



INTELLIGENCE OMBUDSPERSONS' OFFICE
OF THE REPUBLIC OF LITHUANIA

ANNUAL ASSESSMENT OF THE LAWFULNESS OF THE ACTIVITIES OF INTELLIGENCE AGENCIES AND THEIR COMPLIANCE WITH THE REQUIREMENTS FOR THE PROTECTION OF HUMAN RIGHTS AND FREEDOMS

ACTIVITY REPORT

2024

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2024

To the Seimas of the Republic of Lithuania,

Pursuant to Article 30 of the Law on Intelligence Ombudspersons of the Republic of Lithuania, I hereby submit to the Seimas of the Republic of Lithuania the Annual Assessment of the Lawfulness of the Activities of Intelligence Agencies and their Compliance with the Requirements for the Protection of Human Rights and Freedoms, as well as the 2024 Activity Report.

This is the second annual report designed to provide an overview of the lawfulness of the activities of the intelligence agencies of the Republic of Lithuania and the status of their compliance with the requirements for the protection of human rights and freedoms, and the second activity report on the independent oversight of the intelligence agencies of the Republic of Lithuania that has been carried out by the intelligence oversight authority since 2023.

These two reports contain proposals on possible directions for the improvement of legislation regulating intelligence activities.

I hope that the insights and observations presented will contribute to making the activities of the Seimas of the Republic of Lithuania more efficient and will encourage further discussions on the lawfulness of intelligence activities and improving the protection of human rights and freedoms.



dr. Nortautas Statkus

Head of the Intelligence Ombudspersons'
Office, Intelligence Ombudsperson

A handwritten signature in blue ink, appearing to read 'N. Statkus', written in a cursive style.

Summary

Inspections of intelligence agency activities

Three inspections were conducted in 2024. During these inspections, the results obtained, and the recommendations provided to the intelligence agencies made it possible to ensure that they comply with legislative requirements. The inspections were carried out:

- to verify the lawfulness of activities and compliance with the requirements for the protection of human rights and freedoms during the election campaigns for the President of the Republic of Lithuania, the European Parliament and the Seimas;
- to evaluate whether the intelligence information provided to national security institutions complies with the principles of timeliness, objectivity and clarity;
- in assessing the legislative compliance of the internal control systems in place at the intelligence agencies.

Examination and investigation of complaints

A total of **10 complaints** were received in 2024:

Nine complaints were examined. Investigation of one complaint is ongoing.

- **Two complaints** were outside the competence of the intelligence ombudsperson.
- **Eight complaints** were assigned to the competence of the intelligence ombudsperson, of which:
 - ▶ **two complaints** were not investigated due to a lack of data or non-compliance with the requirements;
 - ▶ the examination of **three complaints** was terminated because they had already been examined or brought before the court (one regarding a company's non-compliance with national security interests, and two regarding threats to state security posed by foreigners); and
 - ▶ **three complaints** were investigated by the intelligence ombudsperson, of which:
 - the investigation of one complaint was terminated after the applicant withdrew it;
 - the investigation of one complaint was closed with no violations found;
 - the investigation of one complaint is still ongoing.

Improving the legal framework

In conducting oversight of the lawfulness of the activities of intelligence agencies and ensuring compliance with the requirements for the protection of human rights and freedoms, we identified a need to make improvements to legislation. Legislative proposals have been submitted to the Seimas on:

- clarifying the powers and functions of intelligence ombudspersons so that they have a real opportunity to assess the lawfulness, reasonableness and proportionality of activities;
- ensuring comprehensive and continuous access to all necessary data and information, which would make it possible to strengthen the current oversight of the activities of intelligence agencies.

International cooperation

International dialogue in the field of human rights and freedoms protection with intelligence oversight authorities from NATO and other European Union countries contributes to strengthening independent and effective oversight of the activities of intelligence agencies. In 2024, a meeting was held with representatives from the Council for Civilian Oversight of Security and Intelligence Agencies of the Republic of Croatia, during which best practices and experiences were shared, as this:

- helps to make the office's operations more efficient;
- contributes to the successful implementation of goals and objectives;
- contributes to the development of common standards for the oversight of intelligence services on an international scale.

Inspection priorities for 2025

Next year, the focus will continue to be on strengthening the protection of human rights and fundamental freedoms. **Two inspections** are planned, with the goal of:

- assessing how intelligence agencies comply with the principle of lawfulness of activities established in the Law on Intelligence of the Republic of Lithuania when sanctioning intelligence activities, and ensuring that these activities comply with the requirements for the protection of human rights and freedoms;
- assessing how intelligence agencies have implemented the recommendations issued following the inspection that was conducted in 2024 of the effectiveness of the organisation of internal controls at intelligence agencies.

Administrative capacity development and ongoing oversight

By developing the administrative capacity of the Intelligence Ombudspersons' Office, independent oversight of the activities of intelligence agencies has been enhanced – this will remain the main focus of the office in the future as well. The office plans to continue:

- strengthening the methods of overseeing the activities of intelligence agencies;
- paying more attention to the protection of human rights and freedoms and the processing of personal data;
- improving legislation that contributes to more effective implementation of operational goals and objectives.



Introduction. Intelligence oversight priorities for 2025

The activity report of the Intelligence Ombudspersons' Office (hereinafter referred to as the Office) provides an overview of the key operating results for 2024, as well as insights and proposals that will help the Office purposefully continue the work it has started in the future.

Like intelligence agencies, intelligence oversight authorities are a vital component of Lithuania's national security system. However, national security can only be effectively ensured if citizens place trust in the state and its institutions.

One particularly important goal of intelligence oversight is to ensure that in their activities, intelligence agencies do not violate the requirements for the protection of citizens' rights and freedoms, and that they act lawfully, legitimately and only when necessary.

Independent oversight of intelligence agencies has been enhanced in Lithuania in recent years. The Intelligence Ombudspersons' Office, which began operating in 2023, is developing a permanent system of external expert oversight. This makes it possible to strive to ensure that the activities of intelligence agencies comply with legislative requirements and standards for the protection of human rights and freedoms.

In 2024, a compliance inspection was conducted on the internal control systems in place at the Second Investigation Department under the Ministry of National Defence (AOTD) and the Republic of Lithuania State Security Department (VSD). During the inspection, the lawfulness of the actions of intelligence agencies and the protection of human rights and freedoms during the election campaigns for the President of the Republic of Lithuania, the European Parliament and the Seimas of the Republic of Lithuania (hereinafter referred to as the Seimas) were assessed. An inspection of the activities of intelligence agencies was also carried out, showing whether/how the intelligence information provided to national security institutions complies with the special principles of timeliness, objectivity and clarity governing the activities of intelligence agencies, as established in the Law on Intelligence of the Republic of Lithuania (hereinafter referred to as the Law on Intelligence). In addition, consultations, training, methodological recommendations and proposals were provided for improving the activities of intelligence agencies.

In 2024, meetings were held with responsible committees of the Seimas and other state institutions to ensure that the protection of human rights and freedoms in intelligence is ensured in the best possible way. Attention was given to relations with analogous authorities

in NATO and other European Union countries, with the aim of learning from their accumulated experience and applying it in Lithuania.

In 2025, the focus will continue to be on strengthening the protection of human rights and fundamental freedoms. Two inspections are planned to assess how the principle of lawfulness of the activities of intelligence agencies established in the Law on Intelligence is adhered to in the activities of intelligence agencies when sanctioning intelligence activities and the compliance of the sanctioning of these activities with the requirements for the protection of human rights and freedoms, as well as to ascertain how intelligence agencies have implemented the recommendations issued following the inspection that was conducted in 2024 of the effectiveness of the organisation of internal controls at intelligence agencies.

In order to avoid potential violations, preventive activities will continue, including the organisation of training and consultations, as well as the preparation and submission of recommendations to intelligence agencies. Legislative amendments will also be initiated in order to ensure even greater efficiency in the oversight of the activities of intelligence agencies, along with the lawfulness of their activities and the protection of human rights and freedoms.

Enhancing oversight of the activities of intelligence agencies will continue to be a key focus. The methods of this oversight will be improved, with particular attention given to assessing the lawfulness of the processing of personal data in cases where the data are used for national security and defence purposes. In addition, the dissemination of information about the protection of human rights and freedoms at intelligence agencies will be expanded.

International cooperation will remain one of the most important areas of activity. Continued cooperation with intelligence oversight authorities from NATO and other European Union countries will contribute to international dialogue on the protection of human rights and freedoms, and will also strengthen the state of the national security system.

The above-mentioned operational priorities are provided for in the Office's Strategic Activity Plan for 2025-2027. This will help ensure independent and effective oversight, strengthen the protection of human rights, develop international cooperation, and increase both public awareness of the Office's activities and the transparency of the activities of intelligence agencies.

I believe that the annual report and activity report will not only contribute to the decision-making of the Seimas, but also promote broader public understanding of this important area.

2

Compliance of the internal control system for the activities of intelligence agencies

Together with parliamentary, executive, judicial and independent expert control, internal control of the activities of intelligence agencies is part of creating an effective system of intelligence oversight. All participants in the oversight system are very important in effectively ensuring the lawfulness, reasonableness and proportionality of the activities of intelligence agencies.

The importance of internal control of intelligence agencies is also emphasised by the 11 June 2007 Report on the Democratic Oversight of the Security Services adopted by the European Commission for Democracy through Law (Venice Commission), which stipulates that external oversight systems for intelligence and security services are less effective if the intelligence and security services are not committed to complying with the requirements for the protection of human rights and freedoms in their activities, or do not have appropriate internal culture and oversight mechanisms¹.

Internal control is crucial for the effective management of intelligence agencies. The legislation regulating it establish the rules and procedures applied at the intelligence agency. Their purpose is to ensure that employees work professionally and efficiently, within their legal powers, and in strict compliance with the law and the requirements for the protection of human rights and freedoms².

The internal control of intelligence agencies is the responsibility of the agencies themselves.

In 2024, the Office conducted an inspection of the effectiveness of the organisation of internal controls at intelligence agencies, assessing the assurance of the lawfulness of intelligence activities. The results of the inspection showed that both intelligence agencies have functioning internal control systems, and the intelligence ombudsperson did not identify grounds to initiate investigations into the subject matter of the review.

