file no. I GSK 303/23) overturned one of the decisions and referred the case back to the Voivodship Administrative Court in Lublin, which in turn referred it back to the authority. On 23 May 2024, the Voivodship Administrative Court in Lublin overturned the second decision in this case. (VII.612.30.2022, VII.612.31.2022)

On 10 April 2024, the Supreme Administrative Court, in a resolution of seven judges (ref. no. I OPS 1/23), ruled that purchasers of claims under the so-called Bierut Decree cannot be parties to administrative proceedings for the establishment of perpetual usufruct rights on land covered by the decree. Therefore, only owners and their heirs may be considered parties to the proceedings. Thus, the dispute over the nature of the decree claim, which was raised by the Commissioner in a legal query to the Supreme Administrative Court, has been finally resolved. (IV.7004.5.2023)

A citizen did not pay for parking in a paid parking zone, for which he was charged a so-called additional fee. He applied to the mayor for its

cancellation, citing the fact that he is a person with a disability, in a poor financial and health situation. The Commissioner lodged a complaint against the mayor's inaction, as he had not dealt with the request within the statutory time limit. On 21 May 2024, the Voivodship Administrative Court in Bydgoszcz ruled that the mayor was guilty of inaction and in gross violation of the law. (V.565.98.2023)

A candidate for service in the Central Anti-Corruption Bureau, against whom a decision was made to discontinue the recruitment process, did not receive a written explanation because the CBA is not required to do so. The Voivodship Administrative Court rejected his complaint; the Commissioner supported him in his appeal to the Supreme Administrative Court. On 5 July 2024 (case file no. III OSK 1448/24), the Supreme Administrative Court overturned the contested decision because, when discontinuing the recruitment process, the institution is obligated to inform the candidate of the reasons for doing so. (WZF.7040.9.2023)

A citizen caring for his disabled mother was denied a care allowance because his brother also lives with them. On 19 September 2024, the Supreme Administrative Court (case file no. I OSK 2283/23) overturned the judgment of the Voivodship Administrative Court and administrative decisions challenged by the Commissioner. The Supreme Administrative Court pointed out that when one of the siblings who cares for a parent and has given up work applies for a care allowance, there are no grounds for depriving them of this right on the basis that there are other children who have not applied for a care allowance. This is, in fact, the uniform view of the Supreme Administrative Court's case law. (III.7064.709.2023)

A citizen, a natural person not conducting business activity, was deemed to be subject to compulsory health insurance. The Commissioner lodged a complaint with the Voivodship Administrative Court on behalf of the citizen; The Voivodship Administrative Court in Warsaw dismissed it. On 10 October 2024, the Supreme Administrative Court (case file no. II GSK 942/24) upheld the Commissioner's cassation appeal and referred the case back to the authority. (V.7011.50.2019)

The Chairman of the Piotrków Trybunalski City Council returned the citizens' legislative initiative on paid parking zones to the organisers because the city's attorney-at-law had not initialled the draft. The Commissioner filed a complaint, which was upheld by the Voivodship Administrative Court in Łódź on 30 October 2024 (case file no. III SA/Łd 283/24). He disagreed with the position that absence of an initial was tantamount to failure to meet a formal requirement. (V.604.2.2024)

On 21 October 2024, the Supreme Administrative Court, composed of seven judges (case file no. III FPS 2/24), resolved doubts regarding property tax on entrepreneurs renting premises intended to meet the housing needs of tenants. The Supreme Administrative Court adopted a resolution that buildings classified in the land and building register as residential, intended for rental as part of business activity, to the extent that they serve the housing needs of tenants, should be treated as residential buildings or parts thereof, subject to a lower property tax rate. The Supreme Administrative Court accepted the position of the Commissioner. (V.511.575.2024)

International courts

■ Cases of Polish citizens before the European Court of Human Rights in Strasbourg

Pietrzak and Bychawska-Siniarska and others v. Poland, applications nos. 72038/17 and 25237/18 – case concerning operational surveillance

In its judgment of 28 May 2024, the ECtHR ruled that there had been three violations of Article 8 of the ECHR in relation to complaints concerning the operational surveillance system, retention of communications data and secret surveillance system under the Anti-Terrorism Act. The ECtHR noted that the operational surveillance system in Poland did not provide

adequate and effective safeguards against arbitrariness and the risk of abuse. It pointed out that the procedure was not capable of ensuring that operational surveillance was used only when the measure was ‘necessary in a democratic society’. It found that domestic legislation did not provide sufficient protection against excessive use of surveillance and excessive interference with individuals’ private lives. Lack of such safeguards was not sufficiently offset by the judicial review mechanism. The Commissioner’s amicus curiae brief in the case was submitted in 2020.

Grzegorzcyk v. Poland, application no. 2203/23 – case concerning appointment to adjudication by the President of Poland, against the will of the person concerned

On 10 June 2024, the Commissioner joined the proceedings before the ECtHR concerning the complaint filed by Paweł Grzegorzcyk, a judge of the Civil Chamber of the Supreme Court, who, against his will, was appointed by the President of Poland to adjudicate in the Professional Responsibility Chamber. He accused Poland of violating his right of access to a court (Article 6 of the ECHR) and his right to respect for private and family life (Article 8 of the ECHR). He pointed out that the Professional Responsibility Chamber is composed of judges whose legal status is questionable, as they were appointed after 6 March 2018 at the request of the National Council of the Judiciary, dominated by the legislative and executive branches; this has been found to be incompatible with the standards of judicial independence in national and European case law.

In his amicus curiae brief, the Commissioner presented a detailed position. He pointed out that a judge cannot be forced to adjudicate in a panel together with judges appointed in violation of the law. However, a judge does not have a “right to specialization.” Polish law does not provide for an appeal procedure against a decision of the President of the Professional Responsibility Chamber regarding appointment of a judge to a panel, even if it is in conflict with the law. The legal nature of the decisions of the President of the Republic of Poland regarding the transfer of a Supreme Court judge from one chamber to another remains unresolved.

W.W. v. Poland, application no. 31842/20 – case concerning the situation of transgender persons in Polish penitentiary facilities

The ECtHR judgment of 11 July 2024 was the first case dealing with the situation of transgender persons in Polish penitentiary facilities. In his *amicus curiae* brief, the Commissioner presented systemic problems related to detention of persons undergoing gender transition in prisons and remand prisons. The Court ruled that there had been a violation of Article 8 of the ECHR because the applicant had been refused continued hormone therapy after her transfer to another prison, even though she had been receiving hormones for 1.5 years in her previous prisons. The Court found that the authorities had failed to strike a fair balance between protecting the applicant's health and her interest in continuing her therapy. As a result of the judgment, the Commissioner addressed a general intervention to the Director General of the Prison Service on 23 August 2024.

P.W. v. Poland, application no. 78366/17 – case concerning healthcare provided to persons incarcerated at the National Centre for Prevention of Dissocial Behaviour (KOZZD)

In his *amicus curiae* brief, the Commissioner addressed systemic issues that he had not raised in his previous submissions to the ECtHR concerning the National Centre for Prevention of Dissocial Behaviour (KOZZD). He pointed out that in the Centre there is an increasing number of people with severe health problems, cancer, stroke, and wheelchair-bound. On the one hand, they should be provided with proper conditions, but on the other hand, therapy sometimes becomes impossible. The Commissioner also referred to direct coercive measures and exercise of right to information (Article 10 of the ECHR). Following the death of the complainant, his sister declared that she would continue the case.

Formela and Others v. Poland, application no. 58828/12 and four others – a case concerning institutionalisation of same-sex relationships

On 19 September 2024, the ECtHR ruled on a case brought by same-sex couples seeking legal recognition of their relationships in Poland. The applicants were prevented from taking leave to care for their sick partners; another complaint was the inability to extend health insurance to their partners. The applicants were also unable to take advantage of the gift tax exemption available to immediate family members or the right to file a joint tax return. The Commissioner submitted an amicus curiae brief in 2020. The ECtHR found that by refusing to register marriages entered into abroad and failing to provide a legal framework for their recognition and protection, the Polish authorities had left the applicants in a legal vacuum and had failed to meet the basic needs of recognition and protection of same-sex couples in stable and long-term relationships. Article 8 of the ECHR imposes a positive obligation on the state to institutionalise same-sex relationships. Lack of appropriate regulation violates the right to respect for private and family life.

A.W. v. Poland, application no. 43691/18 Case concerning refusal to grant permission to attend father's funeral

In 2024, the Commissioner received information from the ECtHR that the case of A.W. v. Poland, which the Commissioner had joined by submitting an amicus curiae brief, had been removed from the list of cases to be examined by the Court. The applicant alleged a violation of Article 8 of the ECHR on the grounds that he had not been allowed to attend his father's funeral due to his imprisonment in National Centre for Prevention of Dissocial Behaviour (KOZZD). As the applicant did not respond to the ECtHR's letters, the Court decided as indicated above.

Special duties of the Commissioner for Human Rights

The Commissioner for Human Rights acts as an **independent equality body** in Poland. His activities relate to discrimination on grounds such as: gender, race, ethnic origin, nationality, religion, denomination, belief, disability, age and sexual orientation. However, Article 32(2) of the Constitution prohibits discrimination on any grounds. Therefore, the Commissioner may take action also in cases when a person is treated unequally for other reasons such as health, material status or migration experience.

The main tasks of the Commissioner in this role are to consider applications filed with the equality body, including complaints regarding violation of the principle of equal treatment, and to take other action in accordance with the provisions of the Act on the Commissioner for Human Rights.

The CHR's duties include analysing, monitoring and promoting equal treatment of all persons, conducting independent research on discrimination and developing and issuing independent reports and recommendations on problems related to discrimination.

The Commissioner cooperates with treaty bodies **monitoring the implementation of conventions on the protection of human rights**, presenting his own reports and participating in regular committee sessions or meetings with other specialised agencies. He also works with other independent equal treatment bodies within the EQUINET network – the European Network of Equality Bodies. The Commissioner remains involved in the debate and efforts to develop a convention on the rights of senior citizens.

The Commissioner for Human Rights also performs the function of an **independent mechanism monitoring the implementation of the Convention on the Rights of Persons with disabilities**. Compliance with the Convention by signatory states is assessed by the Committee on the Rights of Persons with Disabilities (CRPD). In 2024, key challenges still included such issues as deinstitutionalisation of the support system, also in the context of providing a system of personal assistance to people with disabilities; abolishing the system of legal incapacitation and replacing it

with a system of supported decision-making; and ensuring high quality, accessible and inclusive education.

In 2024, the Commissioner established a Council of Persons with Disabilities, consisting of 33 members, including 31 self-advocates with various disabilities from all over Poland. In addition to its advisory and consultative functions, the Council's task is to support the Commissioner in monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities.

The Commissioner's responsibilities also include protecting the rights of national and ethnic minorities.

In 2024, the Commissioner for Human Rights received 703 cases concerning equal treatment (in 2023 – 728 cases, in 2022 – 511 cases, in 2021 – 436 cases, in 2020 – 752 cases).

The Commissioner for Human Rights carries out the duties of the **National Preventive Mechanism (NPM)** established pursuant to the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Commissioner is, therefore, an independent body that visits places where people are deprived of their liberty. The National Preventive Mechanism operates as one of the departments of the Office of the Commissioner for Human Rights.

In 2024, the Commissioner, acting in his capacity as the National Preventive Mechanism, approached the authorities on matters including: including the crime of torture in the Criminal Code, monitoring deportations of foreign nationals, placing incarcerated persons in penitentiary facilities located far from their place of residence, methods of documenting injuries sustained by persons detained in penitentiary facilities, translation and dissemination of international standards relevant to the prevention of torture (updated version of the Istanbul Protocol, the Bangkok Rules and the Mendez Principles), prison health service reform, shower facilities in penitentiary units, the need to support dependent persons after detention in police units.

In 2024, NPM employees continued their training activities. They delivered 10 training courses for officers and employees responsible for detention, supervision and care of persons in custody, as well as post-secondary school pupils and students. Representatives of the Border Guard and the Prison Service were important target groups for the NPM's training programme in 2024.

NPM activities in the area of prevention of torture and mistreatment are a regular topic of diplomatic discussions with representatives of other countries and international organisations, especially the Council of Europe. In addition to participating in national meetings and conferences, members of the NPM team took part in international conferences, study visits and webinars organised by international institutions.

The structure of the CHR Office comprises a **Department for Soldiers and other Uniformed Service Officers**. As regards protection of rights of officers of various services, in his intervention letters the Commissioner raised issues concerning, among others: rules of recruitment to the Military Police; no possibility of appealing to an administrative court against a decision on conscription into compulsory basic military service; military service and violation of constitutional freedom of religion; requirements for the recruitment process for candidates for service in the Central Anti-Corruption Bureau; inequalities in awarding jubilee awards to State Protection Service officers; funeral allowances and covering the costs of funerals of deceased soldiers and officers; unequal treatment of Prison Service officers when transferring to other uniformed services; unequal treatment of officers of the Maritime Border Guard. He also addressed the issue of differences in the indexation of pension benefits depending on the period of leaving the service and the issue of determining the length of service of officers.

