



Annual Report

2017



TO PARLIAMENT

In accordance with section 11(1) and (2) of the Parliamentary Ombudsman Act (consolidating Act no. 349 of 22 March 2013), I am hereby submitting my Annual Report for the year 2017.

Copenhagen, March 2018



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THE OMBUDSMAN INSTITUTION IN 2017



Jørgen Steen Sørensen
Parliamentary Ombudsman

In the autumn of 2017, we launched on our website, www.ombudsmanden.dk, our Guide for Authorities, where we provide guidance to public authorities on administrative law issues of practical importance. The Guide reflects our desire to be forward-looking and preventative in our contact with public authorities – for the benefit of citizens' legal rights.

Also in the individual cases we investigate, our focus should be on being constructive. This influences, among other things, the way we communicate with public authorities.

According to the Ombudsman Act, the Ombudsman may 'express criticism, make recommendations and otherwise state his views of a case'. And historically – apart from stating his views and making recommendations in the case if need be – the Ombudsman has often stated definite criticism of public authorities, for instance by calling their actions 'regrettable', 'a matter for criticism', 'unacceptable' or the like.

It is an important question of institutional policy what line we want to follow in regard to the 'rhetoric of criticism'. Therefore, we have been working continuously on this question.

In the words of the Ombudsman Act, the Ombudsman is to assess whether public authorities 'act in contravention of applicable law or otherwise commit errors or derelictions'. However, the Ombudsman's objective per se can never be to find errors or derelictions. It must be to provide solutions. To contribute to public authorities knowing what they must do differently next time.

In my opinion, the central themes in most Ombudsman cases have to be questions such as these: Has something gone wrong in the case? If yes, what is it? The case processing? The interpretation of the law? The case processing time? Is it a single slip-up or a systemic error? And most importantly: How can it be corrected, specifically and generally?

Is it necessary or appropriate also to 'grade' the public authority? In my opinion, quite often not.

Firstly, the idea of 'grading' is probably not very well designed to regulate behaviour generally. Danish public authorities are not primarily motivated by a fear of being told off by the Ombudsman. They are motivated by a desire to do their job right.

Secondly, in a number of instances it would be unfair towards the public authorities. Many cases involve, for instance, debatable questions of interpretation, and sometimes the Ombudsman has to enforce his conception of the law even though the view of public authorities may also have its merits. In those instances, it would be disproportionate for public authorities also to receive actual criticism.

Thirdly – and not least – as Ombudsman one must be careful that the criticism does not become subject to inflation because it is very important that criticism will be felt and registered in those instances when there is real cause for the criticism – also out of regard for the feeling of redress on the part of affected citizens.

In my opinion, the Ombudsman institution consequently serves itself best by showing judiciousness in its rhetoric¹.

If you look through the Ombudsman cases from 2017 which have been published in Danish on www.ombudsmanden.dk (for summaries in English see pages 81-117) and on www.retsinformation.dk (the official legal information system of the Danish State), you will therefore see a broad cross-section – both with regard to public authorities, themes and degree of criticism.

1) It is important to stress that the above specifically concerns the rhetoric used towards public authorities and not how often the Ombudsman, for instance, disagrees with an authority and recommends that a case be reopened, or the like. On this issue, please see page 135.

Many cases dealt with difficult legal questions and were solved quite undramatically. This could be, for instance, interpretation of the Environmental Information Act (Case Nos. 2017-28 and 2017-29), restrictions on public employees accepting invitations to cultural events (Case No. 2017-2) and the legal basis for NemID, the digital signature that is used as a single login for public websites, online banking and many other websites and services in Denmark (Case No. 2017-19).

However, also in 2017 there were cases involving such grave errors that the criticism had to be severe – for instance the case of the forced separation of young asylum-seeking couples (Case No. 2017-10) where the much talked-about instruction of 10 February 2016 by the Minister for Immigration and Integration had to be characterised as ‘illegal’ and the collective procedure as ‘very hazardous relative to the Ministry’s basic duty of ensuring legal administration of the field’.

But also here, the important thing for the future was to ensure that the matter was rectified. Fortunately, it was.

Enjoy your read.



Jørgen Steen Sørensen



CASE NO. 17/00766

Bikers and gang members are usually not permitted leave from Prison and Probation Service institutions or released on parole if there is a violent conflict in the biker or gang member community. A practising lawyer wrote to the Ombudsman and asked as a general question if it was legal for the Prison and Probation Service to base its decisions towards gang members etc. on the police's assessment of whether there was a violent conflict in the biker or gang member community.

The Ombudsman could not consider the lawyer's general question since the Ombudsman does not give general legal statements as such unless related to a case which he is processing. Therefore, he asked the lawyer to contact him again if some of his clients wished to file complaints about specific decisions.