When implementing internal control, intelligence agencies adhere to the requirements for the organisation of internal control established in the Law on Internal Control and Internal Audit of the Republic of Lithuania (hereinafter referred to as the Law on Internal Control and Internal Audit) and the Law on Intelligence.

The Law on Internal Control and Internal Audit obliges

the head of the intelligence agency, as the head of a public sector entity, to implement internal control within the institution under the management thereof in accordance with the internal control policy, identifying and analysing risk factors and covering all elements of internal control – the internal control environment, risk assessment, control activities, information and communication, and monitoring. The head of the intelligence agency is obliged by this law to appoint internal auditors and employees to supervise the implementation of internal control, ensure the establishment, implementation and improvement of an internal control system at the agency, and provide the Ministry of Finance of the Republic of Lithuania with information on the implementation of internal control at the agency every year, in accordance with the procedure established by the Minister of Finance.

The internal control of intelligence agencies is governed by Article 24 of the Law on Intelligence, Part 1 of which obliges the head of the intelligence agency to ensure the lawfulness, cost-effectiveness, efficiency, effectiveness and transparency of the activities of the intelligence agency.

The internal control of an intelligence agency includes coordination of the implementation of intelligence tasks and other activities, regular accountability for results and reporting, personnel appraisal, compliance with the code of conduct, legal standards and professional ethics, and the identification of violations and the elimination of their causes, ensuring that significant violations are appropriately addressed by a legal institution or higher supervisory authority.

The inspection established that the management of the intelligence agencies, in accordance with the requirements of the Law on Internal Control and Internal Audit and the Law on Intelligence, organises internal control and supervises its implementation properly. The internal control of intelligence agencies is meant to ensure the lawfulness of activities, the reliability of personnel, the protection of classified information, and the rationality, efficiency and reasonableness of the use of assets and funds. The internal control of intelligence agencies includes preventive actions (*ex ante*), ongoing control measures (*ex durante*), and retrospective assessment of the lawfulness (*reasonableness*) of decisions after they have already been made (*ex post facto*).

The internal documents of intelligence agencies regulate the objectives, principles and elements of internal control, the functions of participants, the analysis and management of risks, and the provision of information on the implementation of internal control. The internal control of intelligence agencies encompasses all the elements of control – the control environment, risk management, control activities, information, communication and monitoring. Intelligence agencies assess and manage risk factors – lists of risk factors are compiled and approved by the heads of the agency, and measures for risk factor management are planned.

The intelligence ombudsperson suggested that in the lists of risk factors, the intelligence agencies word the risk factors for violations of lawfulness and the requ-

¹ Council of Europe. European Commission for Democracy through Law (Venice Commission), *Report on the Democratic oversight of the Security Services*. Adopted by the Venice Commission at its 71st Plenary Session (Venice, 1-2 June 2007), p. 131-133. Available at: [https://www.venice.coe.int/webforms/documents/CDL-AD\(2007\)016.aspx](https://www.venice.coe.int/webforms/documents/CDL-AD(2007)016.aspx)

² Geneva Centre for Security Sector Governance, Intelligence Oversight: Ensuring Accountable Intelligence Within A Framework of Democratic Governance, 1 September 2017, p. 5. Available at: https://www.dcaf.ch/sites/default/files/publications/documents/DCAF_BG_11_IntelligenceOversight_Nov2022.pdf

irements for the protection of human rights and freedoms more clearly. Recommendations were also made to intelligence agencies regarding the strengthening of internal (self-)control in individual areas of activity, with a suggestion that internal audits be conducted in certain areas of their activities.

Having regard to the intelligence ombudsperson's recommendations, the VSD also took the necessary steps to enhance the internal control of intelligence activities: it revised the list of VSD risk factors in the riskiest areas of activity, appointed additional intelligence officers authorised to conduct regular assessments of compliance with the requirements for the protection of human rights and freedoms, and prepared new/supplemented existing internal legislation. The AOTD also developed and approved a plan to implement the recommendations of the intelligence ombudsperson.

3. Lawfulness of the actions of intelligence agencies and the protection of human rights and freedoms during the election campaigns for the President of the Republic, the European Parliament and the Seimas

An inspection was conducted by the intelligence ombudsperson in 2024 to assess the lawfulness of the actions of intelligence agencies and the protection of human rights and freedoms during the election campaigns for the President of the Republic of Lithuania, the European Parliament and the Seimas. During the inspection, it was assessed whether the legal bases established by intelligence agencies for making decisions on the gathering and evaluation of intelligence information during political campaigns comply with human rights requirements.

It was also investigated whether there is a clear procedure for gathering and evaluating information about nominees and candidates and their associates – sponsors, team members and other related persons. In addition, it was clarified what personal data are collected, what information is processed as part of this, and what methods are used to gather it.

Additionally, it was ascertained to whom and in what form the information gathered by intelligence agencies is provided, what its scope is, and by whose decision it is transferred. The duration and procedure for the storage of this information was examined as well. Finally, it was

analysed on what grounds and by whose decision the gathered information is stored or destroyed.

During the inspection, no evidence was found that the actions of the VSD did not comply with the requirements of lawfulness, political neutrality, the right to privacy, the right to freedom of thought, conscience and religion, the right to freedom of expression, and the right to freedom of assembly and of association during the election campaigns for the President of the Republic of Lithuania, the European Parliament and the Seimas.

The activities of the AOTD were not assessed during this inspection, since, based on the competence established in the Law on Intelligence, this intelligence agency did not perform any actions related to these election campaigns.

4. Compliance of the provision of intelligence information to national security institutions with the principles of timeliness, objectivity and clarity

During the inspection, it was assessed whether the procedure for providing intelligence information that was in force in 2023-2024 enabled decision-makers to receive information about risk factors, dangers and threats to national security in a timely manner and use it properly for decision-making. The legal basis for making decisions on the provision of intelligence information to national security institutions, the procedure for the provision of said information, and the safeguards in place to ensure that the information complies with the principles of timeliness, objectivity and clarity were also examined. For this purpose, an analysis was made of the types of intelligence products, what specific information is transmitted to national security institutions, and how often and to what recipients it is provided.

An evaluation was also done on the ways, forms and extent to which intelligence information is provided, and whether feedback is received from recipients regarding the timeliness, objectivity, clarity and significance of the information in the context of decision-making, risk factors, dangers and threats to national security. Where feedback is received from institutions, efforts were made to determine how it is incorporated into the activities of the intelligence agencies.

During the inspections carried out, it was found that the provision of intelligence information to national security institutions is essentially fully consistent with the special principles of timeliness, objectivity and clarity

established in the Law on Intelligence of the Republic of Lithuania for the activities of intelligence agencies, as well as effective decision-making and situational awareness of the risk factors, dangers and threats to national security.

5. Legal framework for intelligence activities and the oversight thereof

Intelligence activities are regulated by the Law on Intelligence, the Law on State Secrets and Official Secrets of the Republic of Lithuania, other laws, subordinate legislation, and the internal legal acts of intelligence agencies regulating the rights and duties of intelligence agencies and intelligence officers and the legal basis for the application of intelligence gathering activities, the use of intelligence information, and the control of intelligence activities.

As part of the functions of monitoring the lawfulness of the activities of intelligence agencies and compliance with the requirements of human rights and freedoms, the intelligence ombudsperson identified a need to improve the activities of the intelligence agencies and the legislation regulating the protection of human rights and freedoms.

The Office prepared and submitted to the Seimas legislative proposals on amendments to Articles 2, 5, 11, 12, 19, 25 and 26 of the Law on Intelligence Ombudspersons of the Republic of Lithuania (hereinafter referred to as the Law on Intelligence Ombudspersons), Articles 13 and 20 of the Law on Intelligence, and Articles 21 and 22 of the Law on Criminal Intelligence of the Republic of Lithuania (hereinafter referred to as the Law on Criminal Intelligence).

The proposed amendments would clarify the definition of terms used in the Law on Intelligence Ombudspersons and the Law on Intelligence as well as oversight of the activities of intelligence agencies in order to avoid different interpretations of certain provisions when applying them in practice. There is also a proposal to clarify the powers and functions of intelligence ombudspersons in order to fulfil the expectations of the legislators that were stated when establishing the institution of intelligence ombudspersons. First and foremost is the expectation that it will be possible to ascertain whether the activities of intelligence agencies are carried out lawfully, with effective safeguards in place.

The proposals are in line with the case law of the European Court of Human Rights (ECtHR) and its provisions on the independence of the intelligence ombudsman's activities. For example, in the case of *Roman Zakharov v. Russia*³ as well as in the case of *Pietrzak and Bycha-*

*wska-Siniarska and Others v. Poland*⁴, the ECtHR stated that the intelligence ombudsperson must be independent and must be able to assess the lawfulness, reasonableness and proportionality of intelligence activities. The ECtHR reiterated the same in the case of *Szabó and Vissy v. Hungary*⁵, noting that the ombudsperson must be granted sufficient powers to exercise effective and continuous oversight of the activities of intelligence services. In the case of *Weber and Saravia v. Germany*⁶, the ECtHR stated that only by having sufficient opportunities to assess the lawfulness of the activities of intelligence agencies do intelligence ombudspersons have a real opportunity to identify potential cases of unlawful activities on the part of intelligence agencies.

5.1. Assessment of lawfulness, reasonableness and proportionality

Article 3(1) of the Law on Intelligence Ombudspersons provides that the intelligence ombudsperson shall assess the lawfulness of the activities of intelligence agencies and their compliance with the requirements for the protection of human rights and freedoms. Other articles of this law (Article 11, Article 24, Article 30) also mention assessment of the lawfulness of the activities of intelligence agencies. It is proposed to revise Article 11 of the Law on Intelligence Ombudspersons so that the intelligence ombudsperson, in overseeing the lawfulness of the activities of intelligence agencies and assessing compliance with the requirements for the protection of human rights and freedoms, shall also assess the reasonableness and proportionality of the activities of intelligence agencies.