■ **Tasks performed by the Commissioner for Human Rights as specified in the Whistleblower Protection Act**

In 2024, the Commissioner for Human Rights was entrusted with a new task. As a result of the implementation of Directive (EU) 2019/1937 of the European Parliament and of the Council (EU) 2019/1937 of 23 October

2019, which established common rules for Member States on the protection of persons reporting breaches of Union law into Polish legal order, the Commissioner was designated as one of the public authorities responsible for receiving reports of breaches of law.

Under the Act of 14 June 2024 on the protection of whistleblowers, a person (whistleblower) who has knowledge of a violation of the law in a professional context (i.e. related to work – they work or are connected in some other way with the performance of work or the implementation of contracts with an organisation) may make an internal report, an external report to the CHR or another public authority. They also have the option of making a public disclosure through other public channels.

Tasks assigned under the Act to the CHR include receiving external reports, their preliminary verification and forwarding them to the competent authority for examination and follow-up. The Commissioner independently examines reports concerning constitutional rights and freedoms if no other authority is competent in the matter.

In addition to handling external reports, the Commissioner's new tasks include providing whistleblowers and entities, to whom reports of rights violations pertain, with advice on the legal protection to which they are entitled, preparing annual reports, and promoting awareness of whistleblowers.

The provisions on external complaints, including those defining powers of the Commissioner for Human Rights, entered into force on 25 December 2024.



In May 2024, a Chief Coordinator for the implementation of the Whistleblower Act was appointed at the Office of the CHR, and

subsequently, in the third quarter of 2024, a Whistleblower Team was established and entrusted with executing the CHR's tasks under the new Act. The Office of the CHR adopted a procedure for external whistleblower reports, which was published in the Public Information Bulletin. In order to ensure universal access to information on the rights, protection and legal remedies for whistleblowers and persons referred to in Article 21 of the Whistleblower Protection Act, sygnalisci.gov.pl website was launched. Channels have also been set up to enable reporting violations of the law: an online form that allows the informer to remain anonymous and attach additional files; a recorded telephone hotline operated by the Team's staff. External reports are also accepted by traditional mail, and it is possible to report in person after making an appointment.

In 2024, the Whistleblower Team received four reports of violations of the law. One verified report concerned protection of privacy and personal data, i.e. Article 3(1)(13) of the Whistleblower Protection Act, which was forwarded to the President of the Personal Data Protection Office in accordance with his jurisdiction. Three reports concerned the financial interests of the State Treasury of the Republic of Poland, a local government unit and the European Union, and were forwarded with attachments to the Minister of Infrastructure.

The Office of the CHR held a webinar entitled 'Receiving external reports – a new challenge for public authorities'. The event was addressed to representatives of public administration, lawyers, employees of supervisory institutions and anyone interested in the subject of whistleblower protection and managing external reports. The webinar was broadcast online and interpreted into Polish Sign Language.

The Whistleblower Team cooperates with the authorities responsible for whistleblower protection in other European Union Member States and with the European Commission.



On 11 December 2024, the Office of the Commissioner for Human Rights hosted a webinar entitled 'Receiving external reports – a new challenge for public authorities'

Organisation system of Commissioner for Human Rights' activities

CHR regional offices and citizen reception points

Pursuant to Article 22 of the Act on the Commissioner for Human Rights, the CHR has a number of representatives. The representatives act on behalf of the Commissioner and in accordance with the principles that guide the Commissioner in performance of his duties. The Commissioner for Human Rights' Regional Representative Offices deal with all issues that fall within the Commissioner's remit, except for matters requiring the personal involvement of the Commissioner or his Deputies.

The offices of the Regional Representatives of the CHR operate in Gdańsk, Wrocław and Katowice. The regional offices constitute an effective and important tool for citizens in the assertion of their rights. This is confirmed by the number of received in-person visits as well as incoming telephone calls and letters received by the regional offices.

Map 1. Territorial competence of CHR Regional Representative Offices

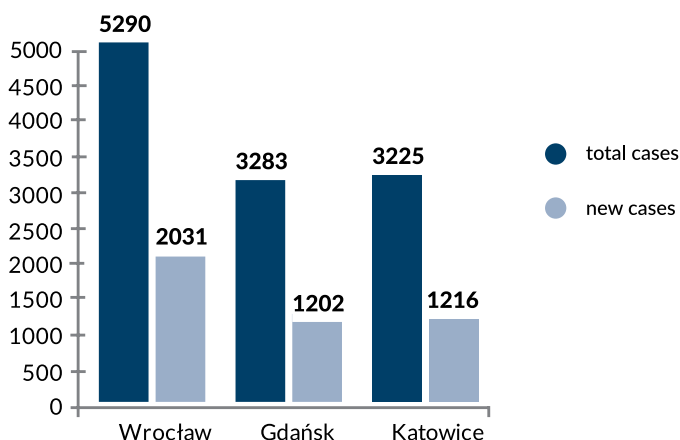


In addition to the Regional Representative Offices, citizen reception points were also operating in 2024. In 2024, a reception point in Białystok joined the existing points in Kraków, Koszalin, Bydgoszcz, Lublin, Szczecin and Wałbrzych. Lawyers from the Regional Representative Offices and the Office of the CHR in Warsaw were responsible for providing information and accepting applications at individual points.

The activities of the Commissioner for Human Rights' Regional Representative Offices in 2024 focused on ongoing processing of applications and assessment of the legality of the activities of local public authorities, and the representation of the Commissioner for Human Rights in external relations. In 2024, a total of 11 798 applications were received

by the Regional Representative Offices, of which 4 449 concerned newly registered cases.

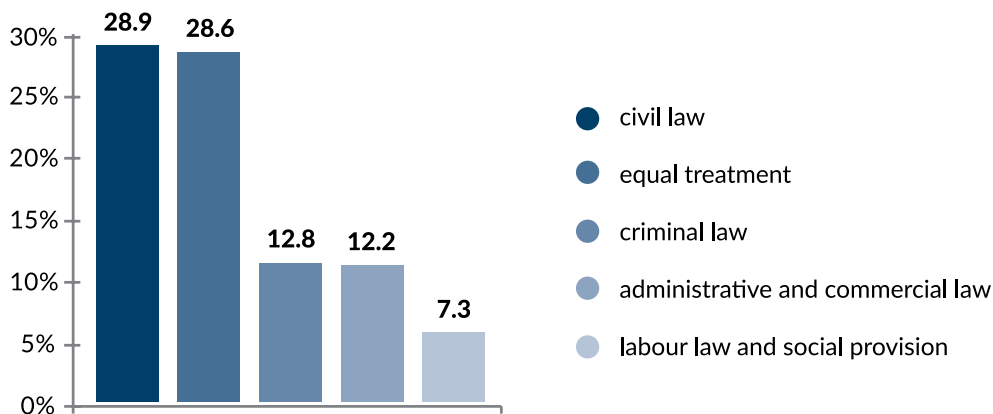
Figure 5. Inflow of cases to Regional Representative Offices in 2023 (the data is also presented in table 6 in the section “Tables”)



The Regional Representative Office in Wrocław received 5290 applications of which 2031 concerned new cases. The office also received 432 citizens seeking help in-person and answered 1100 telephone calls. The CHR Regional Representative Office in Gdańsk and the citizen reception points in Koszalin and Bydgoszcz received a total of 352 persons and answered 989 telephone calls providing explanations and advice. The office in Gdańsk received 3283 applications of which 1202 concerned new cases. The CHR Regional Representative Office in Katowice received 335 persons and answered 1208 telephone calls providing explanations and advice. The office in Katowice received 3225 applications of which 1216 concerned new cases.

New cases taken up by CHR Representative Offices mainly concerned issues in the field of civil law (1,286 cases), equal treatment (1,271), criminal law (571), and administrative and economic law (498).

Figure 5. Main problem areas of new cases dealt with by the Regional Representative Offices (the data is also presented in table 7 in the section “Tables”)



As representatives of the Commissioner, Regional Representatives participate in numerous events and meetings with representatives of non-governmental and social organisations, local authorities, public institutions, universities and schools. These events are both representational and substantive in nature. As part of their cooperation with non-governmental organisations, Regional Representatives provide legal advice and educate people about human rights.



The topic of the conference organised to mark the 20th anniversary of the establishment of the Regional Representative of the Commissioner for Human Rights in Wrocław was the issue of rights of excluded persons

Employees of the Offices participated in randomly selected inspections of polling stations designated as accessible to persons with disabilities. The aim of these activities was to identify shortcomings in polling stations and their surroundings in order to improve their accessibility for all citizens.

In 2024, the Office of the Regional Representative in Wrocław celebrated its 20th anniversary. On this occasion, a conference was organised to summarise the work of the unit, to which representatives of local government, local authorities, public administration, religious associations, as well as representatives of the scientific community and non-governmental organisations were invited.

CHR activities in the field of social communication

The Commissioner for Human Rights, as part of his statutory duties, carries out information and education activities aimed at disseminating knowledge about the observance of human rights and freedoms. These tasks include the provision of information on the state of compliance with the principle of equal treatment and the respect for the rights of persons deprived of their liberty.

The main source providing information about the Commissioner's work is the Public Information Bulletin of the Office (bip.brpo.gov.pl). In 2024, it published 1353 posts about the Commissioner's activities. The website registered nearly 2 million entries.

In 2024, the website continued to publish short video recordings accompanying some announcements, featuring statements by the Commissioner, his deputies and employees of the Office of the CHR.

In the reporting year, local government elections and European Parliament elections were held, which is why the CHR's Public Information Bulletin encouraged people to participate in assessing accessibility of polling stations designated as adapted to the needs of voters with disabilities. After the inspection was completed, a report describing the violations found was published on the website.

In 2024, the Act of 14 June 2024 on protection of whistleblowers entered into force, and the Commissioner for Human Rights was entrusted with tasks including, in particular, receiving and verifying external reports from whistleblowers and forwarding them to the competent authorities. In order to ensure universal access to information on the rights, protection and legal remedies available to whistleblowers, a website of the Whistleblower Team of the CHR's Office was launched at sygnaliści.gov.pl, operating within the RP Portal. This website operates independently of the CHR's Public Information Bulletin and contains the most important information related to the scope of the Act, in particular in the area of

external whistleblower reports. The website also publishes announcements related to execution of the CHR's tasks under the Whistleblower Protection Act and on ongoing cases and general interventions. The Whistleblower Team's website provides a form for external reporting and a form for requesting advice on rights and legal remedies.



In 2024, the CHR continued to communicate on social media through its Facebook, X, Instagram and LinkedIn profiles, as well as YouTube, which was mainly used to broadcast events organised by the CHR. In 2024, the total reach, i.e. the number of people who saw any material from the Office of the CHR profiles, amounted to almost 3 million, and the number of followers of the CHR Office accounts on social media is constantly growing – over the last year, their numbers have increased by more than 10,000.

In 2024, the Commissioner for Human Rights granted approximately 130 honorary patronages for projects and events. Their list can be found on the CHR's website in the 'CHR Patronages' tab.

In 2024, the CHR Office issued 9 publications in the printed form, in the overall number of 10,900 copies. Since the CHR Office implements accessibility standards on the bip.brpo.gov.pl website, materials published

on the website of the CHR Office, bip.brpo.gov.pl, met the WCAG 2.1 (Web Content Accessibility Guidelines) standard. The individual titles were promoted on the CHR website and social media and were presented during conferences and meetings at the CHR Office.

The Commissioner for Human Rights awards people and organisations working in the field of human rights. The Paweł Włodkowic award is granted to people demonstrating an uncompromising attitude towards fundamental values and truths. Dr Maciej Lis award is granted in appreciation of special achievements in protecting the rights and interests of people with disabilities. Since 2009, the CHR has also presented the CHR's Medal of Honour "For achievements in the field of human rights protection".



The CHR and Urszula Jaworska, founder of the Urszula Jaworska Foundation working for patients with rare, chronic and cancerous diseases, was honoured with the Paweł Włodkowic CHR Award



In 2024, the Commissioner for Human Rights' Paweł Włodkowic award was granted to Urszula Jaworska, founder of the Urszula Jaworska Foundation, which works for patients with rare, chronic and cancerous diseases, and organised one of the first bone marrow donor banks in Poland.

The Dr Maciej Lis Award was granted to Marek Kalbarczyk – a blind mathematician and computer scientist, manager, social activist, publicist and co-founder of the Chance for the Blind Foundation, now known as the Chance Foundation – We Are United.