The Ombudsman receives complaints from inmates in Prison and Probation Service institutions on a regular basis: complaints about actual decisions which inmates have received as well as complaints about more everyday conditions in institutions, for example the range of goods at the grocery, visiting hours, waiting times in connection with cell calls or the way prison officers speak to inmates.

CASE NO. 17/02224

A man complained that neither the police nor SKAT (the Danish Customs and Tax Administration) would take any action towards a person driving a car with Swedish licence plates. The man was of the opinion that the person had a permanent address near his home (in Denmark) and that it was a case of systematic fraud.

The police had referred the man to SKAT, but the man had not had any response to his enquiries from SKAT.

The Ombudsman sent the complaint to SKAT in order for it to be processed in accordance with SKAT's internal procedures for processing of complaints about case processing.

The Ombudsman cannot investigate complaints which can be considered by another authority. In practice, this also applies when an internal channel of complaint exists, meaning the possibility to have a complaint considered by the authority which the complaint concerns.

CASE NO. 17/00148

Degenerative joint disease of the knee meant that a journeyman painter had to go on sick leave. After some time, the municipality assessed that his sickness benefit could not be extended: there was no information about a definite prognosis of whether the journeyman painter would be able to resume work within the time frame laid down by the law – even though he had been offered to have knee surgery. He therefore had to go on cash benefit. The National Social Appeals Board agreed with the municipality's decision.

'Excuse me, but I just need a new knee!', the journeyman painter wrote to the Ombudsman. He had maintained towards the municipality that the prognosis after knee surgery was good and that he would be able to resume work after two to three months of rehabilitation therapy.

The Ombudsman sent the man's complaint on to the National Social Appeals Board and asked if it might have had a bearing on the decision if the authorities had gathered more information about the surgery from the hospital. This led to the National Social Appeals Board reopening the case and assessing that the municipality had not investigated the prognosis of the surgery sufficiently. Therefore, the municipality would have to look at the case again.

A substantial proportion of the Ombudsman's cases are about social security law and labour market law – in 2017, this applied in approximately one third of the concluded cases.



NEW TAXATION DIVISION GOES AFTER SYSTEMIC ERRORS

The Ombudsman's Taxation Division is, among other things, going after the uncovering and solution of systemic errors with the tax authorities. In particular by initiating general investigations on the Taxation Division's own initiative.



Louise Vadheim Guldberg
Director General



Lise Puggaard
Senior Consultant

On 1 January 2017, the Ombudsman's Taxation Division opened. The Taxation Division is – as one of several initiatives by Parliament – aimed at strengthening citizens' legal protection and increasing the confidence in the tax system. 'Legal protection' and 'trust' are big and significant concepts, and how does the Ombudsman institution support these big aims in the best possible way?

This is one of the important questions which the Taxation Division has worked on in 2017.

The Taxation Division is a division in line with all others at the Ombudsman institution and basically functions in accordance with the same principles. This means, among other things, that the fundamental task is to assist individual citizens who have been caught in the system.

This can, however, be done in many ways, and when the Taxation Division was established, it was a high priority to ensure that it would actually be possible for the Division to open cases on its own initiative, including general investigations of the tax authorities.

In our opinion, this is essential because we believe that the key to making a difference in the tax sector is to a great extent to go after systemic errors – i.e. errors which do not occur only in individual cases but reflect a more systematic or general shortcoming in the case processing, and thus a shortcoming which is of importance in a number of cases or within an entire case field. For example, that an authority within a specific field is making use of standard texts which do not meet the provisions laid down in the Public Administration Act in regard to explanatory statements or that the authority is not aware that it has made a decision with secondary rights for the citizens. And we believe that the best way to uncover systemic errors is to conduct general investigations.

NEW SCOPE FOR GENERAL INVESTIGATIONS

It is not a new thing that the Ombudsman can process tax cases. The Ombudsman could also do so before 1 January 2017. But with increased resources in an actual Taxation Division the Ombudsman's capacity within this sector has been significantly strengthened.

The increase in capacity improves the scope for processing complaints from private citizens or companies. When we process complaint cases our focus is not entirely on assisting the individual citizen but also on detecting problems of importance beyond the individual case. Thus, the specific complaint cases can provide a good entry to discovering other systemic errors.

THE OMBUDSMAN'S TAXATION DIVISION

- The Taxation Division is one of six legal divisions at the Ombudsman institution.
- The Taxation Division consists of 11 legal case officers.
- The Taxation Division is charged with keeping an eye on whether the Danish Customs and Tax Administration and other tax authorities respect the laws and principles of good administration.
- Like the Ombudsman's other legal divisions, the Taxation Division considers complaints, opens cases on the Taxation Division's own initiative and can carry out larger investigations with focus on more general issues.
- Continuous reporting of the Division's work is a central task to the Taxation Division – as a kind of learning for the tax authorities and other interested parties.