The assessment of lawfulness is inseparable from the assessment of reasonableness and proportionality of the activities of intelligence agencies and the actions of intelligence officers and/or the decisions made thereby, since intelligence activities are related to restrictions on personal rights, and assessment of the possibility of their application in the European Convention on Human Rights (ECHR) is associated with the assessment of lawfulness, reasonableness and proportionality. For example, Article 8 of the ECHR states that the right to privacy may only be restricted if it is *provided for by law* (assessment of lawfulness) and is *necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others* (assessment of reasonableness and proportionality). The principle of legality in legal theory is understood as an order for all legal subjects to accurately and unconditionally implement the instructions of legal norms in their activities that are not contrary to the rights of another person⁷.

⁴ No (72038/17 25237/18) 28-May-2024

⁵ No (37138/14) 12-Jan-2016

⁶ No (54934/00) 29-Jun-2006

⁷ Vaišvila A. (2009). Teisės teorija. Vilnius, p. 142.

³ No (47143/06) 04-Dec-2015

Lawfulness



In a democratic society, it is necessary to rely not only on legislation, but also on the body of law, which consists of the totality of legal norms, legal principles and precedent law⁸. This is also confirmed by the judgments of the European Court of Human Rights in the cases of *Roman Zakharov v. Russia* and *Pietrzak, Bychawska-Siniarska and Others v. Poland*, which provide that assessment of the lawfulness of the actions of an intelligence agency is inextricably linked to the assessment of their reasonableness and proportionality.

Lithuanian case law also states that the assessment of lawfulness includes the assessment of reasonableness and proportionality. For example, in its ruling of 8 June 2023 in criminal case No 2K-162-648/2023, the Supreme Court of Lithuania, in the context of assessing criminal intelligence activities, stated that *'when assessing the lawfulness of a criminal intelligence investigation on its merits, not only the formal grounds specified in the Law on Criminal Intelligence must be taken into account, but also the dynamics and real purpose of the criminal intelligence investigation.'*

The intelligence ombudsperson adheres to the position that in overseeing the lawfulness of the activities of intelligence agencies and assessing compliance with the requirements for the protection of human rights and freedoms (Article 3(1) of the Law on Intelligence Ombudspersons), said also assesses the lawfulness, reasonableness and proportionality of the activities of intelligence agencies.

5.2. Enhancing ongoing oversight

The basis for effective oversight of the activities of intelligence agencies is providing intelligence ombudspersons with comprehensive and continuous access to all necessary data and information. In order to strengthen ex durante and ex post oversight of the ac-

tivities of intelligence agencies, the rights of the intelligence ombudspersons must be clarified. This would allow for a timely assessment of the lawfulness, reasonableness and proportionality of the activities of intelligence agencies and ensure that institutional powers are not abused.

In order for intelligence ombudspersons to effectively carry out the tasks set out in the Law on Intelligence Ombudspersons, they must have the right to directly access the information that is collected and stored in state and departmental registers, information systems, or databases maintained by intelligence agencies. This includes information constituting a state or official secret. In addition, ombudspersons must be able to obtain not only documents, but also data and copies thereof, even if they contain classified information.

At the moment, the Law on Intelligence Ombudspersons imposes restrictions on access to information about the identity of officers operating under classified status or covert human intelligence sources, as well as information received from foreign partners; however, such restrictions should not be absolute, as in certain cases, this information may be essential when examining an individual's complaint or an intelligence officer's report about potentially unlawful acts. Furthermore, if information provided by an officer with intelligence clearance or covert human intelligence sources becomes the basis for initiating intelligence activities, or if such information is obtained from foreign partners, it may also be necessary for investigations conducted by intelligence ombudspersons.

In the case of *Szabó and Vissy v. Hungary*, the ECtHR noted that the ombudsperson must be given sufficient rights to effectively and consistently oversee the activities of intelligence agencies. In order to ensure this oversight, the draft amendment to the law proposes granting intelligence ombudspersons the rights they need to assess all potential violations of human rights and freedoms.

Intelligence ombudspersons should proactively assess the actions of intelligence agencies and prevent potential violations of human rights and freedoms, so they need timely information about court-sanctioned intelligence actions. Some European countries (e.g., the United Kingdom, France, Germany, the Netherlands, Sweden, Finland), have independent expert bodies to sanction intelligence activities. In the United States, these bodies advise the courts on the sanctioning of such actions. In this regard, providing information to intelligence ombudspersons about requests from intelligence agencies to sanction certain intelligence activities would help them assess the situation in a timely manner and take appropriate measures to mitigate potential risks. The procedure for providing this information to intelligence ombudspersons could be established by the Court of Appeal of Lithuania.

In addition, the intelligence ombudsperson should

⁸ Vaišvila A. (2009). *Teisės teorija*. Vilnius, p. 56.

be informed immediately of all decisions by intelligence agencies to initiate intelligence gathering activities in accordance with the tasks approved by the Director of the VSD and the Minister of National Defence, as well as ongoing criminal intelligence investigations. This would allow for a timely assessment of the lawfulness of the actions of the intelligence agencies. In *Weber and Saravia v. Germany*, the ECtHR emphasised that only by having sufficient opportunities to assess the lawfulness of the activities of intelligence agencies can intelligence ombudspersons actually be equipped to protect individuals from potential abuse of the powers held by the agencies.

It is important to note that intelligence agencies not only perform intelligence and counterintelligence functions – they also conduct criminal intelligence in accordance with the Law on Criminal Intelligence. Due to the secretive nature of these activities and limited control, there is a risk of violation of human rights and freedoms. In order to ensure legal clarity and uniform oversight practices, intelligence ombudspersons must have the authority to assess the lawfulness, reasonableness and proportionality of criminal intelligence activities carried out by intelligence agencies.

In light of the arguments set out above, the draft laws submitted to the Seimas propose amending Article 12 of the Law on Intelligence Ombudspersons and Article 21(2) of the Law on Criminal Intelligence, and supplementing Article 22 of the Law on Criminal Intelligence with paragraphs 3 and 4.

5.3. Legal uncertainties and perceived regulatory contradictions in intelligence control

For the sake of greater legal certainty and clarity, the perceived competition between the legal norms of Articles 12(2) and 12(3) of the Law on Intelligence Ombudspersons and those of Article 20(3) of the Law on Intelligence must be resolved.

While investigating an applicant's complaint regarding possible actions of an intelligence agency towards him and his family, the intelligence ombudsperson was faced with a situation where the intelligence agency refused to provide all the information necessary for the investigation. This refusal was based on Article 20(3) of the Law on Intelligence, which provides that data that may reveal the identity of officers operating under classified status or covert human intelligence sources, intelligence methods and means, or operational tactics are not to be provided if this may cause damage to the activities of intelligence agencies.

However, Article 3(2)(1) of the Law on Intelligence Ombudspersons obliges intelligence ombudspersons to 'assess the legal compliance of the activities of intelligence agencies and the actions of intelligence officers and/or the decisions adopted thereby ... and verify and evaluate the lawfulness of the application of intelligence

gathering and intelligence methods...' These powers are exclusive to intelligence ombudspersons – no other authority has them.

In addition, Article 12(2) of the Law on Intelligence Ombudspersons grants intelligence ombudspersons the right 'to access information constituting a state secret or official secret that is at the disposal of the intelligence agency if this is necessary for the performance of [their] duties, ... with the exception of information on the identity of officers operating under classified status or covert human intelligence sources and information received from foreign partners...' Article 12(3) further provides that ombudspersons have the right to obtain the documents, including classified information, necessary for the performance of their functions.

Article 23(1) of the Law on Intelligence Ombudspersons also establishes the obligation for intelligence agencies and officials to provide the information, documents, explanations and other materials necessary for the investigation that the intelligence ombudsperson requests.

The norms established in the Law on Intelligence and the Law on Intelligence Ombudspersons clearly differ in terms of how they regulate the ability of intelligence ombudspersons to obtain the information necessary to perform their functions. In accordance with the rules of competition and conflict of laws – the principles of chronology and the application of general and special legal norms (*lex specialis derogat lex generalis*) – the provisions of the Law on Intelligence Ombudspersons should be followed. This law clearly defines that intelligence ombudspersons can obtain all necessary information, except for data on the identity of officers operating under classified status or covert human intelligence sources and information received from foreign partners. This means that intelligence ombudspersons have the right to receive information about intelligence methods and means as well as operational tactics if this is necessary for the performance of their functions.

In light of the arguments set out above, it has been proposed to supplement Article 20 of the Law on Intelligence with a new paragraph 4, which would clearly establish that intelligence ombudspersons are to be provided with all of the data, documents and information necessary for the performance of their duties in accordance with the procedure established by the Law on Intelligence Ombudspersons.

6.

Protection of personal data and processing of intelligence information

The protection of personal data is one of the most important values of a democratic society, as it safeguards an individual's right to privacy and protection from unjustified interference in their private life. This value is particularly significant in intelligence activities, where the gathering and analysis of information inevitably involves the processing of personal data. Intelligence activities are necessary to ensure state security, but they must not violate the requirements for the protection of human rights and freedoms. The gathering of information must be based on clear criteria and legitimate national security interests, and restrictions must be provided for in legislation.

The processing of personal data by Lithuanian intelligence agencies is regulated by:

- the Constitution of the Republic of Lithuania;
- the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- the Law on the Legal Protection of Personal Data Processed for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences, the Execution of Criminal Penalties, or National Security or Defence of the Republic of Lithuania;
- the Law on Intelligence;
- the General Data Protection Regulation, when personal data are processed for purposes other than intelligence and national security.

In *Klass and Others v. Germany* and *Big Brother Watch and Others v. the United Kingdom*, the ECtHR noted that in order to ensure a balance between the protection of human rights and freedoms and the effective operation of intelligence services, an external oversight structure tasked with controlling the activities of intelligence services and ensuring the protection of human rights and freedoms is necessary. In Lithuania, this function is performed by the Office, which, when conducting inspections of the activities of intelligence agencies and investigating complaints, also constantly assesses the processing of personal data. During the inspections carried out, no evidence was found that the processing of personal data by intelligence agencies does not comply with legislative requirements.