The CHR's Medals of Honour "For achievements in the field of human rights protection" were awarded to: dr Izabela Ciuńczyk – psychiatrist, psychotherapist, specialist in community therapy, involved in social activities for people in mental crisis, founder and president of the National Association of Mental Health Centres; Katarzyna Heba, lawyer and social activist working to eliminate barriers and increase opportunities for persons with disabilities, ambassador for the UN Convention on the

Rights of Persons with Disabilities and chair of the Voivodship Social Council for Persons with Disabilities in the Pomeranian Voivodship, and Prof. Aleksander Lichorowicz – doyen of Polish science, one of the most outstanding co-creators and experts in agricultural law, distinguished academic teacher and state activist.

Human rights education

The Office of the Commissioner for Human Rights carries out education projects disseminating knowledge about human and civil rights and freedoms enshrined in the Constitution as well as the principles of equal treatment and non-discrimination. The effect is the shaping of people's attitudes towards groups at risk of discrimination and exclusion, in particular seniors, people with disabilities, people who have experienced a mental crisis, foreigners and national, ethnic and religious minorities.

In 2024, educational workshops for young people, students, seniors and people with disabilities were continued. They focused on discussing topics such as hate speech, discrimination, prejudice and stereotypes. The rights of foreigners and refugees were also addressed.

For the fifteenth time, the Commissioner for Human Rights Tent was set up at the Pol'and'Rock Festival, hosting workshops, debates and educational meetings. The following topics dominated the agenda: rights of persons with disabilities, personal rights and freedoms, pay gap, dangers of light pollution, freedom of assembly, children with refugee experience, powers of various services and their impact on citizens, accessibility of social life, including election campaigns and elections accessible to all citizens, human rights in social media, and the principles and impact of mobilisation and military service on citizens. Workshops on human rights were held on the topics of 'Your rights, our business', debates on '17.6% less, or wage equality in reality', 'Light pollution', 'Freedom of assembly: the balance between the right to protest and public safety', 'Children with refugee experience', 'Your rights and the powers of

various services', 'Social media and freedom of expression', 'Military service in the event of mobilisation'.

The Office of the Commissioner for Human Rights continued the activities initiated in 2023 under the motto 'Elections accessible to all'. During local government elections and European Parliament elections, polling stations adapted to the needs of persons with disabilities were inspected to ensure that they met all accessibility requirements. Volunteers and non-governmental organisations were invited to participate. Irregularities were found in most of the inspected polling stations. The post-inspection conclusions included, among others, a proposal to intensify training for electoral commissions and officials responsible for organising elections, and a proposal to amend the provisions of the regulation to include other support measures not yet covered by it.

During local meetings in Łódź, Białystok, Pruszków, Przemyśl and Gdańsk, employees of the Social Projects Centre discussed the issue of counteracting violence against persons with disabilities. The meetings were attended by approximately 200 people, including: representatives of local organisations, representatives of persons with disabilities, representatives of the police, social welfare centres, municipal interdisciplinary teams for counteracting domestic violence, probation officers, as well as self-advocates with disabilities.

In 2024, the CHR Office made an e-learning platform (<https://e-learning.brpo.gov.pl/>) available to students and teachers; the platform was created thanks to funding from ENNHRI. It offers 16 theoretical and practical lessons on human and civil rights and the activities of the office. They can be used in class or privately. The content on the platform is available digitally, which means that it has been designed in such a way that it can also be used by people with disabilities (e.g. visual or hearing impairments). The videos posted on the platform are translated into Polish Sign Language and subtitled, and the website hosting the platform features appropriate contrast, font and navigability using the tab key.



Once again, the Human Rights tent was set up at the Pol'and'Rock Festival, hosting meetings with representatives of the CHR Office

Expert Committees

In 2024, work was continued by Expert Committees that support the Office of the Commissioner for Human Rights and are composed of representatives of various social and professional groups, specialists in practice and theory. The Committees provide support to the Commissioner in the implementation of his statutory tasks and in identifying key problems in the area of competence of a given committee. They are also a link between the Commissioner and citizens' groups and organisations active in various areas.

Expert Committee for Counteracting Homelessness

Among the topics addressed by the Commission were the appointment of a government plenipotentiary – an inter-ministerial coordinator who would deal with the issue of counteracting homelessness in a comprehensive manner, going beyond the remit of individual ministries; the issue of a nationwide count of homeless persons, Poland's ratification of the Revised European Social Charter and the complaints protocol to the International Covenant on Economic, Social and Cultural Rights, and the situation of Polish citizens experiencing homelessness abroad.

The result of Committee's activities were interventions by the CHR, prepared with inspiration and in cooperation with the Committee, on following issues:

- Adoption of the Warsaw Charter of Rights for People Experiencing Homelessness.
- Methodology for researching and subsequently aggregating data from the survey on the number of homeless people.
- The need to establish a team to coordinate government activities in the area of counteracting homelessness.
- Ratification of the Revised European Social Charter (RESC).
- So-called wild evictions, i.e. attempts to remove people from their homes without a court order for eviction and without following the procedure provided for in the regulations.

Expert Committee on Mental Health

In 2024, the Expert Committee on Mental Health focused on three main areas: child and adolescent psychiatry, addiction treatment, and the future of the psychiatric care model. In all the issues discussed, attention was drawn to the need to increase access to health services, improve their quality, and better coordinate activities between different entities. The following proposals were made, among others:

- introduction of a National Mental Health Programme for children and young people;
- standardisation of the psychiatric care system in Poland;
- increased funding for mental health care;
- better support for people with addictions and improved standards of treatment;
- the need to strengthen inter-ministerial cooperation necessary to ensure optimal support for people in mental crisis.



One of the topics discussed by the Committee for Counteracting Homelessness in 2024 was the situation of Polish citizens experiencing homelessness abroad

The work of the Expert Committee on Mental Health Protection resulted in letters and general intervention letters by the Commissioner being sent to central government bodies, including in particular the Prime Minister and the Minister of Health. As a result of these actions, it was possible, among other things, to effectively draw the attention of the Ministry of Health to the need to change the regulations concerning issuing prescriptions for free medicines for eligible persons (under 18 and over 65) and to bring about a change in the decision to close the Mokotów day care centre of the Mokotów Mental Health Centre.

Expert Committee on Healthcare

The Committee's activities in 2024 focused on perinatal care, the problem of alcoholism and health policy in the context of state policy, the rights of prisoners as patients, and the right to a dignified death.

As a result of the actions taken by the Committee, two intervention letters were sent to the Minister of Health:

- on respecting the rights of pregnant women and women in labour, and on compliance with perinatal care standards;
- on a petition from non-governmental organisations concerning breastfeeding care.



Expert Committee on Climate and Spatial Planning

In 2024, the Expert Committee on Climate and Spatial Planning prepared the final draft of the Spatial Planning and Development Act, including substantiation. The final version of the document submitted to the Ministry of Economic Development and Technology and the Ministry of Climate and Environment consists of:

- Draft assumptions for the “ Act on Spatial Development”;
- Appendix No. 1 – Qualitative coefficient of biologically active area;
- Appendix No. 2 – Bodies (according to currently applicable regulations) participating in the planning procedure.

Expert Committee on Older People

In 2024, the Committee continued its work on violence against older people. A conference on this topic was held on 15 March 2024. The Committee also continued to address the issue of condescension, i.e. a specific way of communicating with older people, using a patronising tone and talking to seniors as if they were small children.

At the request of the CHR, research was conducted in 2024 on social services available to senior citizens in rural municipalities. The Committee discussed the preliminary results of the research and agreed on the format of the report and how it would be disseminated.

Members of the Committee devoted considerable attention to the issue of senior citizens in the labour market. In 2024, key conclusions and recommendations were presented from the Congress entitled 'Work for senior citizens? The situation of older people in the labour market in Poland, its conditions and effects'. The situation of older people in the labour market in Poland is slowly improving, but not commensurately with the challenges posed by the pace of population ageing and changes in other European Union countries. It was also found, among other things, that the current law does not encourage older people to work or employers to hire them, nor does it protect older people from discrimination in the labour market. In December 2024, the CHR Office organised a debate entitled 'Work for seniors. Is it possible?'. Representatives of employment agencies discussed good practices in the employment of older people.

The Committee also continued its activities in support of people living with dementia. In September 2024, the CHR Office hosted a conference entitled 'Caregivers of people living with dementia – support options'. For years, Alzheimer's organisations and the Commissioner have been calling for developing a National Alzheimer's Plan in Poland. Currently, the Ministry of Health has developed preliminary assumptions for the National Dementia Action Programme. The Ministry wants to introduce the programme in 2025, and it is expected to operate from 2025 to 2030. The CHR Office also provided substantive support for the #JestemTuCZEKAM social campaign, which aims to draw attention to the problem of seniors going missing. The project, implemented by Polish police, was launched on 21 September 2024, World Alzheimer's Day.

Expert Committee on Deaf People

In 2024, the Committee's work focused, among other things, on the accessibility of elections and election campaigns. The experts' discussions focused on: the need to amend the Electoral Code with regard to the accessibility of election campaigns, the need to raise awareness of accessibility issues among members of electoral commissions, and support for the CHR Office in involving deaf persons in the inspection of polling stations, and the accessible inspection questionnaire.

In the area of school education, the Committee discussed the need to introduce bilingual education for deaf and hard-of-hearing children and young people, as well as the need to introduce lessons on Deaf culture in mainstream schools.

In addition, the Committee addressed the issue of improving access for deaf people to accessibility statements posted on websites and improving accessibility of information posted on the website of the Government Safety Centre (RCB).

Experts also highlighted the need to prevent social workers from forcing CODA children to participate in difficult conversations between their parents and social workers in the role of PSL interpreters.

Council of Persons with Disabilities

In the first half of 2024, the Council of Persons with Disabilities was established at the office of Commissioner for Human Rights. Its aim is to involve persons with disabilities in CHR's monitoring of the implementation of the Convention on the Rights of Persons with Disabilities.



In addition to its advisory and consultative functions, the Council for Persons with Disabilities is tasked with supporting the Commissioner in monitoring implementation of the UN Convention on the Rights of Persons with Disabilities



The Council for Persons with Disabilities comprises self-advocates from all over Poland

This is the first example of an advisory and consultative body on the rights of persons with disabilities to be almost entirely composed of persons with disabilities, representing the voice of a community with a specific disability.

The members of the Council primarily discussed controversial issues concerning personal assistance for persons with disabilities in the community of persons with disabilities and their parents and caregivers. Among other things, they discussed the methods and scope of selecting a personal assistant, who could be an assistant, who should supervise the entire assistance service and the quality of services provided by the assistant, and to what extent.

International-level activities

■ Cooperation with international organisations

As part of his cooperation with the Fundamental Rights Agency (FRA), in 2024 the Commissioner for Human Rights completed a two-year project on the EU Charter of Fundamental Rights. As part of ongoing contacts with the FRA, Commissioner for Human Rights Marcin Wiącek met with the Agency's Director, Sirpa Rautio, at the CHR Office. The topics discussed included problems related to restoring the rule of law and constitutional order in Poland and the situation of foreigners residing in or attempting to enter Polish territory. In addition, the CHR received a delegation from the Fundamental Rights Office of the European Border and Coast Guard Agency (Frontex). Carlien Scheele, Director of the European Institute for Gender Equality (EIGE), an EU agency working to promote gender equality in the EU and beyond, also visited the CHR Office.

The Commissioner regularly undertakes activities related to the protection of human rights within the Council of Europe system based on the European Convention for the Protection of Human Rights and Fundamental Freedoms. In 2024, CHR's office hosted three delegations from the European Commission for Democracy through Law (Venice

Commission). The meetings focused on the amendment to the Act on the National Council of the Judiciary, draft amendments to the Act on the Public Prosecutor's Office, and new acts regulating the work of the Constitutional Tribunal. Year 2024 marked the 75th anniversary of founding the Council of Europe and the 65th anniversary of the European Court of Human Rights. To mark the occasion, on 9 December, CHR Marcin Wiącek welcomed ECHR President Marko Bošnjak to the CHR Office.



Meeting between the CHR and the Director of the European Union Agency for Fundamental Rights (FRA)



Meeting between the CHR and a delegation from the Fundamental Rights Office of the European Border and Coast Guard Agency (Frontex)



Deputy Commissioner for Human Rights Wojciech Brzozowski met with representatives of the Venice Commission

As part of the CoE-FRA-ENNHRI-EQUINET cooperation platform on social and economic rights, a representative of the CHR Office participated in a meeting devoted to young people's access to social and economic rights and counteracting the effects of the cost-of-living crisis.

The Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (ODIHR OSCE) plays an important advisory role for national human rights institutions. Cooperation in 2024 covered, among other things, gender equality issues in Poland and the difficult social and living conditions of Roma communities. In addition, the CHR Office hosted two election observation mission delegations in connection with the 2024 European Parliament elections and to discuss the final report on 2023 parliamentary elections in Poland.

The Commissioner for Human Rights remains in ongoing contact with UN bodies. He regularly provides them with substantive support by contributing to reports prepared by bodies within the UN structure. In addition, the CHR is in contact with UN bodies through activities undertaken within the framework of GANHRI, which works closely with the UN. Among the topics discussed in 2024 were the needs of refugees most at risk of exclusion and implementation of human rights standards in combating violence and discrimination against LGBT persons.