But in our opinion, the most efficient tool for detecting and solving systemic errors is own-initiative investigations – especially the above-mentioned general own-initiative investigations. In the general investigations, specific problems are raised to a higher level, for example when the Ombudsman asks the authority to explain how the authority normally handles similar issues and thereby state the authority's practice within this field.

This makes it easier to detect whether we are dealing with an isolated error or a systemic error. This investigation method has great impact on the authorities' case processing in general.

Furthermore, such an investigation may to a high degree result in a forward-looking focus by pointing out solutions and providing guidance to the authority on how to put it right.

The aim of the Taxation Division is not to express as much criticism of the authorities as possible but on the contrary to constructively influence the authorities to become better. At the core of this work lies also that we find it very important to maintain a respectful relationship with the authorities we monitor.

THE TAXATION DIVISION'S FIELD OF ACTIVITY

A natural focus of an Ombudsman institution in the detection of systemic errors will be whether the tax authorities observe the general provisions and principles within administrative law – for example whether the authorities have investigated a case sufficiently or whether the citizen has been informed about the grounds in a way that he or she can understand. These are quite basic fundamental rules aimed at protecting the citizens' legal rights.

That is also the reason why especially such questions and investigations have been given priority by the Taxation Division in 2017 and will continue to be given priority in the future.

However, this does not mean that the Taxation Division cannot consider material tax questions – meaning the outcome of a tax case as such – and such questions have also been the subject of a number of cases considered in 2017.

EXTERNAL ACTORS CAN PUT US ON THE RIGHT TRACK

One of the big tasks for the Taxation Division is to find out how to detect systemic errors. Obviously, we need focus points from the outset to even know what to look for.

Sometimes, media coverage can put the Ombudsman on the right track. On other occasions, concrete complaint cases indicate issues of a more general nature.

But also input from external actors can be most useful in this context, as the Taxation Division has learned a number of times.

For instance, external actors – such as expert committees for tax lawyers and auditors – have in a number of cases pointed out some tax authority-related issues which they see as problematic. This means that the Taxation Division gains insight into what these actors – who between them have numerous contacts to the tax authorities and know the system well from a user's point of view – experience as actual procedural problems.

EXTERNAL INPUT AND GENERAL INVESTIGATIONS

In some cases, input from external actors will, in itself, provide a basis for a general Ombudsman investigation.

This was the case when the Taxation Division chose to ask the Danish Customs and Tax Administration (SKAT) a number of questions about the case processing in connection with the so-called Panama Papers. A tax lawyer committee had informed the Ombudsman that the Danish Customs and Tax Administration had asked persons and enterprises which were mentioned in the Panama Papers to state a number of particulars. This could – depending on the specific circumstances – be a problem in relation to the privilege against self-incrimination, meaning that persons who are suspected of a criminal offence are not under an obligation to provide information. In the Ombudsman's opinion, it was important to clarify whether there was a problem since legal protection must, of course, also include those who might be under suspicion.

And in another case, during the summer of 2017, the Taxation Division asked the National Tax Tribunal to, in future, keep record of cases where the National Tax Tribunal considers appellants' requests to hold a hearing. This step was taken, among other things, because tax lawyers and auditors had expressed their dissatisfaction with the National Tax Tribunal's practice of denying hearings. The record-keeping will provide a basis for the Ombudsman to assess whether there is a problem he needs to follow up on.

On other occasions, input from external actors provide the Taxation Division with a knowledge which is useful as background information – for example in connection with the ongoing case processing of a complaint, or when the Ombudsman collects and reviews a number of the authorities' cases.

The latter was the case in connection with the Taxation Division's investigation of 30 appeal cases with the Danish Customs and Tax Administration and the National Tax Tribunal. During the review of the cases, the Taxation Division was, among other things, focusing on whether the authorities had sufficiently considered the claims which the parties had made in the cases – the so-called parties' arguments. An issue which the external actors had pointed out to the Taxation Division.

THE MEETING BETWEEN CITIZEN AND TAX AUTHORITY

It has also been fundamental to the Taxation Division's work to focus on the meeting between citizen and authority as such. The premise is that legal protection and trust start at this meeting.

The problems which citizens and enterprises can perceive as essential in this connection include, among other things, the authorities' use of language and terminology, lack of a general overview of the documents in a case and, as mentioned above, that authorities fail to take into account the claims made by the parties.

However, such issues can be difficult subjects for a more targeted investigation if they cannot be delimited to a more closely defined case field. It does not make sense, for example, to ask the authorities to hand out a number of cases where language usage or keeping of records etc. have been an issue.