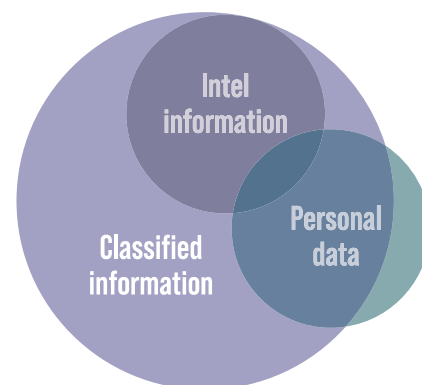
In the future, control of the activities of intelligence agencies will face new challenges related to big data analysis and the use of artificial intelligence (AI) technologies, profiling and automated solutions. Intelligence agencies are increasingly using AI algorithms to process large amounts of information more quickly, anticipate potential threats and take preventive decisions, but it is important to remember that technological solutions like these must

meet strict legislative requirements. For example, in the case of *S. and Marper v. the United Kingdom*, the ECtHR stressed that even measures that enhance state security cannot violate an individual's right to privacy. This case is also relevant in the context of AI, as analysis of big data arrays must be carried out in accordance with principles that ensure that the data collected are used in a strictly proportionate and transparent manner.

Research conducted by scholars Solon Barocas and Andrew D. Selbst shows that even automated decisions can have a risk of bias if the algorithms are not properly designed and constantly reviewed. As such, technological advances that offer great advantages in intelligence activities also raise questions about the quality of the data and the accuracy of their interpretation⁹. The potential use of modern technology for intelligence purposes poses legal and ethical challenges, such as:

- Ensuring the protection of personal data in the automated decision-making process;
- The risk of profiling, where AI can draw conclusions about individuals based on inferred patterns and trends;
- The accountability of intelligence agencies for decisions made by AI;
- Proportionality and reasonableness in order to ensure that AI decisions do not violate the protection of human rights and freedoms.

Personal data or intelligence information



Furthermore, the manifold aspects of data processing need to be taken into account – intelligence information often includes personal data, and personal data may be processed for intelligence purposes together with classified information. Although intelligence information in many cases also includes personal data, its legitimate use is based on another interest – that of national security. Therefore, legislation and case law help to reconcile the needs of state security and the individual's right to privacy. For this reason, new control and surveil-

⁹ Barocas, S., & Selbst, A. D. (2016). Big Data's Disparate Impact. *California Law Review*, 104(3), p. 671-732.

lance strategies must be developed to take technological progress into account and ensure the protection of human rights and freedoms, even in the rapidly changing intelligence environment.

In light of these challenges, the Intelligence Ombudspersons' Office will need to adapt its oversight methods, incorporate new technological expertise, and strengthen cooperation with international human rights institutions and legislative bodies in order to ensure that intelligence activities remain lawful, reasonable and proportionate.

7. Complaints from individuals

7.1. Aspects of ensuring individuals' right of defence

Individuals' right of defence is one of the fundamental human rights, and is guaranteed both in the Constitution of the Republic of Lithuania and in international human rights documents. In *Klass and Others v. Germany* and *Big Brother Watch and Others v. the United Kingdom*, the ECtHR held that secret surveillance measures may only be used under strict supervision and with effective mechanisms for the protection of rights in place. This means that when conducting intelligence activities, states must ensure not only national security, but also the right of individuals to due process and effective defence measures.

The Law on Intelligence Ombudspersons establishes the institution of the intelligence ombudsperson, with the main function of conducting oversight of the lawfulness of the activities of intelligence agencies and ensuring compliance with the requirements for the protection of human rights and freedoms. This law gives individuals the right to apply to the intelligence ombudsperson with complaints about the actions or decisions of intelligence agencies or their officials that they believe violate their rights or freedoms. This ensures an additional extrajudicial measure for the protection of personal rights and freedoms, allowing individuals to defend their rights not only in court, but also through a specialised oversight authority.

Individuals also have the right to apply to administrative courts regarding the lawfulness of decisions or actions taken by public administration entities. Article 31 of the Law on Administrative Proceedings regulates the jurisdiction of administrative cases and the place of submission of procedural documents. Applying to the intelligence ombudsperson does not eliminate the possibility of going to court.

In 2024, the Office received 10 complaints regarding potential abuse or bureaucracy by intelligence agencies and/or intelligence officers in the field of public administration, other potentially unlawful acts that violated human rights and freedoms, and violations of the processing of personal data for the purpose of national security

or defence. In 2023, 11 complaints were received, so the number has remained stable.

Of the 10 complaints received in 2024, nine were examined, and eight of them were recognised as falling within the competence of the intelligence ombudsperson. After evaluating the eight complaints, three were rejected because they were already being considered in court. For example, the Office refused to examine complaints regarding the issuance of temporary Lithuanian residence permits, as these issues fall within the competence of the courts.

7.2. Assessment of the compliance of transactions/investors with national security interests and granting of permanent residency or refugee status

In 2024, several complaints were received regarding administrative decisions taken by Lithuanian institutions based on information provided by intelligence agencies. The complaints concerned the following two categories:

- **Granting of permanent residency or refugee status.** Permanent residency in Lithuania is only granted if the foreigner does not pose a threat to national security. This threat is assessed by the State Security Department and other responsible authorities. A negative decision can only be appealed to the court within 15 days. Due to the short deadline for filing a notice of appeal, submitting a complaint to the intelligence ombudsperson is inefficient, since it is unlikely to be examined in time.
- **Assessment of the compliance of transactions/investors with national security interests.** When investors plan to conclude transactions that are important to national security, their activities are assessed by the Commission for the Coordination of Protection of Objects of Importance to Ensuring National Security. If this commission issues a negative opinion, the final decision is made by the Government of the Republic of Lithuania. This decision may be appealed to the administrative court within 30 days. The judgment in the case has the force of law for the parties, while the intelligence ombudsperson, upon completion of the investigation, can make recommendations to the intelligence agencies. In cases where decisions are made by the Commission for the Coordination of Protection of Objects of Importance to Ensuring National Security based on information provided by intelligence agencies, individuals often do not have the opportunity to apply to the intelligence ombudsperson for the protection of their rights. Due to the short appeal deadline for decisions made by this commission, the intelligence ombudsperson is often unable to conduct a thorough investigation before the start of the judicial proceedings.

In situations like these, human rights and freedoms could be protected more effectively if the courts took advantage of the option provided for in Article 60(1) of the Republic of Lithuania Law on Administrative Proceedings to use an intelligence ombudsperson as an expert with special knowledge about documents, actions or other objects of investigation. Such a mechanism would make it possible to involve the ombudsperson in the judicial proceedings and avoid conflicts of competence, thus ensuring an independent assessment of the activities of intelligence agencies.

7.3. Complaints from individuals regarding criminal intelligence activities

It should be noted that in both 2023 and 2024, the Office received complaints related to the potentially unlawful or illegitimate use of criminal intelligence gathering measures, such as surveillance, against the applicants. There were also complaints about overstepping the boundaries of the activities of criminal intelligence entities in carrying out criminal intelligence and pre-trial investigation activities. Cases of abuse of the rights granted to institutions or other violations of the protection of human rights and freedoms were presented in complaints as well. In 2024, the Intelligence Ombudspersons' Office received two complaints related to potential violations of the lawfulness of criminal intelligence entities and the protection of human rights and freedoms. Three such complaints were received in 2023.

In light of the fact that oversight of the activities of criminal intelligence entities is not within the competence of the intelligence ombudspersons, decisions were taken to refuse to examine these complaints. Some of the complaints were referred to the Prosecutor General's Office for consideration. When assessing the admissibility of such complaints, it became clear that applicants do not distinguish between intelligence and criminal intelligence activities.

7.3.1. Similarities and differences between intelligence and criminal intelligence

In Lithuania, criminal intelligence is carried out by criminal intelligence entities along with intelligence agencies, the activities of which are regulated by the Law on Intelligence. Independent oversight of the lawfulness of the activities of intelligence agencies and their compliance with the requirements for the protection of human rights and freedoms is only carried out by the intelligence ombudspersons, who are not granted statutory powers to independently verify the lawfulness of the activities of criminal intelligence institutions and their compliance with the standards for the protection of human rights.

Prosecutors do not control the lawfulness of the activities of intelligence agencies; in accordance with the procedure established by the Law on Criminal In-

telligence, they only control the lawfulness of criminal intelligence activities by sanctioning certain criminal intelligence activities or by applying to the court for the sanctioning of criminal intelligence activities.

Intelligence and criminal intelligence have certain similarities, as both involve the gathering, analysis and use of information to protect the state or society. It should be noted that they also have fundamental differences that arise from the objectives, nature and legal framework of their activities.

This analysis shows that while intelligence and criminal intelligence share common features, the nature of their activities, legal framework and objectives are fundamentally different. In order to achieve greater clarity and more effective oversight, it is important to ensure a clear legal separation between these two areas and to strengthen their oversight mechanisms.

7.3.2. Regulation of criminal intelligence activities when they are being carried out by intelligence agencies

In accordance with the Law on Intelligence Ombudspersons, intelligence ombudspersons are responsible for ongoing oversight of the lawfulness of the activities of intelligence agencies – intelligence, counterintelligence and internal administration. This includes the actions of intelligence agencies and intelligence officers and the decisions made thereby. Though they are not criminal intelligence entities, Lithuanian intelligence agencies have the right to exercise the opportunities provided by the Law on Criminal Intelligence when they conduct criminal intelligence investigations. According to Article 8(2) of the Law on Criminal Intelligence, Lithuanian intelligence agencies (the VSD and the AOTD) may only conduct criminal intelligence investigations if there are data about certain criminal offences specified in the Criminal Code.

In carrying out his activities, the intelligence ombudsperson identified a loophole in the regulation of external control of the activities of intelligence agencies in cases where intelligence agencies carry out criminal intelligence activities in accordance with the Law on Criminal Intelligence.

The activities of criminal intelligence entities, including intelligence agencies when they are conducting criminal intelligence investigations, are coordinated and controlled by prosecutors. Their functions include the preparation of reasoned submissions to the court on the sanctioning of certain actions and the sanctioning of certain actions that are within the competence of prosecutors. Criminal intelligence activities – covert human intelligence activities, surveillance for up to three days, and undercover operations – are sanctioned by the intelligence agencies themselves, and also controlled only by the intelligence agencies. Most criminal intelligence activities are sanctioned in accordance with the procedure established by the intelligence agencies (only three activities are sanctioned by prosecutors, and eight by courts).