■ **Associations of human rights bodies and ombudsmen**

In 2024, a general assembly of GANHRI was held, attended by Deputy CHR Wojciech Brzozowski. The Global Alliance of National Human Rights Institutions is a UN partner organisation bringing together national institutions for the protection and promotion of human rights. As part of joint activities, a representative of the CHR also took part in the 14th annual session of the UN Working Group on Ageing.

As part of cooperation with the European Network of National Human Rights Institutions (ENNHRI), the Commissioner took part in the general assembly held on 28 and 29 October 2024 in Brussels. In addition, the Commissioner's representative participated in the annual Human Rights

Academy organised in cooperation with ODIHR. As part of ENNHRI's activities, a number of working groups have been set up to promote cooperation with a view to better promoting and protecting specific human rights. A representative of the Equal Treatment Team of the Office of the Ombudsman serves as co-chair of the ENNHRI Working Group on the Rights of Older Persons.

In 2024, the Commissioner for Human Rights Marcin Wiącek participated in the 13th World Conference organised by the International Ombudsman Institute (IOI), where he moderated a panel on the role of values in the work of ombudsmen. In addition, a representative of the CHR Office attended a seminar organised by the IOI in cooperation with the Office of the Chancellor of Justice of Estonia and the e-Governance Academy in Tallinn, devoted to development of artificial intelligence in the context of human rights monitoring.

The CHR is a member of the Independent Police Complaints Authorities Network (IPCAN). A representative of the Office attended the annual meeting, which focused on the issue of unlawful use of force by the police and discussing a draft declaration on interactions between law enforcement agencies and persons with disabilities.

The Commissioner also participates in events organised by the International Conference of Armed Forces Ombudsmen (ICOAF). A representative of the CHR attended the 16th annual conference, which was devoted to the issue of the Armed Forces under pressure and the role of the Ombudsman institution in the duty of care towards members of the service.

■ **Direct contacts with other countries' human rights institutions, ombudsmen and other organisations**

The annual meeting of the Ombudsmen of the Visegrad Group countries, attended by CHR Marcin Wiącek, in 2024 was held in Slovakia. It was already the 20th meeting of representatives of ombudsman institutions from the Czech Republic, Poland, Slovakia and Hungary in this format. During the discussion panels, key challenges related to the protection

of human rights in individual V4 countries and at the regional level were discussed.

In 2024, CHR received the Chief Ombudsman of Turkey and the Ombudsman of the Netherlands at his office. In addition, a representative of CHR took part in an international conference of ombudsmen held in Italy.



Visit of the delegation of the Chief Ombudsman of Turkey to the CHR Office

At the international level, much attention has been devoted to the protection of foreigners' rights, particularly the situation on the Polish-Belarusian border. The issue of LGBT+ rights has also attracted considerable interest.

■ Diplomatic representations and other bodies of foreign countries

The Commissioner maintains relations with representatives of diplomatic missions accredited in Poland who are interested in various aspects of the Commissioner's activities. In 2024, CHR Marcin Wiącek and Deputy CHR Wojciech Brzozowski hosted events at the CHR Office or accepted invitations to events organised by the diplomatic missions of the following countries: Armenia, Australia, Belgium, Montenegro, Denmark, France, Norway, Canada, the United States, Sweden, Hungary and the United Kingdom. The CHR was also a guest at a meeting of the Polish-Speaking Ambassadors' Club.

In 2024, Deputy CHR Wojciech Brzozowski also participated in a study visit by a delegation from North Macedonia to the OSCE ODIHR headquarters. The meeting was devoted to methods of counteracting threats to gender equality and non-discrimination.

■ International projects

In 2024, the project "Supporting National Human Rights Institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law", implemented in cooperation with the EU Agency for Fundamental Rights, was completed. The project was financed by the EEA Grants and Norwegian Grants for regional cooperation. The project was led by the EU Agency for Fundamental Rights (FRA) and, in addition to the CHR, involved national human rights institutions from Bulgaria, Croatia, Cyprus, Portugal, Slovakia and Slovenia. ENNHRI also participated in the project, in an expert capacity.

As part of the project, a training session was organised regarding the application of the Charter of Fundamental Rights of the European Union for Fundamental Rights Charter coordinators appointed by managing authorities. A conference entitled "Strengthening the protection of rights and freedoms – the EU Charter of Fundamental Rights and its application in the management of European funds" was also held, and a handbook

entitled “Application of the Charter of Fundamental Rights in the implementation of projects financed by EU funds” was published.

The second project in which the Commissioner benefited from the support of a foreign entity was the ENNHRI mini-grant. As part of this project, an e-learning platform containing a course on human and civil rights was published and made available in 2024. The original source of funding for the project was the European Union’s CERV (Citizens, Equality, Rights and Values) programme.

Main changes in the law postulated in the CHR intervention letters

The list below contains the main legislative changes postulated by the Commissioner in his intervention letters in 2024. Their more detailed descriptions can be found in the Report on the Activities of the Commissioner for Human Rights and on the State of Observance of Human and Civil Rights and Freedoms in 2024.

- A motion to amend the regulations governing social assistance activities in terms of eligibility and membership in activities offered by 'Senior+' Clubs as social assistance benefits.
- A motion to introduce penalties for presenting violent content to minors as part of counteracting the phenomenon of pathostreaming.
- A motion to take legislative action to introduce systemic personal assistance, while ensuring active participation of persons with various disabilities and individuals or social organisations acting on their behalf.
- A motion to amend regulations in order to standardise and equalise the start date of penalty points 'expiry period' for those who, due to their poor financial situation, have voluntarily undertaken to pay in instalments, as well as for those who, due to their better financial situation, were able to pay the fine on the spot or within the time limit specified in the credit fine notice.
- Considering amendments to the Act on healthcare services financed from public funds in order to eliminate the difference in determining the basis for calculating health insurance contributions between tax administration employees and Customs and Tax Service officers.
- Amendment of regulations to eliminate differentiation in the legal status of teachers based on their employment status (employment contract or appointment) in terms of pre-retirement protection and the right to remuneration for the entire period of unemployment in the event of reinstatement by a labour court.
- Amendment to the Notary Public Act to equalise the situation of persons taking the notary public examination after completing a notary public apprenticeship and without such an apprenticeship by

introducing the possibility for everyone to take the examination at the seat of any notary public chamber of their choice.

- Amendment to the Ordinance of the Minister of Digital Affairs on the determination of groups of teachers, educators and other teaching staff eligible for publicly funded support in order to extend this support to teachers and educators in primary schools in grades I-III and teachers and educators in secondary schools.
- Amendment of the provisions of the Ordinance of the Minister of Justice specifying the amount of examination fees for the National School of Judiciary and Public Prosecution by differentiating the amount depending on whether the candidate participates in only one stage of the examination or in both.
- A motion to amend the Act on Court Bailiffs with regard to the procedure for suspending bailiffs from their duties and abolishing the compulsory nature of suspension.
- A motion for Poland to participate in the work on the convention on the rights of older persons.
- Taking legislative action to reduce the phenomenon of digital exclusion of older persons, including limiting the automatic conversion of existing paper-based obligations into digital obligations without providing for appropriate transitional provisions.
- Enforcement of the ECtHR judgments in the cases of Przybyszewska and Others v. Poland and Formela and Others v. Poland concerning the obligation to provide a specific legal framework for recognition and protection of same-sex relationships.
- Comments of the CHR on the government's draft legislation on registered civil partnerships and the provisions implementing the above-mentioned Act.
- A motion to equalise the situation of women and men with regard to acquiring the title of Distinguished Blood Donor and the privileges associated with it.

- Amendment of the regulations governing the conditions for granting supplementary parental benefits to fathers, which currently make the father's right to receive benefits dependent on certain conditions related to the mother, thereby arbitrarily dividing the responsibilities of parents in raising children.
- Opinion of the CHR on the government's draft Act amending certain Acts to improve the operations of the Polish Armed Forces, the Police and the Border Guard in the event of a threat to national security.
- Taking legislative action to criminalise torture and fully implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- A motion to strengthen the mechanism for monitoring deportations at the national level by adding the CHR to the group of entities authorised to participate as observers in activities related to enforcement of forcible returns.
- A motion concerning the use and extension by courts of the most severe preventive measure, namely pre-trial detention.
- Amendment of regulations to fully implement the Constitutional Tribunal's ruling of 14 December 2017 (case file no. K 17/14), in which the Constitutional Tribunal ruled that the provisions of the Acts regulating the activities of uniformed services concerning body searches were unconstitutional insofar as they did not specify the limits of such searches and did not provide for the possibility of appealing against them in court.
- Motions for amendments to secondary legislation issued by the Minister of Justice concerning measures to ensure respect for the rights of persons deprived of liberty in penitentiary facilities.
- The need to amend Article 83a(1) of the Aviation Law in connection with doubts as to the compliance of this provision with the principle of specificity of criminal law and the principle of exclusivity of the Act in the sphere of oppressive law, due to the scope of the reference to the ordinance of the Minister of Transport, Construction and Maritime

Economy on basic regulations related to ensuring flight safety and security and order at airports.

- Introducing a legal basis enabling a person in custody, regardless of the further course of the preliminary proceedings, to access the case file to the extent appropriate to the grounds for detention, in order to enable them to exercise their full rights during the verification of the validity and legality of the detention.
- A motion to introduce into criminal procedure regulations a possibility to extend the deadline for filing an appeal in complex cases.
- Implementation of Directive No. 2013/48/EU of 22 October 2013 of the European Parliament and of the Council on access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third parties and consular authorities while deprived of liberty, and supplementing Directive 2016/1919 of 26 October 2016 of the European Parliament and of the Council on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.
- A motion to amend the regulations regarding exclusion from criminal liability of a person who, at the request of an authorised body, refuses to indicate to whom they entrusted a vehicle to drive or use at a specified time, when the information provided in this way could constitute evidence in offence proceedings against themselves.
- Comments of the CHR on the draft act amending the Act – Criminal Code, the Act – Code of Criminal Procedure and certain other acts, restoring the principles of the rule of law and adapting the provisions to technological, cultural and axiological changes, new phenomena in the area of crime and negative assessments of the practice of applying the law.
- A need to amend the regulations concerning the rules for transferring judges and assistant judges to other places of service in terms of a 3-year time limit on the possibility of submitting a request to the Minister of Justice for transfer to another place of service in a situation where a previous request had not been granted.

- A motion to take into account the recommendations of the Venice Commission in working on a reform to regulate the status of judges appointed between 2018 and 2024 and the rulings they issued.
- The need to immediately undertake legislative work to amend the provisions on extraordinary appeals in accordance with the ECtHR judgment in the case of *Wałęsa v. Poland* of 23 November 2023 (application no. 50849/21).
- A motion to amend the provisions of the Law on the System of Common Courts, the Law on the System of Military Courts, and the Law on the System of Administrative Courts, introducing compulsory participation of the judicial community in the procedure for appointing court presidents and vice-presidents.
- Consideration of an amendment to the regulations towards a systemic regulation of remunerating court experts at a level referenced to the average monthly salary.
- A motion to initiate amendments to the regulations to regulate the issue of qualifications of court experts in sexual offence cases.
- Consideration of changes to procedural regulations so as to ensure that persons with a significant degree of disability would be eligible to receive, at their request or at the request of another authority, the assistance of a solicitor or attorney-at-law ex officio in all types of cases.
- Consideration of implementing legal instruments that would resolve the problem of two valid inheritance decisions confirming the acquisition of inheritance from the same person remaining in legal circulation.
- Considering introduction of systemic solutions allowing for automatic and uniform verification of authenticity, integrity and accountability of digital recordings submitted by parties as copies, along with allowing digital files on media other than CDs/DVDs, submitted by email or by direct transfer to the court server to be accepted as evidence in the case.

- Consider legislative changes to eliminate problems related to penalty fees for lack of compulsory third-party liability insurance for motor vehicle owners who have been refused waiver of these fees or relief in their repayment by the Management Board of the Insurance Guarantee Fund.
- Introduction of provisions enabling victims in cases concluded under administrative penalty proceedings to obtain the necessary information about the perpetrator of the offence, which could be used to initiate legal proceedings to compensate for the damage caused by the offence.
- Consideration of an amendment to the Act on counteracting threats of sexual crime and protecting minors, in terms of the procedure for entering data on a specific perpetrator in the Register.
- Introduction of a legal basis for contesting suspension of a driving licence by a police officer.
- Considering a legislative initiative introducing recording of images and sound of procedural actions taken in criminal proceedings.
- Comments by the CHR on amendments to the Criminal Code concerning, among other things, thresholds justifying the forfeiture of a car in situations where the driver is under the influence of other psychoactive substances that have the same effect as alcohol, compulsory forfeiture of a motor vehicle, or forfeiture of the equivalent value of a vehicle.
- Introduction of provisions containing legal measures by which relatives can obtain a court ruling on contact with a person who had been fully incapacitated, in a situation where the legal guardian hinders or prevents such contact.
- Inclusion of cases concerning legal recognition of gender in the catalogue of urgent cases.
- Considering amendments to the regulations on informing parents of adult students about their academic progress and grades in order to better protect the data of adult students in secondary schools.