Therefore, the Taxation Division decided to initiate the aforementioned investigation of 30 cases with the Danish Customs and Tax Administration and the National Tax Tribunal instead. The 30 cases were selected broadly within various case fields.

It was clear from the beginning that we were not going to clarify or investigate every possible error in the 30 cases but rather to conclude and describe problems in overall terms which the authorities would benefit from focusing on in future.

In other words, the Ombudsman wanted to catch systemic errors – including systemic errors which occur in the meeting between citizen and authority.

As part of this work, we decided to concentrate the investigation specifically on matters that can be of importance to this meeting, and thus to a good and trustful relationship.

This made good sense. First of all because of the factors which the case review uncovered and because to a great extent there seemed to be a match between the matters uncovered and the problems which had been brought to the Taxation Division's attention by external actors, among others, and

SPECIAL TAX PAGE ON WWW.OMBUDSMANDEN.DK

A special tax page is available on the Ombudsman's website: www.ombudsmanden.dk/skat (in Danish only).

Concluded cases of general interest and a list of pending investigations within the tax field, which the Ombudsman has opened on his own initiative, are published on the tax page.

On www.ombudsmanden.dk/skat, it is possible to become a subscriber and thereby receive an e-mail when new cases within the tax field are published.

which during the processing of the complaint cases had been pointed out as relevant issues in the meeting between citizen and authority.

Besides, the review of the 30 cases has given the Taxation Division a valuable insight into the authorities' work method – which is also relevant as general background information in the Taxation Division's ongoing processing of complaint cases and considerations in relation to own-initiative cases.

CONTINUED FOCUS ON THE WORK WITH OWN-INITIATIVE CASES

In addition to the specific processing of complaint cases, the Taxation Division will focus on the continuation and development of the work in relation to carrying out investigations on the Taxation Division's own initiative. Because we believe that by uncovering systemic errors through goal-directed own-initiative investigations we can actually help to make a difference.

We will also, of course, continuously inform the outside world about our work – to advise the tax authorities and other interested parties. Because at the end of the day, the goal is to contribute to the improvement of the authorities.

Among other things, we have established a special tax page on the Ombudsman's website for knowledge sharing. Here, we publish concluded cases of general interest and a list of ongoing own-initiative investigations within the tax field. We will also continue the exchange of information with the tax authorities and other parties within the field.





CASE NO. 17/03833

What is the price for buying oneself off of the municipality's reversion right to one's home? Is the calculation to be based on the public property assessment or on an estate agent's assessment?

On behalf of a number of home owners in Copenhagen, a practising lawyer complained that the municipal council of the City of Copenhagen had, without notice, changed the calculation method for a buyout programme for properties subject to reversion rights. The City of Copenhagen referred to its duty to administer its assets in a financially responsible manner. In that way, it became more costly for the owners of the approximately 1,200 Copenhagen properties to which the City of Copenhagen has the reversion rights to buy themselves off of the reversion right.

The Ombudsman did not wish to consider the calculation matter. Among other things, he wrote to the lawyer that the Ombudsman must respect the municipal council's right to decide how to allocate the City of Copenhagen's resources

The Ombudsman Act requires that the Ombudsman take into consideration the special circumstances under which municipalities and regions operate when he assesses their administration.

CASE NO. 17/00122

It was a slow process to reach a conclusion in a 40-year-old sailor's work-related injury case: after the case had been pending for more than three years, the sailor was told that it would take another two years before he could get clarification. The sailor wrote to the Ombudsman that once again his case had ended up at the bottom of the pile. The work-related injury had cost him his career at sea, and the waiting time for clarification of the compensation put him under additional psychological and financial pressure.

The Ombudsman sent the complaint on to the director of Labour Market Insurance and pointed out the sailor's situation. Shortly after, the sailor received a phone call with the information that his case would be concluded within one month.

Each year, the Ombudsman processes many complaints about authorities' case processing times (782 complaints in 2017). Often, the Ombudsman sends the complaints on to the authority in question, partly to draw attention to the citizen's dissatisfaction with the case processing time, partly in order for the authority to give the citizen an update as to when a reply can be expected.

CASE NO. 17/03166

The Ombudsman received a complaint from an author who had been refused access to files at the DBC (the Danish Library Centre).

The DBC had understood that the author requested access to files about the author's own correspondence with a purchasing consultant for libraries about a *previous* publication – a correspondence which was not in the DBC's possession. But actually the author wanted access to the DBC's correspondence with a purchasing consultant about the author's *most recent* book. The Ombudsman therefore sent the complaint on to the DBC with an explanation of the misunderstanding. Subsequently, the DBC allowed the author access to the material.