Table 1. Intelligence and Criminal Intelligence: Similarities and Differences

	Intelligence	Criminal intelligence	Similarities/difference
Objective	Ensuring national security, gathering information about external threats.	Prevention, investigation and control of criminal offences.	Both are meant to prevent dangers and threats, with intelligence focused on ensuring national security, and criminal intelligence focused on combating crime.
Target	Foreign states, organisations, persons who pose a threat to the security of the state.	Criminal groups, individual criminals.	Both gather information about threats.
Legal framework	Accountable to the highest institutions of the country; the military intelligence agency is accountable to the Minister of National Defence.	Accountable and subordinate to the Ministry of the Interior and other ministries.	Both operate covertly to protect their information sources and methods.
Methods	The use of intelligence methods is focused on external and internal threats to national security.	The use of criminal intelligence methods is focused on the fight against crime.	Both use a variety of methods to gather information, including surveillance, tracking, agent recruitment and data analysis.
Legal restrictions	Activities are strictly regulated by law.	Activities are strictly regulated by law.	Both act in accordance with the established legal framework.
Use of results	The information is used for making decisions in the field of national security.	The information is used in criminal proceedings.	The information is used to perform the functions prescribed by law.
Use of technology	Uses various modern technologies for surveillance, data gathering, processing, analysis and encryption, and artificial intelligence.	Uses various modern technologies for monitoring, data gathering, processing and analysis, and artificial intelligence.	Both use technology to gather and analyse information.

Although the Prosecutor's Office oversees the lawfulness of criminal intelligence activities, it does not have access to all data. Article 22(2) of the Law on Criminal Intelligence provides that prosecutors may demand information, but data that could disclose the personal identities of covert participants may only be provided to the Prosecutor General or the prosecutor authorised thereby upon the receipt of consent from the head of the institution.

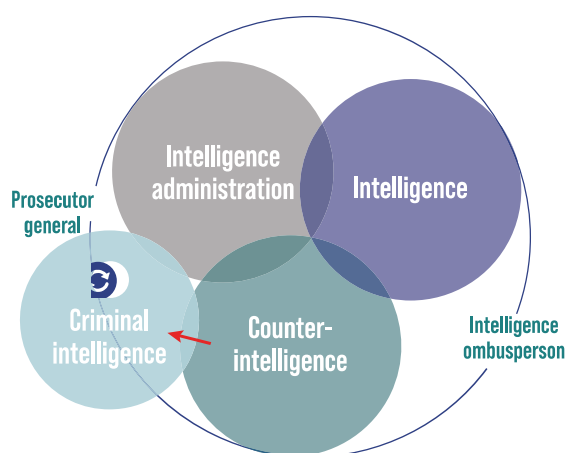
The Law on Intelligence, the Law on Criminal Intelligence and the Law on Intelligence Ombudspersons do not regulate independent external oversight of criminal intelligence activities carried out by intelligence agencies. Due to this loophole, intelligence ombudspersons cannot properly implement their function of carrying out ongoing oversight of the lawfulness of the activities of intelligence agencies.

In light of this, it has been recommended that the legal framework be improved to ensure clearer control of criminal intelligence activities when they are carried out by intelligence agencies. This would help avoid legal confusion and ensure more effective protection of human rights and freedoms.

Considering Lithuanian legal research on the practice of the Supreme Court of Lithuania as the cassation instance, the relationship between criminal intelligence and the protection of human rights and freedoms remains one of the problematic areas in Lithuania. According to experts, Lithuania's national regulation in this area cannot

be considered to be in compliance with all aspects of the requirements of the European Court of Human Rights¹⁰.

Demarcation of responsibilities for criminal intelligence oversight



 Exchange of information on oversight of the lawfulness of activities and complaints received

¹⁰ Markevičius, E. (2021). Efektyvi teisės į privatų gyvenimą apsauga taikant kriminalinės žvalgybos priemones. *Teisės apžvalga*, 1(23), pp. 46–63. Available at: <https://www.lituanistika.lt/content/96834>

Gutauskas, A. (2023). *Kriminalinės žvalgybos įstatyme įtvirtintų priemonių taikymas ir žmogaus teisių apsauga šiuolaikiniame moderniame gyvenime*. Vilnius University. Available at: <https://www.zurnalai.vu.lt/open-series/article/view/29798/28843>



INTELLIGENCE OMBUDSPERSONS' OFFICE
OF THE REPUBLIC OF LITHUANIA



ACTIVITY REPORT 2024

1.

Purpose and functions of the Intelligence Ombudspersons' Office

The Intelligence Ombudspersons' Office of the Republic of Lithuania (hereinafter referred to as the Office) is a state budgetary institution accountable to the Seimas of the Republic of Lithuania (hereinafter referred to as the Seimas). The Office oversees the work of the intelligence ombudspersons of the Republic of Lithuania (hereinafter referred to as the intelligence ombudspersons) and assists in conducting inspections and investigations of the activities of intelligence agencies, examining complaints from applicants and reports from intelligence officers, preparing methodological recommendations, and providing consultations. The owner of the Office is the state. The rights and obligations of the owner of the Office are implemented by the Government of the Republic of Lithuania.

The Office's operational priorities for 2023-2025 were focused on certain areas of intelligence activities that emerged during the analysis and assessment of the problems detailed in the complaints and reports received from individuals. Also taken into account were issues concerning the protection of human rights and freedoms that are important in intelligence activities, which have been raised by the public and mentioned repeatedly in mass media, social media and other sources in recent years.

In planning the activities of the Office, the focus was on strengthening the protection of human rights and freedoms at intelligence agencies, as well as on conducting

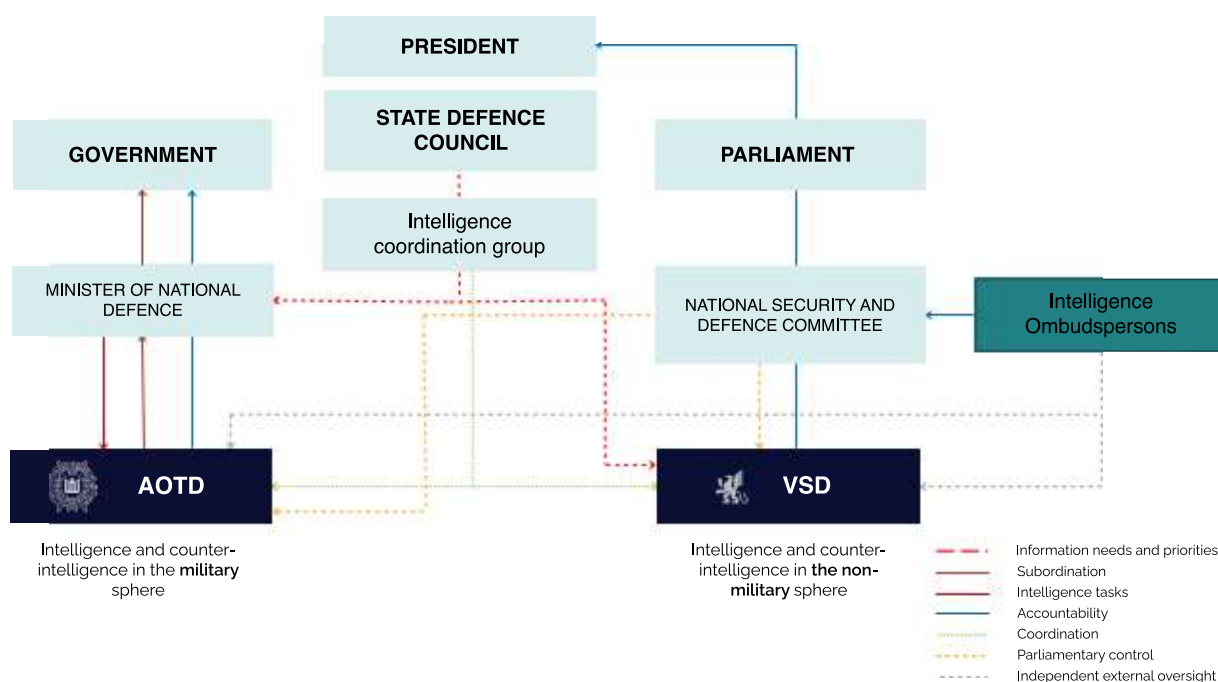
the inspections and investigations within the province of intelligence ombudspersons and examining the complaints received. There were plans to monitor the lawfulness and protection of personal data processed at intelligence agencies for national security and defence purposes.

The Office's operational priorities included providing intelligence agencies with methodological recommendations and consultations on the protection of human rights and freedoms and initiating amendments to legislation related to intelligence activities. Considerable attention was also given to the dissemination of information about the protection of human rights and freedoms at intelligence agencies and about the activities of the Office itself.

In the coming years, the Office plans to implement the following measures provided for in the strategic plan for 2025-2027:

- 1. Oversight of the lawfulness of the activities of intelligence agencies and the protection of human rights.** In monitoring the lawfulness of the activities of intelligence agencies, the aim will be to assess how these activities comply with the standards for the protection of human rights and freedoms provided for in national and international law. In order to avoid the potential risk of violation of human rights and freedoms, special attention is planned to be given to prevention. To this end, inspections will be conducted, the situation will be analysed, and potential problems will be noted in a timely manner and assessed for whether they are related to the issues detailed in the complaints and reports received from individuals.

CONTROL AND COORDINATION OF THE INTELLIGENCE AGENCIES



2. Prevention of violations and improvement of best practices. In order to avoid potential violations in the activities of intelligence agencies and ensure the application of the principles of lawfulness, reasonableness and proportionality, methodological recommendations will be prepared and provided and training will be organised for employees of intelligence agencies. Intelligence agencies will also be provided with consultations on improving their activities and implementing best practices, as well as proposals for initiating legislative amendments where necessary.

3. Strengthening ongoing oversight. The current oversight methods will be improved to ensure that intelligence agencies carry out their activities in accordance with legislative requirements and the standards for the protection of human rights and freedoms. Special attention will be given to monitoring the lawfulness of the processing of personal data where the data are used for national security and defence purposes. There are plans to develop new measures and standards to shape the practice of processing such data at intelligence agencies.