- Amendment of the provisions of the Law on the System of Common Courts, the Act on the National Council of the Judiciary, the Act on the Public Prosecutor's Office, the Act on the Bar, the Act on Notaries, the Act on Attorneys-at-Law and the Act on the General Prosecutor's Office of the Republic of Poland in order to regulate the rules for making files of cases handled by candidates for the position of judge available to the National Council of the Judiciary, taking into account the necessary guarantees of professional secrecy.
- Implement legislative changes to ensure adequate protection of privacy and personal data with regard to collection and processing of sensitive data in the Central Register of Persons Authorised to Practise Medicine.
- Introduce amendments to the regulations that would prevent parents with limited or revoked parental authority from applying for identity cards for their children and collecting these documents.
- Undertaking legislative work on personal data processing by animal shelters in cases where animals are entrusted to persons who are not employed by the shelter or are not associated with the shelter through a volunteer agreement.
- Undertaking a legislative initiative to amend the catalogue of personal data collected by carriers for the purpose of issuing fixed term tickets.
- The need to amend the Homeland Defence Act with regard to the prohibition of photography.
- A motion to regulate the rules for maintaining profiles of public administration bodies and offices, as well as other public institutions and organisations on social networking sites.
- Take legislative action to adapt the support system for refugees from Ukraine to the needs of vulnerable groups, including persons with disabilities, persons of Roma origin, persons with health problems, elderly persons, and persons who have experienced torture, sexual violence or other violations of international law.
- Comments of the CHR on the draft Act amending the Act on foreigners and certain other acts in the area of changes to the procedure for legalising the stay of foreigners.

- A motion for legislative changes in the area of water companies' operations and supervision thereof.
- Taking legislative action to ensure effective protection of the right to strike action, while respecting personal data protection.
- The need for amendments to the Civil Service Act regarding the rules for recruitment to senior positions in the civil service in order to ensure that performance of state tasks in government administration offices is free from any political pressure or influence.
- Take legislative action to remove discrepancies between the rules for the entrance examination for supplementary prosecutor training and the rules for other entrance examinations for judge or prosecutor training.
- Considering amendments to regulations so as to enable persons with disabilities to perform professional military service by allowing them to undertake military studies in selected fields in the area of compulsory physical fitness tests.
- Considering amendments to electoral law that would introduce an obligation to inform Polish citizens of their deletion from the electoral roll in connection with receiving information about their inclusion on the electoral roll of another European Union Member State.
- Amendments to the Act on Petitions taking into account the motions put forward by non-governmental organisations.
- Considering amendments to the provisions on asset protection in the form of a prohibition on encumbering and disposing of real estate imposed in criminal proceedings.
- Amending the provisions of the Hunting Law in such a way as to ensure adequate protection of the property rights of owners of real estate within hunting districts where hunts are conducted.
- A motion to amend the provisions of the Act on assistance to Ukrainian citizens in connection with the armed conflict in that country, aimed at extending the right to provide psychological services to psychologists from Ukraine without the need to have their diplomas recognised.

- Introduction of statutory regulations to define qualification requirements for persons applying for certification to perform soil classification.
- A motion to amend the Act on physician professions and the Act on nursing and midwifery professions with regard to the procedure for physicians, dentists, nurses and midwives to obtain licenses to practise these professions.
- Considering initiating legislative work on a draft Act removing inconsistencies and unconstitutional solutions contained in the provisions regulating access to the profession of a judge, including lifting the ban on dual citizenship for judges, prosecutors and assessors.
- Opinion of the CHR on the draft Act on the profession of a psychologist and the professional self-government of psychologists.
- Considering amendments to the Teachers' Charter regarding the disciplinary responsibility of teachers in the context of the reimbursement of remuneration deducted during a teacher's suspension after their acquittal.
- Amendment to the Flood Act granting the right to be released from work in order to remedy the effects of a flood, not only to persons employed on the basis of an employment relationship, but also to officers and soldiers in a service relationship.
- Considering initiating legislative work on suspending the supplementary part of the agricultural pension in cases where the pensioner's spouse retires.
- Amendment of the Act on pensions and disability pensions from the Social Insurance Fund in order to restore the full basis for calculating pensions, reduced by the amounts of so-called early pensions received, to pensioners born in years other than 1953.
- A motion to adopt the Plan for Rare Diseases for 2024-2025.
- The need for the Minister of Health to issue an ordinance specifying the requirements for collective catering in hospitals.

- Amendment of regulations to extend the group of persons authorised to issue prescriptions for free medicines for persons under 18 or over 65 to include psychiatrists.
- Considering initiating legislative work to reduce light pollution.
- Opinion of the CHR on the draft Act on personal assistance for persons with disabilities.
- A motion to develop and implement legal solutions that take into account the needs of persons with disabilities in the context of evacuation in emergency situations.
- A motion to initiate the process of ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- A motion to clarify the provisions of the Education Act regarding the rules for awarding scholarships under scholarship programmes created by local governments.
- A motion to review income criteria and benefit amounts for individuals and families requiring social protection.
- Introducing regulations into the rules governing access to family benefits, child-rearing benefits and the 'Good Start' benefit, enabling persons who actually care for a child to obtain the right to social benefits.
- Undertaking legislative work to bring national legislation into line with EU law in terms of the efficiency of proceedings and the enforcement of court decisions on returning abducted children to their place of permanent residence abroad.
- A need to amend the Social Assistance Act with regard to crisis intervention.
- A motion to specify in the Act on assistance to Ukrainian citizens in connection with the armed conflict in that country how to deal with Ukrainian citizens placed in foster care after reaching the A motion to clarify the provisions of the Education Act regarding the rules for awarding scholarships under scholarship programmes created by local governments.

- A motion to review income criteria and benefit amounts for individuals and families requiring social protection.
- Introducing regulations into the rules governing access to family benefits, child-rearing benefits and the 'Good Start' benefit, enabling persons who actually care for a child to obtain the right to social benefits.
- Undertaking legislative work to bring national legislation into line with EU law in terms of the efficiency of proceedings and the enforcement of court decisions on returning abducted children to their place of permanent residence abroad.
- A need to amend the Social Assistance Act with regard to crisis intervention.
- A motion to specify in the Act on assistance to Ukrainian citizens in connection with the armed conflict in that country how to deal with Ukrainian citizens placed in foster care after reaching adulthood.
- Excluding the possibility of applying immigration detention to unaccompanied foreign minors who are subject to proceedings to oblige them to return, regardless of their age, and considering establishing the institution of a guardian for such persons, with extended powers, similar to those of a child's representative.
- The need to re-regulate the issue of the presumption of a child's origin from a marriage after the termination or annulment of that marriage.
- The need to regulate enforcement proceedings in family and guardianship matters, in particular the rules concerning the rights and obligations of court guardians enforcing court decisions, regulating contact between parents and children in the presence of a guardian.
- Ratification of the Optional Protocol to the Convention on the Rights of the Child regarding the procedure for submitting notifications.
- The need to take systemic measures to increase availability of foster care.
- Comments of the CHR on the Act of 28 July 2023 amending the Family and Guardianship Code and certain other acts (the so-called 'Kamilek Act').

- Undertaking legislative work to allow access to archival materials for scientific purposes.
- Undertaking legislative measures to effectively implement the provisions of the Aarhus Convention on public participation in environmental protection, including, among others, allowing forest management plans to be challenged before administrative courts.
- Adopting provisions on odour nuisance (odour immissions).
- The need to undertake legislative work to remove Article 15 zzzr of the Act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, used by housing cooperatives as a basis for adopting resolutions by the general meeting of the cooperative by collecting votes in writing.
- The need to extend the obligation of municipalities to provide replacement premises to tenants whose landlords terminate the lease of premises that need to be vacated due to demolition or renovation of the building.
- Considering introduction of normative regulations to improve operation of the National Debt Register as a tool for reporting claims by Swiss franc borrowers or in the event of mass consumer claims against a bankrupt financial institution.
- A motion for changes in the law that would make it possible to grant the status of a person oppressed for political reasons within the meaning of the Act on Anti-Communist Opposition Activists and Persons Oppressed for Political Reasons to persons against whom a juvenile court decision on the application of educational measures has been issued.
- Consideration of amendments to the tax ordinance regarding the procedure for obtaining a preliminary ruling confirming that the final tax decision was issued in violation of the law, which is necessary to obtain compensation for damage caused by the final tax decision.

- A motion to introduce the possibility of appealing to the court against a prosecutor's decision to refuse to admit a representative of a person who is not a party to the proceedings to criminal proceedings.
- Initiating legislative work to extend the grounds for reopening penalty proceedings to situations where a delict was committed in connection with the imposition of a fine, and there are reasonable grounds to believe that this could have affected the content of the final penalty notice, and to situations where, after the penalty notice has become final, new facts or evidence come to light indicating that the person punished did not commit the offence.
- A motion to amend the Code of Civil Procedure so as to enable the parties to appeal against a court decision to hear a case in camera.
- The need to adapt the provisions on local taxes and fees to the guidelines resulting from the rulings of the Constitutional Tribunal regarding introduction of a new legal definition of 'structure' for the purposes of determining the subject of property tax.
- A motion to repeal the amendments to the Criminal Code, which entered into force on 1 October 2023 and include, inter alia, Article 78 § 3 of the Criminal Code, which stipulates exclusion of a convicted person from conditional early release in the case of a life sentence.
- Considering amendments to the provisions of criminal procedure regarding reimbursement of earnings or income lost due to appearing before a court or investigating authority, due to the difference in situation between an acquitted defendant and an acquitted accused person and a witness in a misdemeanour case.
- Eliminating legislative inconsistencies in individual Acts regulating the issue of prosecutorial freezing of funds in accounts.
- The need to amend the Act on Drivers in order to implement the judgment of the Constitutional Tribunal of 13 December 2022 (ref. no. K 4/21) concerning the grounds for starosts issuing administrative decisions on suspension of driving licences.

- A motion to repeal Article 96 of the Act on Special Support Instruments in Connection with the Spread of SARS-CoV-2, which suspends the statute of limitations for disciplinary cases involving teachers.
- A motion to draft an amendment to the regulations governing the procedure for creating and changing municipal boundaries, including the introduction of the possibility of appealing against changes to municipal boundaries to an administrative court.
- Considering amending the regulations on the time limit for bringing an action to declare an heir unworthy of inheritance.
- Opinion of the CHR on changing the definition of crimes against human sexual autonomy.
- Elimination of a loophole in the regulations involving lack of clear definition as to which authority is responsible for informing the Border Guard about the court's revocation of a preventive measure in the form of prohibition to leave the country.
- Considering reinstating the wording of Article 79 of the Executive Penal Code, regulating bringing a convicted person to serve a prison sentence, to wording from before the amendment that came into force on 1 January 2023.
- A motion for legislative changes regarding the functioning of the institution of the so-called 'minor crown witness'.
- Undertaking legislative work aiming to eliminate such regulations of a constitutional nature as give rise to doubts regarding financial penalties imposed within the framework of financial market supervision.
- The need to undertake legislative action in the area of determining, documenting and registering deaths.
- A motion to amend the Rules of Procedure of the Sejm, the Rules of Procedure of the Senate and the Act on the performance of the mandate of a member of the Sejm and a senator with regard to the exclusion of parliamentarians from Sejm, Senate or parliamentary committee meetings.

- A motion to amend the Act on the protection and assistance to victims and witnesses in connection with the need to extend the scope of application of protection and assistance measures to additional proceedings and eligible persons.
- A motion to amend the provisions on the procedure for terminating EU treaties in a manner analogous to their ratification.
- A motion to adapt the content of the provisions allowing for replacing individual documents service in the course of administrative proceedings with public announcements to current social and technological conditions.
- Comments by the CHR on the draft amendment to the Criminal Code, which provides for criminalisation of violence and abuse against persons on grounds of disability, age, gender, sexual orientation and gender identity.
- A motion to reform the rules for health insurance contributions by entrepreneurs.
- The need to create a legal framework for the operation of online currency exchange offices.
- Motions to amend the provisions of the Act on Packaging and Packaging Waste Management with regard to operation of the deposit system.
- A motion to regulate the legal situation of citizens in bankruptcy proceedings in consumer cases.
- Motion for a comprehensive amendment to the Tax Ordinance, including the elimination of the non-expiry of tax liabilities secured by a mortgage or tax lien, elimination of the grounds for suspending the limitation period for tax liabilities in connection with initiation of proceedings in a case concerning a fiscal offence or fiscal misdemeanour, or extending the Commissioner's access to tax files.
- The need to reform the capital gains tax (the so-called Belka tax).