Each year, the Ombudsman processes a large number of complaints about authorities' refusals to grant access to files. Some complaints are from citizens who want access to a case to which they are a party or believe that they are a party. Other complaints are from journalists who want access to an authority's documents as part of their research.



GIVING ERRONEOUS GUIDANCE TO CITIZENS HAS CONSEQUENCES

'Redress of the adverse effects of guidance errors' sounds technical. But public authorities inadvertently giving citizens erroneous guidance is an important problem.



Jørgen Steen Sørensen
Parliamentary Ombudsman

Public authorities have a great influence on citizens' lives. The authorities decide who is to have a social pension, a residence permit, special needs education and many other things. On an annual basis, they do this in cases that are counted in their millions.

The authorities' processing of cases involving decisions is governed by, among others, the Public Administration Act. It is important for the legal protection of citizens that there is a right to, for instance, access to public files, consultation as a party to a case and to the grounds for a decision.

But the interaction between public authority and citizen is not only about the process leading to the actual decisions: authorities have a duty to guide citizens. Also when there is not – or is not yet – a specific case to be decided on.

If you think about it, it is obvious that authorities must have a general duty of guidance. The alternative would be that, for instance, a person with a disability would not be able to get advice from the municipality on what assistance he or she might be entitled to, and under what conditions. Or that a company could not get the municipality's help to understand what to do to avoid environmental orders. Of course, this is not how it should be.

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SECTION 7(1) OF THE PUBLIC ADMINISTRATION ACT

An administrative authority must to the extent required give guidance and assistance to any person who enquires about issues within the authority's purview.

A DIFFICULT TASK

However, for public authorities the task of guiding citizens can be difficult.

When as a case officer you are dealing with a case involving an administrative decision, you are reasonably in control of the situation. You can consult the parties to the case. You can obtain information from other authorities. You can check facts and legal rules. You can (and must) postpone a decision if you do not think that the case has been adequately investigated.

It is different when citizens ask for guidance. Here, the process will often be more informal, and the case more sparsely investigated. For instance, citizens will often contact the authority in person or over the telephone. And often – if the other tasks of the day are also to be managed – the case officer has to more or less reply on the spot, knowing full well that the reply may greatly impact the citizen and determine how he or she acts.

WHAT IF IT GOES WRONG?

An important question is what happens when authorities' guidance turns out to be wrong. Meaning what if an authority has inadvertently given an erroneous or misguiding reply so that the citizen has got into trouble – whose risk is it?

Let us first take an example from a specific case which we investigated in 2017 – and then see what the consequences can be.

Back in 2014, a man telephoned the Danish Immigration Service and asked whether his live-in partner receiving cash benefit could affect his chances of being granted a residence permit of indefinite duration. The Immigration Service replied that it would not affect his chances.

But because his partner received cash benefit, the man was automatically paid supplementary cash benefit. This followed from the then current provisions of the Act on an Active Social Policy. And according to the Aliens Act, persons who had received public welfare assistance within the last three years pursuant to, among others, the Act on an Active Social Policy could not generally be granted a residence permit of indefinite duration. The Immigration Service therefore refused the man's application.

The Ombudsman stated that the guidance by the Immigration Service did not live up to the requirements of section 7(1) of the Public Administration Act.

It is true that the Immigration Service did not have a duty to give detailed guidance on the Act on an Active Social Policy as that Act did not belong under the Immigration Service. But the Immigration Service should have given a conditional reply to the man and referred him to, for instance, his municipality regarding the rules governing cash benefit. (Case No. 2017-30).

What might the consequence be of such mistakes?

There may of course be criticism from the Ombudsman. In addition, the authority may in special instances impose disciplinary sanctions on the employee committing the error. And if the citizen has suffered a financial loss, liability for damages may become relevant, depending on the circumstances.

But in the case involving the Immigration Service, the man was understandably first and foremost just concerned about getting his residence permit of indefinite duration. He would like to be able to stay permanently in Denmark.

‘REDRESS OF THE ADVERSE EFFECTS OF GUIDANCE ERRORS’

How should such an issue be assessed?

On the one hand, you might say that it is of course regrettable that the Immigration Service gave erroneous guidance to the man. But the law is the law, and the fact that his partner received cash benefit triggered public welfare payments to the man. And according to the rules this meant that the man could not get a residence permit of indefinite duration. An error of guidance cannot change that.

On the other hand, you might also take the view that if the Immigration Service had guided the man correctly, the couple would probably have made adjustments accordingly and for instance had the woman’s cash benefit stopped. Then the man could have had his residence permit of indefinite duration. In that situation, is it not reasonable that the Immigration Service carries the risk of its own errors and gives the man his permit?

This issue is often referred to a bit technically as a question of ‘redress of the adverse effects of guidance errors’. Should the matter between citizen and authority be ‘redressed’ so that the citizen is put in the same position as if the authorities had given correct guidance (and the citizen had acted in accordance with the guidance)?