4. Dissemination of information and public information. In order to improve public awareness of the protection of human rights and freedoms in intelligence activities and oversight of the lawfulness of the activities of intelligence agencies, the Office plans to publicise its activities in various manners, such as press conferences, public events and investigation presentations. Information about the Office's activities is also planned to be distributed via mass media. This measure will contribute to strengthening public awareness of the activities of the Office and the explainability of the activities of intelligence agencies.

5. Strengthening international cooperation. An important area of the Office's activities is the maintenance and development of international cooperation. Cooperation will be pursued with intelligence oversight authorities from NATO and other European Union countries in an effort to adopt foreign best practices and experience in oversight of the activities of intelligence agencies. There are plans to participate in the annual European Intelligence Oversight Conference as well as in bilateral meetings and other international initiatives. These activities will strengthen Lithuania's contribution to the international protection of human rights and freedoms.

They will also allow the Office to contribute more effectively to strengthening Lithuania's national security and human rights protection and will ensure that intelligence agencies operate in accordance with the principles

of lawfulness, reasonableness and proportionality as well as the standards for the protection of human rights and freedoms.



Oversight of the lawfulness of the activities of intelligence agencies

As part of the oversight of the lawfulness of the activities of intelligence agencies in 2024, **three inspections** were carried out and **nine complaints were examined, leading to two investigations being conducted, one of which is ongoing.**

INSPECTIONS

In monitoring the lawfulness of the activities of intelligence agencies in 2024, three inspections were carried out.



2.1. Inspections

In 2024, an inspection of the effectiveness of the organisation of internal control systems (in terms of the lawfulness of activities) was carried out at the Second Investigation Department under the Ministry of National Defence (AOTD) and the **Republic of Lithuania State Security Department (VSD)**. The results of the inspection showed that both intelligence agencies have functioning internal control systems.

The second inspection was conducted to assess the lawfulness of the actions of intelligence agencies and the protection of human rights and freedoms during the election campaigns for the President of the Republic, the European Parliament and the Seimas. The inspection was designed to ascertain whether intelligence agencies have established legal bases for making decisions regarding the gathering and evaluation of intelligence information during election campaigns. Analysis was done of the procedure followed at intelligence agencies when gathering

and evaluating information about nominees, candidates and their associates (sponsors, team members and other related persons). It was also ascertained what personal data were collected and evaluated, what information was processed as part of this, and by what means (methods) it was collected. Additionally, it was assessed to whom, in what form, to what extent, and by whose decision such information from intelligence agencies was provided, as well as on what grounds, for how long, and by whose decision the collected information is stored and destroyed.

The third inspection was carried out to assess the provision of intelligence information to national security institutions, and whether the provision of intelligence information meets the expectations of these institutions and complies with the special principles of timeliness, objectivity and clarity governing the activities of intelligence agencies, as established in the Law on Intelligence of the Republic of Lithuania (hereinafter referred to as the Law on Intelligence). During the inspection, an evaluation was carried out of whether the procedure for providing information in 2023–2024 helped decision-makers have a situational understanding of the risk factors, dangers and threats to national security in the decision-making process. The legal basis for making decisions on the provision of intelligence information to national security institutions, the procedure for the provision of said information, and the safeguards in place to ensure that the information complies with the principles of timeliness, objectivity and clarity were also ascertained during the inspection. To this end, an analysis was made of the types of intelligence products, what specific information is transmitted to which national security institutions, and how often and to what recipients it is provided.

An evaluation was also done on the ways, forms and extent to which intelligence information is provided, and whether feedback is received from recipients regarding the timeliness, objectivity, clarity and significance of the information in making decisions and assessing risk factors, dangers and threats to national security. Where feedback is received from institutions, efforts were made to determine whether/how it is incorporated into the activities of the intelligence agencies. The intelligence ombudsperson did not identify grounds to initiate investigations into the subject matter of the inspections carried out.

After conducting an assessment of the legislative compliance of the internal legal acts of the intelligence agencies in different areas of activity, certain shortcomings were identified, which, taking into account the recommendations provided by the intelligence ombudsperson, are now successfully being eliminated at the intelligence agencies. In addition, consultations, training, methodological recommendations and suggestions were provided to improve the activities of intelligence agencies.

Two inspections are planned for **2025**, which will focus on strengthening the protection of human rights and fundamental freedoms, i.e.:

- an assessment of how the principle of lawfulness of the activities of intelligence agencies established in the Law on Intelligence of the Republic of Lithuania is adhered to in the activities of intelligence agencies when intelligence activities are sanctioned (permits are granted), and the compliance of these activities with the standards for the protection of human rights and freedoms;
- a verification of whether/how intelligence agencies have implemented the recommendations issued following the inspection that was conducted in 2024 of the effectiveness of the organisation of internal controls at intelligence agencies.

In order to prevent possible violations in the activities of intelligence agencies related to the application of the principles of lawfulness, legitimacy and proportionality, the Office plans to continue preventive activities, provide intelligence agencies with training as well as recommendations, and organise consultations.

A significant part of the Office's activities will continue to be devoted to strengthening control over the activities of intelligence agencies. Special attention is planned to be allocated to the processing of personal data used for national security and defence purposes, and to assessing its lawfulness. The dissemination of information about the protection of human rights and freedoms in intelligence agencies will be expanded.

2.2. Examination of complaints from individuals

In 2024, the Office received **10 complaints** (compared to 11 in 2023) regarding potential abuse or bureaucracy by intelligence agencies and/or intelligence officers in the field of public administration, other potentially unlawful acts of intelligence agencies and/or intelligence officers that violated human rights and freedoms, and violations of the processing of personal data for the purpose of national security or defence.

In their complaints, the applicants asked to defend their potentially violated rights and freedoms and ensure compliance with the requirements for the processing of personal data.

Of the **10 complaints** received in **2024, nine have already been examined**. The decision was made that eight complaints were within the competence of the intelligence ombudsperson. After assessment, it was decided to **reject three complaints**, as they were being or had already been considered in court (one regarding a company's non-compliance with national security interests, and two regarding threats to state security posed by foreign nationals). **Two complaints** were not investigated due to a lack of data or non-compliance with the applicable requirements.

Three complaints were investigated by the intelligence ombudsperson. The first complaint was closed after the applicant withdrew it, the second ended with no lawfulness violations being established in the investigation, and investigation of the third is still ongoing. The latter investigation is awaiting a judgment from the Supreme Administrative Court of Lithuania regarding the intelligence agency's refusal to provide the intelligence ombudsperson with the information necessary to complete the investigation and make a decision.

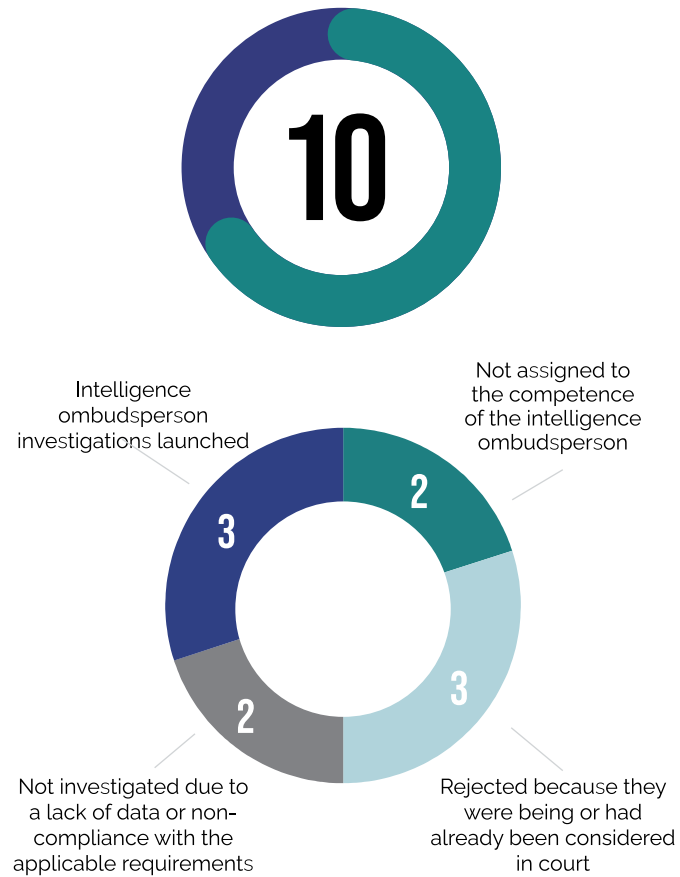
In 2023-2024, four complaints were forwarded to the Prosecutor General's Office of the Republic of Lithuania regarding secret surveillance of the applicants, a potential violation of human rights and freedoms in the course of criminal intelligence activities, potential abuse and overreach on the part of a criminal intelligence entity, and decisions made by pre-trial investigation officers and prosecutors that were potentially unlawful.

Of the complaints received in 2024, two were outside the competence of the intelligence ombudsperson. One of them, regarding a potential violation in the course of criminal intelligence activities, was forwarded to the Prosecutor General's Office of the Republic of Lithuania, and the other, regarding decisions made by the prosecutor's office and the pre-trial investigation body, was not examined either.

Complaints were received in 2023 and 2024 about potentially unlawful criminal intelligence activities. In these complaints, individuals provided information about potentially unjustified surveillance, overreach or abuse of rights on the part of criminal intelligence entities, and about potential violations of the standards for the protection of human rights and freedoms.

COMPLAINTS

In 2024, the Office received 10 complaints, of which nine were investigated.



Investigations were launched by the intelligence ombudsperson on three of the complaints received.



Table 1. Statistics on complaints received in 2024

Competence of the intelligence ombudsperson	Number of complaints	Rejected	Forwarded to other authorities	Conducted/ ongoing investigations	Comments
Within the competence of the intelligence ombudsperson	8	5	-	3	3 complaints are being examined in the courts 2 not investigated due to lack of data
Outside of the competence of the intelligence ombudsperson	2	2	1	-	1 forwarded to the Prosecutor General's Office
Viso	10	7	1	3	-

Applicants frequently did not distinguish between the concepts of intelligence and criminal intelligence, and therefore lacked clarity regarding the procedure for submitting complaints and the entities that handle them. The intelligence ombudsperson does not have the authority to supervise the activities of criminal intelligence entities, so these complaints were forwarded to the Prosecutor General's Office. The activities of criminal intelligence entities are supervised by prosecutors, the criminal intelligence entities themselves (through internal control of activities) and the Seimas Commission for Parliamentary Scrutiny of Criminal Intelligence. It is worth noting that clearer communication is necessary to provide the public with more information and knowledge regarding the protection of human rights and freedoms and what the differences are between intelligence and criminal intelligence activities.