- Clarification of the regulations governing the activity of notaries and their remuneration in the area of goods and services tax in the context of notarial fees.
- Considering changes to the regulations on the taxation of benefits for meeting family needs in the case of separate property of spouses.
- Comments by the CHR on the draft amendment to the regulations on property taxes.
- Motion to introduce a statutory obligation to inform citizens about the conditions necessary to obtain exemption from inheritance and gift tax for the closest relatives.
- Motion for a thorough reform of the system of radio and television licence fees.

List of selected subject areas covered by the Constitution of the Republic of Poland

1. General principles

Article 30 – Dignity of the person

- Survey of the number of people experiencing homelessness (VI.7217.1.2024)
- Problems resulting from the blockade on the Polish-Ukrainian border and farmers' protests (XI.540.71.2024)
- Rules for qualification and membership in activities offered by 'Senior+' Clubs (XI.811.1.2023)
- Protection of the rights of transgender persons in places of detention (IX.517.1386.2020)
- Counteracting the phenomenon of pathostreaming (II.510.1098.2024)
- Introduction of systemic personal assistance for persons with disabilities (XI.7061.5.2023)
- Digital exclusion of older persons (VII.8012.2022)
- Reservations regarding the amended provisions of the Act on Therapeutic Activity (VII.501.161.2023)
- Contact between family members and an incapacitated person (IV.7024.22.2018)

Article 31 – Freedom of the person and its permissible restrictions. The principle of proportionality

- Differentiation between fined drivers (II.511.276.2023)

Article 32(1) – Equality before the law and equal treatment

- Unequal treatment of civil servants in the National Revenue Administration (WZF.7040.6.2023)
- Differentiation of the legal status of teachers based on their employment status (III.7040.69.2023)
- Amendment to the Act on Notaries (VII.561.15.2023)
- Determination of groups of teachers, educators and other pedagogical staff eligible for publicly funded support (III.7042.5.2022)

- The issue of fees for examinations qualifying for the National School of Judiciary and Public Prosecution (VII.511.66.2019)
- The need to amend the Act on Court Bailiffs (VII.510.11.2024)
- Inequalities in the awarding of jubilee awards for 40 years of service (WZF.7043.30.2024)
- The issue of access by victims of misdemeanours to the personal data of their perpetrators (II.510.131.2024)
- Differentiation between fined drivers (II.511.276.2023)
- Granting the status of oppressed persons to underage oppositionists in the Polish People's Republic (VII.600.32.2021)

Article 32(2) – Principle of non-discrimination

- The situation of senior citizens in Poland (XI.503.1.2023)
- Digital exclusion of senior citizens (VII.801.2.2022)
- ECtHR judgments on same-sex relationships (XI.504.1.2024)
- Opinion of the CHR on the draft Act on registered partnerships and provisions implementing the above-mentioned Act (XI.022.1.2024)
- Access to military service for transgender persons (XI.801.12.2021)
- Statements by the CHR on Local Government Charters of Family Rights (XI.505.18.2023)
- Refund of remuneration deducted during a teacher's suspension (III.7042.16.2024)
- Unequal treatment of officers of the Maritime Border Guard
- WZF.816.1.2024)

Article 33 – Equal treatment of women and men

- Unequal position of women and men donating blood (XI.815.43.2021)
- Rules for the payment and financing of supplementary parental benefits (III.7067.1.2024)

Article 34 – Right to Polish citizenship

In 2024, no complaints indicating a violation of the right to Polish citizenship were submitted to the Commissioner for Human Rights.

Article 35 – Rights of national and ethnic minorities

- Learning German as a minority language (XI.813.18.2021)
- Organisation of education for national minorities (XI.816.7.2023)

Article 36 – Right to diplomatic and consular protection

- Deficient operation of the consulate appointment booking system (VII.534.15.2024)
- Humanitarian situation in the Gaza Strip (VII.531.18.2024)

Article 37 – Jurisdiction of the Polish state

The Commissioner received numerous applications from Ukrainian citizens concerning the application of the provisions of the Act on assistance to Ukrainian citizens in connection with the armed conflict in that country. In the course of examining the individual cases of these persons, the Commissioner directed numerous intervention letters to the Border Guard and public administration bodies.

2. Personal freedoms and rights

Article 38 – Right to life

In his opinion presented to the Senate Committees on Human Rights and Rule of Law concerning work on the bill amending certain acts to improve the operations of the Polish Armed Forces, the Commissioner pointed out that the proposed provisions also grant the right to use firearms in the event of the need to repel a direct, unlawful attack on the inviolability of the state border by a person who forces the border breach using a vehicle, firearm or other dangerous tool. At the same time, they provide for the exclusion of guilt on the part of Border Guard officers, police officers and soldiers of the Armed Forces for violating the rules on the use of firearms if the circumstances require immediate action. In the Commissioner's opinion, the proposed provisions do not meet the requirement of proportionality and excessively interfere with the legal protection of life guaranteed to everyone (including foreigners). (II.510.716.2024)

Article 39 – Prohibition of scientific experiments

The Commissioner for Human Rights has not received any complaints indicating a possible violation of the prohibition of scientific experiments on human beings provided for in Article 39 of the Constitution.

Article 40 – Prohibition of torture and inhuman or degrading treatment

- Introduction of the crime of torture into national legislation (KMP.570.3.2018)
- Translation and dissemination of the Istanbul Protocol, the Bangkok Rules and the Mendez Principles (KMP.571.6.2024, KMP.571.4.2024, KMP.570.8.2021)
- A need to change the way injuries to persons detained in penitentiary facilities are documented (KMP.571.12.2024)
- A pilot programme on the use of mobile phones for residential purposes (KMP.571.23.2024)

- Functioning of prison health care (KMP.571.24.2024)
- Treatment of foreigners subject to forcible return to third countries (KMP.572.5.2018)
- Exercise of powers by representatives of the National Preventive Mechanism when entering penitentiary facilities for the purpose of conducting visits (KMP.571.21.2024)
- Use of direct coercive measures designed to incapacitate persons by means of electric energy (II.519.1506.2021)

Article 41(1) – Personal inviolability and liberty

- Practices of applying and extending pre-trial detention by courts (II.510.1292.2015)
- The need to modify the procedure for body searches of persons applying to enter penitentiary facilities in order to visit a person deprived of liberty (IX.517.790.2023)
- Rules for conducting body searches of children visiting a parent serving a prison sentence (IX.517.508.2024)
- Inclusion of issues related to sexual violence and gender-based violence in (IX.071.3.2023)

Article 41(5) – Right to compensation for unlawful detention

In 2024, the Commissioner did not take general-level activities concerning the exercise of the right to compensation for unlawful deprivation of liberty.

It bears repeating, though, that the issue of the statute of limitations for claims for damages for wrongful conviction, pretrial detention, or arrest, which has been raised repeatedly by the Commissioner in previous years, remains unresolved. The regulations provide for a one-year limitation period calculated from the date on which the judgment giving rise to compensation becomes final, in the case of pre-trial detention calculated from the date on which the judgment ending the proceedings becomes final, and in the case of detention calculated from the date of release. Meanwhile, according to the general principle of civil law, claims

of a person injured by a tortious act expire three years after the date on which the injured party became aware of the damage and of the person obligated to repair it. In the opinion of the Commissioner, the differentiation of limitation periods depending on whether the harmful action of public authorities is assessed in criminal, civil or administrative proceedings is accidental and results solely from the historical origins of criminal procedure rules.

Article 42(1) – *Nullum crimen sine lege*

- Doubts as to the constitutionality of provisions of the Aviation Law (VII.564.38.2017)
- Examination of the constitutionality of a provision of the Code of Misdemeanours (II.510.876.2024, II.510.944.2024, II.510.1361.2024) – *participation in proceedings before the Constitutional Tribunal*

Article 42(2) – Right to defence in criminal cases

- Access to case files for a detained person who has not been charged, in the context of the possibility of lodging a complaint against detention (II.511.437.2019)
- Reimbursement of the costs of appointing a defence lawyer to a doctor or dentist who had been acquitted in disciplinary proceedings (VII.511.8.2017)
- Deadline for filing an appeal in complex criminal cases (II.5150.7.2015)
- Failure to implement European Parliament and Council regulations concerning the right to defence into Polish law (II.5150.9.2014)

Article 42(3) – Principle of the presumption of innocence

- Liability of the vehicle owner for refusing to disclose to whom they entrusted the vehicle (II.510.880.2023, II.510.1260.2024)

Article 43 – Prohibition of statutes of limitation

In 2024, the Commissioner for Human Rights did not receive any complaints regarding the matter covered by Article 43 of the Polish Constitution.

Article 44 – Suspension of the limitation period

In 2024, the Commissioner for Human Rights did not conduct any proceedings in cases involving suspension of the statute of limitations for offences committed by public officials.

Article 45 – Right to a court

- Status of judiciary independence
 - Time limits on the transfer of judges and assessors to other places of employment (VII.510.75.2022)
 - Status of judges appointed in 2018–2024 at the request of incorrectly formed National Council of the Judiciary (VII.510.48.2024)
 - Legal question from the Supreme Court to the Constitutional Tribunal regarding a Supreme Court resolution having the force of law (VII.510.9.2024)
- Reforms to the justice system aimed at making it more efficient
 - The need to change the current form of the extraordinary appeal institution (IV.511.23.2024)
 - Problems with availability of court doctors (VII.7014.5.2024)
 - The procedure for appointing and dismissing court presidents and vice-presidents (VII.511.15.2024)
 - The need to change the remuneration system for court experts (II.7002.2.2022)
 - The need to regulate qualifications for court experts in sexual offence cases (II.510.999.2024)
 - Granting persons with disabilities in a significant degree the right to receive assistance from a court-appointed attorney-at-law (IV.5150.1.2024)
- Absence or limitation of the possibility to take a case to a court
 - The problem of coexistence of several inheritance decisions confirming acquisition of inheritance from the same person (IV.511.221.2020)

- Problems with the effective service of court documents (VII.501.36.2022)
- Allowing parties to court proceedings to attach digital images and videos on technical media other than CDs or DVDs (II.510.228.2024)
- Right to a court hearing in cases concerning fees for failure to obtain compulsory third-party liability insurance for motor vehicle owners (V.7000.70.2024)
- Access of the victim of an offence to personal data of the perpetrator (II.510.131.2024)
- Prohibition of public participation in hearings (VII.613.1.2023)
- Right to judicial review in the case of operational surveillance (II.510.86.2024)
- No appeal against refusal to waive appeal costs in civil cases (IV.511.601.2021)
- Life imprisonment without the possibility of parole (II.510.569.2023)
- The problem of citizens exercising their rights against a defective tax decision after the expiry of the limitation period (V.511.462.2023)
- The possibility of appealing to the court against the refusal to appoint a representative for a person who is not a party to the proceedings (II.511.1613.2014)
- Free legal aid: role of attorneys, costs
 - Professional secrecy of solicitors and attorneys-at-law (VII.561.1.2024)
 - The amount of remuneration for a guardian representing a child in criminal proceedings where the guardian is a solicitor or attorney-at-law (IV.7000.157.2023)
- Right to a fair trial

- Entering data on juvenile offenders in the Register of Sex Offenders (IV.550.1.2019)
- Appealing against the suspension of a driving licence by a police officer (II.510.555.2023)
- Recording images and sound of procedural actions taken during proceedings (II.519.1039.2017)

Article 46 – Forfeiture of objects

In 2024, the Commissioner continued his activities related to court rulings in criminal proceedings concerning the forfeiture of a car or its equivalent. The Commissioner presented the Minister of Justice with detailed comments on the draft criminal law legislation, which aims, among other things, to change the rules for court rulings in this area. The Commissioner approved the direction of the changes, while noting the shortcomings of individual solutions that require correction. (II.510.429.2024)

Article 47 – Right to protection of private and family life, honour and good reputation

- Contact between family members and an incapacitated adult (IV.7024.22.2018)
- Prisoners serving sentences in prisons located far from their place of residence (KMP.571.1.2024)
- The need to regulate the procedure for legal gender recognition (XI.501.8.2024)
- Confirmation of identity using the mObywatel application when entering penitentiary facilities (IX.517.39.2024)
- Rules for obtaining information about persons deprived of liberty (IX.517.523.2024)
- Doubts regarding parents' access to grades of adult students (VII.7031.38.2023)
- Access to medical records of psychiatric treatment for the purposes of proceedings conducted by the Internal Security Agency (VII.520.20.2018)

- Lack of protection for personal data and legally protected secrets in judicial appointment procedures (VII.520.8.2022)
- Disclosure of sensitive data in the Central Register of Persons Authorised to Practise a Medical Profession (VII.501.179.2023)
- Public database with students' fitness test results (VII.501.151.2023)
- Register of contracts of employees of public finance sector entities (VII.520.14.2021)
- Need to amend the regulations on obtaining an identity card for a child (IV.7021.65.2016)
- Rules for storing and processing personal data in police databases (VII.501.23.2023)
- Recalling prosecutors from secondment (VII.519.3.2024)
- Persons deprived of liberty entering into marriage (IX.517.612.2023)

Article 48 – Right to raise children in accordance with one's convictions

In 2024, the Commissioner received complaints related to changes proposed by the Minister of Education concerning the rules for organising religious education in public kindergartens and schools. Among the allegations made by the complainants was also an allegation of violation of the right of parents to raise their children in accordance with their own beliefs. The Commissioner's actions in this regard were described in more detail as an issue related to the guarantees set out in Article 53 of the Constitution. (VII.5600.7.2024)

Article 49 – Freedom of communication

- No protection of personal data and legally protected secrets in the procedures for appointing judges (VII.520.8.2022)
- Operational surveillance (Due to unchanged legal circumstances, the Commissioner's reservations regarding threats to freedom of communication remain valid. These threats result from a number of provisions that give the police and other services broad powers to carry out operational surveillance and allow them to collect

telecommunications, postal and internet data in an almost unlimited manner. However, there are still no effective measures in place that would enable independent oversight of the activities of the services in this area.)