A well-known and comparatively simple variant of the question is instances where authorities have given erroneous guidance on deadlines, for instance on the deadline for lodging an appeal against a decision. If there is a four-week deadline for lodging an appeal but the authority explains that the deadline is eight weeks, the authority will normally have to accept an appeal within eight weeks.

Is such redress of the adverse effects of guidance errors also relevant when it comes to the actual outcome of the case? The case involving the Immigration Service shows that the answer can be yes. At the Ombudsman institution, we were of the opinion that the immigration authorities ought to look into the case again, and the Immigration Service subsequently granted the man a residence permit of indefinite duration.

THE CITIZEN MUST BE GIVEN THE BENEFIT OF THE DOUBT

It may sound as if this case represents a new departure. It does not. It builds on a number of previous cases where the result was also that the citizen had to be placed in the same position as if the authorities had given correct guidance.

In a case from 2016, a Danish citizen had settled in another EU country shortly before he reached state pension age. The authorities did not guide him – as they should have done according to the rules – on the possibility of applying for state pension even though he had provided them with his address abroad. He therefore did not apply for state pension from the time when he was entitled to do so according to the law.

The Ombudsman recommended to the National Social Appeals Board to reopen the case and consider whether the man should be granted state pension retroactively. (Case No. 2016-24).

But the case involving the Immigration Service is the most recent of its kind, and it illustrates a number of the questions which may arise in these cases – for instance the question how to assess what the affected citizen might have done if he or she had been given correct guidance. This can sometimes be difficult because, obviously, history never knows its alternatives. And if one had to take as one's basis that the couple would in all events have chosen to continue receiving the woman's cash benefit, the guidance error should not, of course, lead to a residence permit of indefinite duration for the man.

The man claimed that he and his partner would have had the partner's cash benefit stopped. But the immigration authorities did not find that this claim was rendered probable.

At the Ombudsman institution, we determined that it was obviously not possible today – more than three years after the telephone conversation between the man and the Immigration Service – to establish what he and his partner would actually have done if the Immigration Service had guided him correctly.

But the problem had arisen from the error made by the Immigration Service. And therefore the man had to be given the benefit of the doubt – within reasonable limits. This accords with the general principles of so-called processual adverse effect when authorities commit case processing errors. If, for instance, an authority has not observed its duty to take notes on talks with a citizen, it may harm the authority if doubt arises later on as to what was actually said.

BEST TO DO IT RIGHT THE FIRST TIME

As has been shown above, difficult questions may arise when authorities mistakenly give a citizen wrong advice. The aim of this article is to intensify the focus on the special principles on redress of the adverse effects of guidance errors in particular, and on who is to be given the benefit of the doubt when it comes to assessing how the citizen would actually have acted – if the authorities had given correct guidance.

There are no doubt questions about redress of the adverse effects of guidance errors which have not been clarified yet. One of them is what part it should play when there are other private parties to the case with contrary interests. That kind of question will have to be solved in future practice.

But one thing is certain: cases become much more difficult once things have gone wrong. It is best and cheapest for authorities to get it right from the beginning. Also when it comes to the duty of guidance.

In our new Guide for Authorities (in Danish only) at www.ombudsmanden.dk, we have summarised in Overview #5 the most important questions encountered by authorities when it comes to giving guidance to citizens.



CASE NO. 17/02084

A general concern about how the national church is run made a man write to the Ombudsman with various suggestions on the management of the national church, which ought to be more businesslike, among other things. It appeared from the man's enquiry that he had already corresponded with the Ministry of Ecclesiastical Affairs and had also presented his views to Parliament's Ecclesiastical Affairs Committee.

The Ombudsman informed the man about how the Ombudsman works and that above all the Ombudsman monitors whether decisions made by authorities towards citizens are correct. The material which the man had sent to the Ombudsman did not give the Ombudsman grounds for taking any action in the matter.

The Ombudsman himself determines whether a complaint offers sufficient grounds for investigation. This is stipulated in section 16(1) of the Ombudsman Act.

CASE NO. 17/01103

A practising lawyer complained on behalf of a client that so far the Tax Appeals Agency had spent almost four years processing an appeal case about reimbursement of the client's legal costs.

The Ombudsman sent the complaint on to the Tax Appeals Agency on 17 March 2017. If the Agency made a decision before 1 May, it was not to take any further action. Failing this, the Ombudsman would ask for a statement about the case processing time. The Tax Appeals Agency made a decision on 25 April, and the case was therefore concluded without a statement from the Ombudsman.

Concerning case processing times the Ombudsman sometimes asks 'conditionally' for a statement - meaning that the authority need not spend time replying to the Ombudsman if a decision is imminent.