In Lithuania, intelligence and counterintelligence functions are performed by two institutions – the VSD and the AOTD. Meanwhile, criminal intelligence is carried out by the following institutions:

- **Financial Crime Investigation Service** under the Ministry of the Interior of the Republic of Lithuania (FCIS),
- **Lithuanian Prison Service** (LPS),
- **Dignitary Protection Service of the Republic of Lithuania** (DPS),
- **Customs Department** under the Ministry of Finance of the Republic of Lithuania (CD),
- **Police Department** under the Ministry of the interior of the Republic of Lithuania (PD),
- **Special Investigation Service of the Republic of Lithuania** (STT),
- **State Border Guard Service** under the Ministry of the Interior of the Republic of Lithuania (VSAT).

In certain cases, criminal intelligence may also be carried out by intelligence agencies¹ (the VSD and the AOTD), i.e. when a criminal intelligence investigation is being conducted on the grounds and in accordance with the procedure established in the Law on Criminal Intelligence of the Republic of Lithuania.

In their complaints regarding potential abuse or bureaucracy by intelligence agencies in the field of public administration as well as other potentially unlawful acts that violate human rights and freedoms, the applicants challenged decisions made by state institutions based on information from intelligence agencies regarding the potentially unjustified imposition on them of restrictions established in the Law on the Legal Status of Aliens of the Republic of Lithuania and the Law on the Protection of Objects of Importance to Ensuring National Security of the Republic of Lithuania.

These disputes usually went to court. Most often, complaints were filed with the court about potentially unlawful acts of the VSD, or the VSD was included in legal proceedings as an interested third party.

During the 2023-2024 period, one complaint was received regarding a company's non-compliance with national security interests, one – regarding the recognition of a foreign national as a threat to Lithuania's national security and his expulsion from the country, one – regarding a potential violation of the rights and freedoms of an asylum seeker in the Republic of Lithuania, and one – regarding a decision to revoke the refugee status of a foreign national in Lithuania.

3. Lawmaking

In carrying out oversight of the lawfulness of the activities of intelligence agencies and assessing their compliance with the standards for the protection of human rights and freedoms, the intelligence ombudsperson identified a need to improve the activities of the intelligence agencies and the legislation regulating the protection of human rights and freedoms. To this end, the Office prepared and submitted legislative proposals to the Seimas that narrow down the legal framework for the activities of intelligence ombudspersons and ensure legal clarity in the application of legal provisions in practice².

The proposal is to more clearly define the terms used in the Law on Intelligence Ombudspersons of the Republic of Lithuania (hereinafter referred to as the Law on Intelligence Ombudspersons) and the Law on Intelligence, and to clarify other provisions related to enhancing oversight of the activities of intelligence agencies, in order to avoid different application of the legal provisions in practice. More clearly defining the powers and functions of the intelligence ombudsperson is expedient in order to fulfil the expectations of the legislators that were stated when establishing this institution. This would create conditions for more effective implementation of the standards for the protection of human rights and freedoms; it would also ensure more effective protection of citizens' rights from potentially unjustified or arbitrary interference with personal freedoms, and that intelligence activities are carried out in a lawful, legitimate and proportionate manner. The proposals submitted are in line with the case law of the

¹ Provision of Article 8(2) of the Law on Criminal Intelligence of the Republic of Lithuania.

² Regarding amendments to Articles 2, 5, 11, 12, 19, 25 and 26 of the Law on Intelligence Ombudspersons of the Republic of Lithuania, Articles 2, 13 and 20 of the Law on Intelligence of the Republic of Lithuania, and Articles 21 and 22 of the Law on Criminal Intelligence of the Republic of Lithuania.

European Court of Human Rights (ECtHR), which stresses the importance of the independence in the intelligence ombudsperson's activities³.

In 2024, **43 internal legal acts** regulating the activities of the Office were prepared and adopted in the areas of strategic planning, human resources management, internal control, remuneration, protection of classified information, public procurement, financial and asset supervision, establishment of the Office's structure, information technology and data protection.

The rules for conducting the inspections and investigations within the province of the Office were also approved in 2024, providing the grounds, procedure and duration for the Office's examination of complaints and reports and conduct of inspections and investigations, as well as the formalisation of the results of this process.

4. Public communication

In 2024, as part of developing relations with the public, the Intelligence Ombudspersons' Office provided relevant information about the intelligence ombudsperson's meetings and participation in events by publishing it on the Office's official website (<https://www.zki.lt>) and the social media accounts administered by the Office, as well as by providing comments to the media.

Over the course of the year, Lithuanian media reported on the activities of the Intelligence Ombudspersons' Office of the Republic of Lithuania and the intelligence ombudsperson numerous times. The topics that garnered the most attention were:

- the first Annual Assessment of the Lawfulness of the Activities of Intelligence Agencies and their Compliance with the Requirements for the Protection of Human Rights and Freedoms, as well as the Office's activity report;
- verification of the findings of fact specified in the request carried out by the intelligence ombudsperson at the request of the ad hoc Seimas commission of inquiry to conduct a parliamentary inquiry into possible interference in the 2019 presidential election process, potential violations of whistleblower rights, and potentially unlawful influence in imposing sanctions on the Republic of Belarus;

- the inspection launched by the intelligence ombudsperson into the lawfulness of the activities of intelligence agencies and the protection of human rights during the election campaigns for the President of Lithuania, the European Parliament and the Seimas.

5. Cooperation with state institutions

In 2024, the Office participated in various events targeted at discussing human rights issues and strengthened inter-institutional dialogue with other state institutions. When discussing the issues of oversight of intelligence activities and legislative compliance, a unified institutional understanding was sought on how the provisions of legislation regarding the lawfulness, reasonableness and proportionality of the activities of intelligence agencies and the protection of human rights and freedoms could be improved in the future.

In 2024, the intelligence ombudsperson and other representatives of the Office met with members of the Seimas Committee on National Security and Defence and Committee on Human Rights, as well as with judges from the Constitutional Court of the Republic of Lithuania. During these meetings, issues related to the oversight of intelligence agencies and compliance of the activities of intelligence agencies with legislative requirements and the standards for the protection of human rights and freedoms were discussed.

Representatives of the Office worked with the Office of the President of the Republic of Lithuania, the Office of the Government of the Republic of Lithuania, the Seimas Ombudspersons' Office, the State Data Protection Inspectorate, the Prosecutor General's Office, and the National Crisis Management Centre of the Office of the Government of the Republic of Lithuania. During these meetings, relevant topics were discussed, mutual understanding and cooperation were strengthened, and consultations were provided on issues within the competence of the intelligence ombudspersons.

5.1. Meetings with judicial representatives

In 2023 – 2024, the intelligence ombudsperson had meetings with the chairs of the Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys regional courts and the judges sanctioning the submissions of intelligence agencies. Meetings were also held with the president of the Court of Appeal, the president of the Supreme Administrative Court, and the head of the National Courts Administration.

These meetings were an opportunity to discuss the effectiveness of oversight of intelligence activities, aiming to ensure the lawfulness, legitimacy and proportionality of the activities of intelligence agencies. During the discussions, the need to strengthen judicial oversi-

³ In the cases of *Roman Zakharov v. Russia* and *Pietrzak, Bychawska-Siniarska and Others v. Poland*, the ECtHR held that the intelligence ombudsperson must be independent and have the right to assess the reasonableness and proportionality of intelligence activities. The court reiterated the same principle in the case of *Szabó and Vissy v. Hungary*, where it noted that the ombudsperson must be given sufficient powers to exercise effective and continuous oversight of intelligence services. Furthermore, in the case of *Weber and Saravia v. Germany*, the ECtHR distinguished that intelligence ombudspersons can only identify unlawful acts of intelligence if they are given real opportunities to assess the lawfulness of the activities of the services.

ght of intelligence agencies was noted, ensuring the lawful, legitimate and proportionate use of intelligence tools. The Office's advisers attended the meetings as well.

5.2. Reporting to the United Nations Security Council's Counter-Terrorism Committee

The Office prepared and submitted information to the United Nations Security Council's Counter-Terrorism Committee on its functions and powers in carrying out independent oversight of the lawfulness of the activities of intelligence agencies and ensuring compliance with the requirements for the protection of human rights and freedoms. This information was provided in response to the committee's recommendations on Lithuania's actions to ensure that the Office has sufficient resources and authority to accept and investigate individual complaints and, where necessary, refer cases to disciplinary or criminal justice authorities.

5.3. Consultations on a government resolution

In 2024, the Office assessed a draft amendment that had been prepared by the intelligence agencies to the resolution of the Government of the Republic of Lithuania on the conduct of intelligence activities. During the consultations, proposals were submitted to the Office of the Government for improving this draft amendment in order to ensure legislative clarity and compliance with the standards for the protection of human rights and freedoms.

5.4. Recommendations on the application of the Aarhus Convention

Having regard to the conclusions of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) Compliance Committee that the VSD does not comply with the requirements of the Aarhus Convention, the intelligence ombudsperson prepared and submitted methodological recommendations to the VSD on the proper implementation of the provisions of the Aarhus Convention.

The VSD informed the Office that these recommendations are already being implemented – topics on the lawfulness, oversight and control of intelligence activities have been included in the training programmes for intelligence officers. A system is also now in place to ensure that newly hired officers are introduced to the Intelligence Officer Code of Ethics, and the principles of ethical conduct are discussed during seminars and training.

In addition, the intelligence ombudsperson was provided with opportunities to participate in meetings with VSD structural unit heads and intelligence officers, so that he could provide methodological recommendations and consultations on lawfulness and compliance with standards for the protection of human rights

and freedoms in intelligence activities, and also familiarise them with the provisions of international treaties and conventions relevant to intelligence activities.