Article 50 – Right of inviolability of the home

During the period covered by the report, the Commissioner did not take any general action concerning implementation of the constitutional guarantees under Article 50 of the Constitution. However, individual cases concerning specific searches of homes and premises were investigated. During the investigations, the Commissioner sought to determine whether the persons whose premises were searched were also provided with procedural guarantees enabling them to verify the legality of these actions.

Article 51 – Right to information autonomy

- Requirement for animal shelter volunteers to provide personal data (VII.501.65.2024)
- Amended provisions of the Act on Therapeutic Activity (VII.501.161.2023)
- Scope of personal data collected by carriers for the purpose of issuing a fixed term season ticket authorising travel by means of transport (VII.501.80.2015)
- Professional secrecy of solicitors and attorneys-at-law (VII.561.1.2024)
- Access to medical records of psychiatric treatment for the purposes of proceedings conducted by the Homeland Security Agency (VII.520.20.2018)
- Restrictions on access to archival materials (VII.713.1.2023)

Article 52 – Freedom of movement within the territory of Poland

In 2024, a temporary ban prohibition on staying in a specific area in the border zone adjacent to the state border with the Republic of Belarus was maintained through the issuance of successive ordinances. In this regard, the position of the Commissioner for Human Rights remains valid, namely

that the provision of the Act on the Protection of the State Border, by not specifying the maximum period for which a ban on staying in a specific area in the border zone may be imposed, is inconsistent with Article 52(1) in conjunction with Article 31(3) of the Constitution. This provision gives the minister issuing the ordinance complete freedom to determine the temporal aspects of the restriction of the constitutional freedom of movement.

Article 53 – Freedom of conscience and religion

- Principles of organising religious education in public kindergartens and schools (VII.5600.7.2024)
- The Homeland Defence Act in the context of violating constitutional freedom of religion (WZF.5601.1.2024)

Article 54 – Freedom of speech

- Fighting disinformation (VII.7033.60.2022)
- The need to amend the Homeland Defence Act (II.510.670.2023)
- Restricting freedom of expression and the right of access to public information on social media profiles of public institutions (VII.564.65.2024)

Article 55 – Prohibition of extradition of Polish citizens

In 2024, no systemic problems concerning extradition proceedings were raised in the applications submitted to the Commissioner. However, the Commissioner examined individual extradition cases in terms of the grounds for using an extraordinary appeal measure in criminal proceedings in the form of cassation.

Article 56 – Right to asylum and refugee status

- The issue of support for war refugees from Ukraine belonging to vulnerable groups (XI.543.445.2024)
- Irregularities in the treatment of foreigners detained at the Polish border (XI.543.423.2024)

- Protracted administrative proceedings conducted by voivodes in cases concerning legalisation of residence of foreigners in the territory of the Republic of Poland (XI.541.31.2021)
- Problems with the UKR status of war refugees from Ukraine (XI.541.139.2022)
- Draft act amending the Act on Foreigners and certain other acts (XI.541.302.2024)

3. Political freedoms and rights

Article 57 – Freedom of peaceful assembly

In 2024, there was no longer an increased influx of cases indicating a possible violation of freedom of assembly by public authorities. However, the problem of threats to freedom of assembly resulting from introduction of periodic assemblies into the legal system, which was signalled by the Commissioner in previous years, has still not been resolved. The direct effect of their privileged status granted by the legislature is a prohibition on organising other assemblies in the same place and at the same time.

Article 58 – Freedom of association

- Oversight of water companies operation (IV.7200.410.2023)

Article 59 – Freedoms of trade unions

- The need to guarantee effective protection of the right to strike action (VII.611.1.2024)

Article 60 – Right of equal access to public services

- Rules for recruitment to senior positions in the civil service (III.7040.9.2016)
- Form of the entrance examination for supplementary prosecutor training (VII.561.2.2023)
- Enabling persons with disabilities to perform military service (WZF.801.2.2024)
- Recruitment procedure for uniformed services (WZF.711.1.2023)

- Rules for the qualification procedure for the Military Police (WZF.7043.50.2021)
- The issue of fees for the examination to the National School of Judiciary and Public Prosecution (VII.511.66.2019)

Article 61 – Right of access to public information

- Local councillors' duty to maintain ties with residents (V.604.12.2024)

Article 62 – Electoral rights

- Problems related to mail-in voting (VII.602.3.2021)
- Accessibility of elections for persons with disabilities (VII.602.6.2014)
- Inability of persons deprived of liberty to vote in local elections (VII.602.72.2015)
- Cases of denial of the right to vote in the last European Parliament elections (VII.602.76.2024)

Article 63 – Right to file petitions, requests and complaints

Proposed amendments to the Act on petitions (VII.604.32.2023)

4. Economic, social and cultural freedoms and rights

Article 64 – Right to property

- Prohibition on encumbering and disposing of real estate as asset security in criminal proceedings (II.510.666.2024)
- Acquisition of real estate by foreigners through inheritance (IV.7000.11.2022)
- Amendment to the provisions concerning the amendment of a lease agreement during its term (IV.7001.6.2024)
- Valuation of land intended for investment under the 'special Act on roads' (IV.7003.36.2024)
- Procedure for valuation of real estate in court enforcement proceedings (IV.512.54.2024)

- Rights of purchasers of claims under the Warsaw Decree (IV.7004.5.2023)
- Oversight of water companies operation (IV.7200.410.2023)
- Regulations on restrictions on sale of agricultural land (IV.7005.8.2016)
- Acquisition by prescription of land easement corresponding to the content of transmission easement
- Entry in the regional register of monuments vs. owner's rights (IV.7002.4.2023)
- Rules for organising hunting vs. landowners' rights (VII.7202.11.2021)

Article 65(1) – Freedom to choose and practice a profession

- Extension of the right to provide psychological services for psychologists from Ukraine (VII.7014.12.2023)
- Determination of qualification requirements for persons applying for the licence to perform soil classification (IV.7007.50.2014)
- Procedures for obtaining licenses to practise medicine and nursing (II.510.701.2023)
- Rules for access to the profession of judge (VII.711.4.2024)
- Rules for practising the profession of psychologist (VII.7016.2.2024)
- Allowing persons with disabilities to perform military service (WZF.801.2.2024)

Article 65(2-5) – Employee rights

- Refund of remuneration withheld during the period of suspension of a teacher (III.7042.16.2024)

Article 66 – Right to health and safety at work and the right to leave from work

- Compliance with health and safety regulations for healthcare workers (III.7044.36.2023)
- Flood leave for uniformed services officers (WZF.7043.215.2024)

Article 67 – Right to social security

- Rules for suspending agricultural pensions in the case of conducting agricultural activity (III.7060.36.2023)
- Amendments to the Act on pensions and disability pensions of the Social Insurance Fund (III.7060.92.2024)
- No publication of the Constitutional Tribunal's ruling on the calculation of the pension benefit due (VII.7060.1.2024)
- Rules for payment in the event of a concurrence of pension and disability benefits, known as survivor pension (III.7060.717.2024)

Article 68(1) – Right to health protection

- The need to develop a treatment plan for rare diseases (V.7013.173.2024)
- The quality of meals in hospitals (V.7013.342.2024)
- Drug safety in Poland (V.7013.375.2024)
- Health safety of intoxicated persons (IX.517.1775.2024, IX.517.15.2025)
- Protracted proceedings in the field of diagnosis and confirmation of occupational diseases (III.7051.1.2024)

Article 68(2) – Right of equal access to healthcare services

- The need to amend regulations governing issuing prescriptions for free-of-charge drugs for persons under 18 and over 65 years of age (V.7016.92.2023)

Article 68(3) – Right to special health care for vulnerable groups

- Costs of a caregiver's stay as part of publicly funded curative spa treatment for children (V.7010.124.2022)
- The need to take into account the individual needs of persons with disabilities in access to health services (XI.815.64.2022)
- Insufficient funding for hospice care (V.7010.5.2024)
- Access to medical services related to childbirth and perinatal care (V.7010.68.2024)

Article 68(4) – Fighting epidemics and preventing environmental degradation

- Light pollution (V.7203.30.2020)

Article 68(5) – Development of physical culture

One of the topics addressed by the Commissioner in his intervention letter to the Minister of Education was exclusion of students with disabilities from physical education classes. (XI.7036.18.2024)

Article 69 – Support for people with disabilities

- Personal assistance for persons with disabilities (XI.503.4.2016)
- Accessibility of MPs' and senators' offices (XI.815.52.2023)
- Problems with financing community self-help homes (III.7065.111.2024)
- Protracted procedure for granting support benefits (BPG.7064.5.2024)
- Translation of recommendations of the UN Committee on the Rights of Persons with Disabilities (XI.811.2.2018)
- The amount of fees for care services (III.7065.398.2024)
- The need to implement legal solutions that take into account the needs of persons with disabilities in the context of evacuation in emergency situations (XI.7050.1.2022)
- Ensuring full accessibility for deaf and hard of hearing persons to all communications related to natural disasters (XI.815.46.2024)
- No ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities (XI.516.1.2015)
- Accessibility of elections for persons with disabilities (VII.602.6.2014)
- Support for vulnerable groups of war refugees from Ukraine (XI.543.445.2024)
- Granting persons with disabilities in a significant degree the right to receive assistance from a court-appointed lawyer or attorney-at-law (IV.5150.1.2024)

- Support for students with disabilities (XI.7036.18.2024)
- Enabling persons with disabilities to perform military service (WZF.801.2.2024)
- Contacts between family members and an incapacitated adult (IV.7024.22.2018)

Article 70(1) – Right to education

- Support for students with disabilities (XI.7036.18.2024)
- Organization of education for national minorities (XI.816.7.2023)

Article 70(2) – Free learning

In 2024, the Commissioner did not receive any complaints indicating a violation of the right to free education.

Article 70(3) – Right to operate private schools

In 2024, the Commissioner for Human Rights did not receive any complaints indicating a violation of the right to operate non-public schools.

Article 70(4) – Equal access to education

- Rules for organising volunteering in primary schools (VII.7031.35.2023)
- Protection of the rights of persons who are beneficiaries of scholarship programmes created by local governments (VII.7031.8.2024)

Article 70(5) – Autonomy of universities

- Principles for appointing the next ‘first’ chancellor of a public university (VII.7033.21.2024)

Article 71(1) – The good of the family. Support for families

- Procedure for issuing certificates of eligibility to marry a foreigner (VII.511.25.2024)
- Insufficient benefits for individuals and families requiring social protection (III.7065.165.2022)

- Problem with child benefits for children for whom no guardian was appointed after the death of a parent until they were placed in foster care (III.7064.112.2024)
- Enforcement of court decisions on returning an abducted child to their place of permanent residence abroad (IV.7021.75.2024)
- Rules for granting care benefits (III.7064.398.2024, III.7064.438.2024)
- Tax situation of single parents (V.511.646.2021)
- Taxation of benefits for meeting family needs in case of separation of property between spouses (V.511.521.2023)
- Need to amend the Social Welfare Act in the area of crisis intervention (III.7065.375.2024)

Article 72 – Children’s rights

- The situation of children – war refugees from Ukraine reaching adulthood in foster care (III.554.7.2023)
- Unaccompanied minors who cross the border between Poland and Belarus in an irregular manner (XI.543.559.2024)
- Paternity of a child born up to 300 days after divorce (IV.7020.2.2020)
- Rights and obligations of court-appointed guardians during their participation in parent-child meetings (IV.7021.28.2019)
- No ratification of the Optional Protocol to the Convention on the Rights of the Child (VII.7021.1.2016)
- Availability of foster care (III.502.12.2023)
- Comments of the Commissioner on the so-called Kamilek Act (III.502.14.2024)
- Rules for conducting body searches of children visiting a parent serving a prison sentence (IX.517.508.2024)
- Problem with the child benefit for orphaned children for whom no guardian has been appointed until placement in foster care (III.7064.112.2024)