CASE NO. 17/01555

Is it fair that a child's income affects the mother's housing benefit? A 16-year-old boy raised that question in a complaint to the Ombudsman. The boy found that the rules within this field prevented him from earning his own money and getting work experience.

The Ombudsman wrote to the 16-year-old that he could not help him with his complaint because the rules were based on legislation. However, the Ombudsman also sent on the boy's complaint to the Ministry of Employment so that the Ministry would be informed of the boy's dissatisfaction with the legislation.

The Minister for Employment then wrote, in person, to the boy that the Government had just proposed changing the housing benefit rules on exactly the point with which the boy was dissatisfied.

The Ombudsman cannot investigate complaints concerning Parliament or the content of legislation passed by Parliament, nor does he otherwise engage in matters concerning legislative policy.

CASE NOS. 17/03731 AND 17/03735

Two citizens complained independently of each other about the Danish Broadcasting Corporation (DR) charging VAT on licence fees. It had been in the press that the European Court of Justice had established in a case about Czech radio licence fees that licence fees were not covered by the VAT rules. Therefore, the two citizens were of the opinion that also in Denmark it was illegal to charge VAT on licence fees and that they and other licence fee payers were owed a large amount of money.

The Ombudsman informed them that they would have to write to DR about the questions they had presented in their complaint. In addition, the Ombudsman pointed out that it was evident from the press that other licence fee payers considered suing DR – and in that case, the Ombudsman could not investigate the case.

The jurisdiction of the Ombudsman does not extend to the courts of justice. Therefore, it is the Ombudsman's practice not to investigate cases or queries that are being dealt with by a court or on which a court is expected to make a decision.



RESIDENTIAL FACILITIES IN THE SOCIAL PSYCHIATRIC SECTOR MUST BE SAFE – ALSO FOR RESIDENTS

Recent years have seen tragic cases of deaths, violence and threats at Denmark's residential facilities, and this has put more focus on staff safety. But are the facilities safe for the individual residents, and do the residents feel safe? The Ombudsman decided to look into this at his monitoring visits in 2017.



Erik Dorph Sørensen
Deputy Head of Department



Katrine Rosenkrantz de Lasson
Legal Case Officer

On a day in the spring of 2017, a small team from the Ombudsman's office are on a monitoring visit to a residential facility on the outskirts of a Danish provincial town. The facility consists of separate houses with individual flats for the residents and a shared community room with a kitchen, television and sofa corner. During our tour of one of the houses, we run into a large man with a beard. He is standing in the middle of the floor in the community room, shouting angrily. We have to get quite close to the man in order to pass. Even though his anger is probably not directed towards us, he still seems scary to the whole team.

The man with the beard is called Ole. We have read about him beforehand in the material we always ask for prior to a monitoring visit. In the material, he is described as temperamental. Ole is 61 years old and has been living at the facility for almost three years because he needs extensive daily support. He is an alcohol abuser, has a record of violence and threats, and over a number of years he has regularly been hospitalised in psychiatric wards. In that way, Ole is similar to many other residents at the country's social psychiatric residential facilities. At Ole's facility, all residents have a psychiatric diagnosis, and almost a quarter of the residents have a hospital order.

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THE OMBUDSMAN'S MONITORING VISITS

- Monitoring visits are an important task for the Ombudsman. Besides handling complaints and taking up cases on his own initiative, the Ombudsman carries out approximately 50 monitoring visits each year.
- The Ombudsman's visiting teams visit public and private institutions, especially institutions where persons are or may be deprived of their liberty, for instance prisons, social care institutions and psychiatric wards.
- The objective of the monitoring visits is to contribute to ensuring that persons who are staying or living at institutions are treated with dignity and care and in accordance with their rights.

RESIDENT SAFETY OVERLOOKED

Ole is not interested in talking with us, but his fellow residents tell us that he sometimes has outbursts with him shouting, behaving in a threatening way and smashing things to pieces. This makes them feel unsafe. Another resident, who is called Pia, tells us about an incident when Ole wreaked havoc in the community room and knocked things down from the dining table. This incident has made Pia afraid of Ole. Pia tells us that she now goes into her own room to eat even though she really prefers to sit in the community room with the other residents.

Late in the day, we speak with management, and we make a number of recommendations based on what we have seen and heard throughout the day. Among other things, we suggest that management draw up a policy on how to prevent, handle and follow up on violence, threats and other incidents which cause feelings of unsafety, just like the anti-violence policy for staff that is already in place. The management agree that when an anti-violence policy for staff exists, there ought to be one for residents too, of course.

The reaction is quite typical of our visits to residential facilities in 2017: there is agreement that residents' perspective may have been overlooked in the efforts to improve the safety of staff.