5.5. Working group for the implementation of the European Media Freedom Act

Representatives of the Office participated in the inter-institutional working group formed by the Ministry of Culture of the Republic of Lithuania for implementation of the provisions of Article 4 of the European Media Freedom Act. In the discussions of the working group, it was noted that a balance must be maintained between national security interests and journalists' right to confidentiality of information, and that international standards for the protection of human rights and freedoms must be followed.

In cooperation with the Office of the Inspector of Journalist Ethics, the Office presented its position on the protection of journalistic sources in intelligence activities. In the opinion of the Office, the measures applied in the intelligence and criminal intelligence process may be used when the aim is to reveal the source's secret. However, the ECtHR noted in *Goodwin v. the United Kingdom* that state intervention aimed at compelling disclosure of a source must be very clearly justified, and any abuse of these measures may violate Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. A special mechanism for protecting journalistic sources could be established in the Law on Intelligence and the Law on Criminal Intelligence of the Republic of Lithuania, which would make it possible to ensure that journalists cannot be forced (directly and indirectly) to disclose their sources without a solid legal basis. As such, the provisions of these laws would be aligned with the standards established in the European Media Freedom Act.

5.6. Preparation of rules for conducting inspections and investigations of the use of the Lithuanian National Schengen Information System and the Lithuanian National Visa Information System for national security and defence purposes

In cooperation with the Ministry of the Interior of the Republic of Lithuania (MI) and the Information Technology and Communications Department under the MI, the Office prepared the rules for conducting inspections and investigations of the use of the Lithuanian National Schengen Information System and the Visa Information System and submitted them to the European Commission for assessment. These rules were developed in implementation of the requirements of the regulation of

the European Parliament and of the Council, ensuring periodic audits of data processing operations⁴.

At the end of 2024, representatives of the Office participated in an event organised by the Supreme Administrative Court of Lithuania to commemorate International Human Rights Day. On 10 December 2024, representatives of various institutions joined judges and human rights experts at a round-table discussion to talk about the challenges of human rights protection and examples of best practice. This discussion encouraged an open dialogue between institutions and society, in order to improve the protection of human rights and freedoms in Lithuania.

The activities of 2024 reflect the Office's aspiration to strengthen inter-institutional cooperation.

6. International cooperation

One of the Office's key areas of activity is international cooperation. This includes maintaining relations with intelligence and security service oversight authorities in other countries, participating in international conferences and seminars for sharing best practices and experiences, and discussing current issues related to the protection of human rights and freedoms in intelligence activities.

International cooperation helps the Office boost its ability to carry out effective intelligence agency oversight, ensure the lawfulness of agency activities, and protect human rights and freedoms. This cooperation also contributes to the development of common standards for the oversight of intelligence services on an international scale.

On 7 November 2024, the head of the Office visited Croatia, where he met with representatives of the Council for Civilian Oversight of Security and Intelligence Agencies (Croatian: *Vijeće za građanski nadzor sigurnosno-obavještajnih agencija*). This authority is responsible for independent external oversight of the activities of intelligence and security services in Croatia. The council is made up of seven independent experts appointed by the Croatian Parliament. Its main powers include the right to inspect the activities of intelligence agencies, obtain necessary information and documents, conduct investigations, and make recommendations for improving activities.

The Lithuanian intelligence ombudsperson became acquainted with the Croatian intelligence oversight me-

chanism, discussed opportunities for cooperation, and shared Lithuania's experience. During this meeting, the problems and challenges faced by intelligence oversight authorities were also discussed, and best practices for improving the oversight system were shared.

The annual conference of the European Intelligence Oversight Network (EION) is a multilateral platform for sharing the experience of intelligence oversight authorities, discussing the oversight of intelligence services, and ensuring the protection of human rights and freedoms. Although this conference did not take place in 2024, it is planned to be held in Switzerland in 2025. During this event, the Office plans on presenting a report reviewing aspects of intelligence oversight in Lithuania, the challenges encountered, and cases of best practice.

7. Training

To develop employee qualifications, the Office organised three internal training courses on protecting classified information, ensuring internal control, and mitigating threats related to risks posed by foreign intelligence and security services.

In October 2024, the head of the Office and the chief adviser participated in the career development training organised by the Institute of Internal Auditors Lithuania. During the training, they acquired theoretical and practical knowledge about internal auditing, internal control, risk management, governance, and audit planning, execution and reporting in both the public and private sectors. International standards for internal auditing were presented during the training as well.

This training provided the opportunity to practically apply the knowledge acquired in conducting external inspections of the compliance of the internal control systems of the intelligence agencies with legislative requirements.

The Office's employees conducted training at the VSD as well. During the initial training for intelligence officers, presentations were given on the lawfulness of intelligence activities, the protection of personal data, and the system of oversight and control at intelligence agencies in Lithuania.

8. Personnel and finance

The number of civil servants and employees working under employment contracts at the Office increased by one position compared to the end of 2023. **At the end of 2024, the Office had nine employees.**

In June 2024, the Office's structure was changed – the Administration Department was established. As the scope of the Office's activities grew and more complex tasks were performed, the need arose to centralise administrative functions, ensure the smooth operation

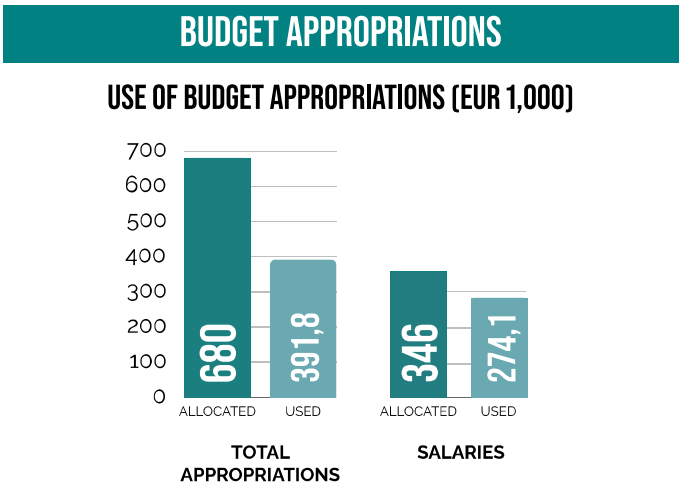
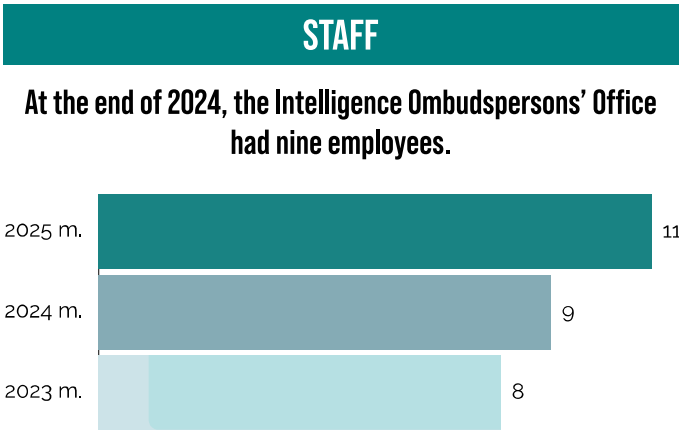
⁴ The provisions of Article 55 of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 and Article 41 of Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) stipulate that the national supervisory authority must ensure that an audit of the data processing operations in the N.SIS and N.VIS is carried out at least every four years.

of the Office and effective resource management, and optimise administrative processes.

The main objectives of the Administration Department are to ensure document and human resource management, organise public procurement, supervise and administer information systems, implement public communication and international cooperation tasks, and contribute to the implementation of the Office's strategic goals.

In 2024, **EUR 680,000** were allocated to the Intelligence Ombudspersons' Office of the Republic of Lithuania in the state budget for the "Ensuring the Lawfulness of the Activities of Intelligence Agencies" programme, of which **EUR 346,000** were earmarked for salaries. Over the course of the year, **EUR 391,800** of appropriations were used, of which **EUR 274,100** were for salaries.

During the reporting period, the Office purchased fixed assets for **EUR 16,500**. The cost of goods and services amounted to **EUR 94,600**.



9.

Cybersecurity and the protection of classified information

In 2024, the VSD conducted a scheduled inspection of the Office's protection of classified information. During the inspection, recommendations were made regarding the improvement of information protection, which the

Office took into account, implementing actions to enhance information protection.

In the same year, important internal legal acts regulating cybersecurity and the protection of classified information were drafted and approved:

Procedure for Implementing the Plan for the Evacuation or Destruction of Classified Information Held by the Intelligence Ombudspersons' Office of the Republic of Lithuania in the Event of War, a State of Emergency or Emergency Situations;

- Description of the Procedure for Employees of the Intelligence Ombudspersons' Office of the Republic of Lithuania Travelling to Foreign Countries for Non-official Purposes;
- Intelligence Ombudspersons' Office of the Republic of Lithuania Information System Data Security Regulations;
- Intelligence Ombudspersons' Office of the Republic of Lithuania Information System User Administration Rules;
- Intelligence Ombudspersons' Office of the Republic of Lithuania Rules for the Secure Handling of Electronic Information;
- Intelligence Ombudspersons' Office of the Republic of Lithuania Information System Operational Continuity Management Plan;
- Intelligence Ombudspersons' Office of the Republic of Lithuania Computerised Information System User Manual.

These internal legal acts contribute to the effective protection of classified information and strengthen cybersecurity, creating conditions for prompt response to potential threats and ensuring the Office's smooth operational continuity in cases of crises and emergencies.

The Office's ICT infrastructure was transferred to the State Digital Solutions Agency's centralised cloud information and communication technology infrastructure. The agency centrally updates the ICT infrastructure used by state budgetary institutions and ensures that the existing cloud information and communication technology infrastructure is expanded to the extent necessary. Part of the Office's internal network has been replaced with modern network equipment, thus ensuring network security.

On 25 October 2024, a loan for use agreement was concluded with the Office of the Government of the Republic of Lithuania for the provision of premises to the Office for five years. Having permanent premises is still one of the Office's most pressing needs. The Office's permanent premises must comply with the requirements of Resolution No 820 of 13 August 2018 of the Government of the Republic of Lithuania, so once potential premises are found, additional appropriations will be required for the adaptation of the premises and work with classified information.



INTELLIGENCE OMBUDSPERSONS' OFFICE
OF THE REPUBLIC OF LITHUANIA

2024