- Enforcement of court decisions on returning an abducted child to their place of permanent residence abroad (IV.7021.75.2024)

Article 73 – Freedom of artistic expression, scientific research and enjoyment of achievements of culture

- Restricted access to archival materials (VII.713.1.2023)

Article 74 – Environmental safety and environmental protection

- The need to adapt Polish law to the requirements of the Aarhus Convention (V.7202.5.2022)
- The problem of disproportionate municipal waste charges (V.7204.35.2015)
- Landowners being charged for the disposal of waste abandoned on their land by third parties (V.7203.5.2023)
- Lack of regulations concerning odour nuisance (odour immissions) (V.7203.10.2024)
- Functioning of the bottle deposit system (V.711.2.2024)
- Oversight of water companies operation (IV.7200.410.2023)

Article 75 – Housing policy and protection of tenants' rights

- The unresolved issue of housing savings books from the time of Polish People's Republic (IV.7216.25.2023)
- The need to coordinate state actions to counteract homelessness (IV.7217.89.2019)
- The practice of adopting resolutions by collecting written votes from members of housing cooperatives (IV.7212.11.2024)
- Provision of social housing by the municipality in the event of the need to demolish a private building (IV.7210.22.2024)

Article 76 – Protection of consumer rights

- Problems with overbooking in air transport and other violations of passenger rights (V.7108.90.2024)
- Position of creditors of the insolvent Getin Noble Bank S.A. (V.510.119.2023)

5. Means of protection of rights and freedoms

Article 77(1) – Compensation for damages caused by public authorities

- Granting the status of oppressed persons to underage oppositionists in the People's Republic of Poland (VII.600.32.2021)

Article 77(2) – Right to a court

- The problem for citizens in exercising their rights with regard to an erroneous tax decision after the expiry of the limitation period (V.511.462.2023)
- The possibility of appealing to a court against a refusal to appoint a representative for a person who is not a party (II.511.1613.2014)
- No possibility of appealing to an administrative court against a decision on conscription into compulsory basic military service and military training (WZF.511.1.2024)

Article 78 – Right to two-instance proceedings

- Enabling reopening of administrative penalty proceedings (II.510.873.2023)
- No possibility to appeal against a court decision on carrying out the proceedings in camera (VII.510.32.2022)
- Life imprisonment without the possibility of parole (II.510.569.2023, II.510.1260.2024)
- Deadline for lodging an appeal in complex criminal cases (II.5150.7.2015)
- Fees for lack of compulsory third-party liability insurance (V.7000.70.2024)
- Right to judicial review in the case of operational surveillance (II.510.86.2024)

Article 79(1) – Right to a constitutional appeal

In 2024, the Commissioner for Human Rights joined 7 proceedings initiated by constitutional complaints to the Constitutional Tribunal.

The Commissioner's participation aims at supporting the arguments put forward by the complainants. However, even if this were justified, the Commissioner cannot, in constitutional complaint proceedings, indicate constitutional standards for reviewing a normative act other than those invoked by the complainant. In the case of incorrectly drafted constitutional complaints, this precludes the Commissioner from participating in proceedings before the Constitutional Tribunal.

Article 80 – Right to apply to the Commissioner for Human Rights

In 2024, the number of complaints submitted to the Commissioner for Human Rights remained high, with 77,925 complaints received (in the record-breaking year of 2023, 79,698 complaints were received). 2,434 complaints concerned extraordinary appeals against final court rulings concluding proceedings in a case. The examination of applications for extraordinary appeals, as well as applications for other extraordinary remedies in the form of cassation and cassation appeals, generally requires an examination of the court files.

In addition to considering the above-mentioned applications, in 2024 the staff of the Commissioner's Office also provided 31,268 pieces of advice and information via telephone conversations and received 2,227 people for face-to-face conversations.

6. Other normative standards

Article 2 – Rule of law

- Clearing an invalid loan agreement (V.510.211.2017)
- No precise definition of 'structure' for tax purposes (V.511.185.2014)
- Difficult access for the National Preventive Mechanism to audio-video materials held by police units (KMP.570.1.2024)
- Life imprisonment without the possibility of parole (II.510.569.2023, II.510.1260.2024)

- Legal basis for reimbursement of lost earnings to a person who had been acquitted of a charge of committing a misdemeanour or offence (II.510.665.2023)
- Prosecutor's freeze on funds in a bank account (II.510.170.2023)
- The need to amend the Act on Drivers in order to implement the judgment of the Constitutional Tribunal (V.511.98.2024)
- Constitutionality of the provision suspending the limitation period for criminal liability in disciplinary cases involving teachers during the COVID-19 epidemic (II.510.350.2024)
- No possibility of contesting changes to the boundaries of municipalities before an administrative court (V.604.3.2024)
- Rules governing declaring an heir unworthy (IV.511.399.2022)
- The need to amend legal provisions concerning the methods of identifying police officers (KMP.570.12.2020)
- Changed definition of rape (II.510.277.2024)
- Application of preventive measures in criminal proceedings by the public prosecutor's office and the court (II.519.433.2024)
- Failure to inform a convicted person of the planned date of commencement of imprisonment (IX.517.1108.2024)
- Problems with the institution of the so-called minor crown witness (II.510.981.2018)
- Provisions regulating exemptions from the lease of agricultural land belonging to the State Treasury and the amount of remuneration for non-contractual use of state-owned agricultural land (IV.7005.2.2024)
- The need to amend Acts on financial market supervision (V.7106.2.2024)
- The need to regulate the matter of declaring, documenting and registering deaths (BPK.519.89.2014)
- Procedure for excluding a member of parliament or senator from deliberations (VII.600.10.2022)

- Act on the protection and assistance for victims and witnesses (II.510.101.2024)
- Draft Act amending certain acts to improve the operations of the Polish Armed Forces, Police and Border Guard in the event of a threat to national security (II.510.716.2024)
- Procedure for terminating EU treaties and securing Poland's membership in the European Union (VII.516.2.2021)
- Introduction of modern forms of notification of parties to administrative proceedings (V.564.1.2024)
- The 'Blue Card' procedure (XI.518.4.2024)
- Draft amendment to the Criminal Code regarding offences motivated by discrimination (II.510.345.2024)
- Draft act amending the Criminal Code, the Code of Criminal Procedure and certain other acts (II.510.1260.2024)
- Disciplinary responsibility of teachers (VII.7037.30.2023)

Article 22 – Freedom of establishment

- Principles for payment of health insurance contributions by entrepreneurs (V.511.767.2022)
- The need to develop legal regulations dedicated to operation of online currency exchange offices (V.7106.178.2014)
- Functioning of the bottles deposit system (V.711.2.2024)
- Farmers' complaints about performance of drought application (VII.7202.9.2024)
- Need to regulate legal situation of citizens in bankruptcy proceedings in consumer cases (V.510.175.2022)

Article 24 – Labour protection

There are still ongoing court proceedings involving the Commissioner in cases concerning expiry of foreign service employees' employment relationships by virtue of the law. In some of these cases, the courts, guided by a resolution of the Supreme Court, upheld the claims, thereby recognising the Act extinguishing employment relationships as

inconsistent with the constitutional principle of employment protection.

In numerous individual labour law cases concerning violations of employee rights by private sector employers, the Commissioner has exercised his statutory powers and referred them to the State Labour Inspectorate for investigation.

Article 217 – Rules for levying of taxes

- Amendments to the Tax Ordinance (V.511.128.2020)
- Capital gains tax (V.511.719.2022)
- Behavioural letters sent by tax offices to taxpayers (V.511.107.2024)
- Notaries adding value added tax to notarial fees (V.511.612.2020)
- Tax situation of single parents (V.511.646.2021)
- Taxation of benefits for meeting family needs in the case of assets separation by spouses (V.511.521.2023)
- Problems with property taxation (V.511.364.2024)
- Difficulties faced by citizens in taking advantage of inheritance and gift tax exemptions after the loss of a loved one (V.511.526.2024)
- Property tax on the rental of premises by entrepreneurs for the purpose of meeting the housing needs of tenants (V.511.575.2024)
- Subscription fee for radio and television receivers (V.7220.243.2022)
- The problem of disproportionate municipal waste fees (V.7204.35.2015)

Tables

Table 1. Inflow of applications to the CHR Office in the last ten years (2015–2024) (see Figure 1)

Year	New cases	Total cases
2015	27 376	57 627
2016	24 360	52 551
2017	22 800	52 836
2018	25 266	57 546
2019	27 113	59 524
2020	31 100	72 428
2021	25 379	74 279
2022	24 418	75 239
2023	25 212	79 698
2024	26 975	77 925

Table 2. Main addressees of the Commissioner’s general intervention letters and case-specific legal remedies (see Figure 2)

Addressee	Number
Supreme Court	171
Ministry of Justice	62
Ministry of Interior and Administration	28
Ministry of Health	22
Ministry of Finance	19
Ministry of Family, Labour and Social Policy	18

Table 3. CHR's intervention letters in 2024

The commissioner for human rights sent:	Number
problem-specific intervention letters of which:	269
- problem-specific intervention letters calling for taking legislative initiative	144
notifications to the Constitutional Tribunal about joining proceedings initiated by a constitutional appeal	7
notifications to the Constitutional Tribunal about joining proceedings initiated by a question of law	4
notifications to the Constitutional Tribunal about joining proceedings initiated by a motion	4
notifications to the Supreme Court about joining proceedings initiated by a question of law	1
extraordinary complaints to the Supreme Court	77
cassation appeals in criminal cases	92
cassation appeals to the Supreme Administrative Court	2
notifications to the Supreme Administrative Court about joining proceedings initiated by a question of law	1
applications to the Supreme Administrative Court for interpretation of law	1
complaints to Voivodship Administrative Courts	8
court proceedings joined	20
administrative proceedings joined	2
motions to commence administrative proceedings	5
motions to commence civil proceedings	5
joined proceedings before international courts	2
Total	500

Table 4. CHR's 500 general intervention letters and case-specific legal remedies by problem area in 2024 (see Figure 3)

CHR's general intervention letters by problem area	Number	%
Criminal law	129	25.9
Administrative and commercial law	103	20.6
Constitutional, international and European law	87	17.4
Civil law	65	13.0
Equal treatment	44	8.8
Labour and social security law	26	5.2
Protection of rights of soldiers and other uniformed service officers	23	4.6
Others	23	4.4

Table 5. Applications examined by the Constitutional Tribunal: to find laws and regulations inconsistent with the Constitution; constitutional appeals; motions and questions of law to the Tribunal, joined by the CHR in 2015–2024 (see Figure 4)

Year	Accepted	Rejected	discontinued	pending
2015	20	6	16	0
2016	14	9	29	3
2017	9	7	9	1
2018	4	3	3	3
2019	3	3	11	2
2020	4	4	12	7
2021	6	2	7	11
2022	2	0	11	11
2023	1	0	4	20
2024	0	0	0	15

Table 6. Inflow of cases to Regional Representative Offices in 2024 (see Figure 5)

Regional Offices	Total cases	New cases
Wrocław	5290	2031
Gdańsk	3283	1202
Katowice	3225	1216

Table 7. Main problem areas dealt with by Regional Representative Offices in 2024 (see Figure 6)

Problem area – new cases	Number	%
Civil law	1286	28.9
Equal treatment	1271	28.6
Criminal law	571	12.8
Administrative and commercial law	544	12.2
Labour and social security law	326	7.3
Criminal executive law	282	6.3
Constitutional, international and European law	128	2.9
Protection of rights of soldiers and other uniformed service officers	7	0.2
National Preventive Mechanism	1	0.0
Others	33	0.8
Total	4449	100

The Summary was based on the „Information on the Activities of the Commissioner for Human Rights and the Status of Observance of Freedoms and Human and Civil Rights in 2024.” It contains an overview of the most important problems in the area of protection of civil rights and freedoms, the actions taken, and a list of the most important proposals for legislative changes formulated in the Commissioner for Human Rights’ statements.

In 2024, the Commissioner for Human Rights received 77,925 applications. 2,227 people received personal assistance at the Office of the Commissioner for Human Rights in Warsaw, in the Commissioner’s Regional Representative Offices and at customer service points. Through the Helpline, the Commissioner for Human Rights’ employees provided 31,268 telephone consultations.

* * *

“Upon taking office, I declared: the Commissioner for Human Rights should be an independent advocate for the entire society. I will be such a Commissioner. I can say with satisfaction that we are succeeding in realizing this vision. And most importantly, this vision is coming true. Thanks to this, we can consistently enjoy the trust of citizens who appreciate that, even in the dynamically changing political and legal situation in the country, it is possible for an institution to operate while respecting the Constitution and the rules of a democratic state and serving well the protection of individual rights.

I heartily recommend that you read the annual information, both in the form of this Summary and in its full form on the website bip.brpo.gov.pl.”

Marcin Wiącek

Commissioner for Human Rights



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FOR HUMAN RIGHTS**

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