Through recent years, a number of tragic deaths have taken place: staff have been attacked by residents at social psychiatric residential facilities throughout the country. The attacks have attracted great attention, and in the wake of the debate, staff safety has been improved. For example, the Danish Working Environment Authority issued improvement notices in 2016 to many institutions in the social psychiatric sector, requiring among other things that knives were not to be freely accessible at residential facilities, that staff must carry personal attack alarms and that staff were not to work on their own.

THE PSYCHIATRIC SYSTEM

- Hospitals (open and closed general psychiatric wards and closed forensic psychiatric wards): examination, diagnosis and treatment.
- Community mental healthcare sector: psychiatric treatment on an outpatient basis.
- Social psychiatric sector: all kinds of everyday support other than medical treatment to citizens with mental health issues. Includes residential facilities, drop-in centres and support person programmes. It is the municipality's responsibility to provide social psychiatric programmes, either its own programmes or in cooperation with other municipalities or regions or private programmes (cf. section 4(1) and (2) of the Social Services Act).

However, the debate has almost solely been about staff safety. Therefore, the Ombudsman decided to take a closer look at resident safety as a general theme for his monitoring visits in 2017.

The theme on the social psychiatric sector consisted of two sub-themes: safety for citizens at residential facilities and cooperation between residential facilities and psychiatric wards.

THE FRIGHTENED NEIGHBOUR

Mostly, monitoring visits start with the monitoring team having a morning meeting of a couple of hours' duration with the facility's management, who show us around at the facility afterwards. In the afternoon, we talk with staff members, residents and any relatives who are interested in a talk. We make a point of talking with as many residents as possible in order to obtain the most true and balanced picture of the institution. In 2017, we visited 13 psychiatric residential facilities and talked with a total of 75 residents.

During our visit to another residential facility, management tell us about an incident which took place a few weeks prior to our visit. For some months, two residents, Søren and David, have been provoking each other. Søren, who is 40 years old, and David, who is 34 years old, have been living at the facility for six and eight years, respectively. Both have hospital orders and extensive alcohol and drug abuse problems, and both can look back at numerous hospitalisations within the psychiatric sector.

After having been hospitalised for a couple of days, Søren has now been discharged from the psychiatric ward once again. At the residential facility, however, they do not think that Søren was ready for discharge, and in the days after the discharge, Søren's behaviour has been quite erratic. This culminates three days after the discharge when Søren threatens to kill David and chases him with a butter knife. The staff dial 112 (for emergency services) and manage to get the two separated. After the staff have withdrawn, Søren is still agitated. He gets hold of two golf balls, throws them at a car belonging to one of the staff members and smashes the windscreen. When the police arrive an hour and thirty minutes after the call, Søren has calmed down, but the police take him along after all, and he is hospitalised at a psychiatric ward.

While this incident takes place, Søren's neighbour Lars has been told by staff to stay in his room and lock the door. During our visit, we talk with Lars. He tells us that he often locks himself in his room when Søren goes berserk – and

that it happens approximately every three weeks. The frequent fits of rage make Lars feel very unsafe. He never knows how Søren will react after the hospitalisations. Lars wishes that the staff would talk with him about what he should do in regard to Søren.

RECOMMENDATIONS ON AN ANTI-VIOLENCE POLICY IN WRITING

During the meeting with management, the monitoring team are told that crisis counselling for staff was ordered immediately after the incident with Søren, and that calls to involved staff members are made on a daily basis to make sure they are doing all right. But when we get talking about a follow-up for David, Lars and the other residents, management cannot account for what action was taken, and there is no information in the facility's records either. As agreed with Lars, we tell management how Lars experienced the incident, and that he felt that he needed a follow-up afterwards. Management appreciate being made aware of this. As we did at Ole's residential facility, we recommend that the facility draw up an anti-violence policy in writing with guidelines on follow-ups with residents after crisis situations.

At many of our visits, we saw the same as we saw at the two facilities described above: the residential facilities have an anti-violence policy to support staff but nothing in writing when it comes to violence and threats among residents. Therefore, we recommended at a total of seven facilities that management draw up a written anti-violence policy with guidelines on how to support residents in the event of violence and threats.

In addition, at five residential facilities, we recommended keeping records of incidents involving violence and threats among residents and using these records as preventive measures, among other things in order to find causes and patterns in the occurrence of violence and threats. The purpose of the records and analyses of these records would be to put focus on resident safety and to contribute to staff getting better at preventing incidents involving violence and threats.

KEY INITIATIVES

During our visits, at least one resident at all of the facilities reported that he or she would sometimes feel unsafe. Looking back at the year's visits to social psychiatric facilities, our conclusion is that the effort to ensure residents' safety and feeling of safety should be strengthened. In the Ombudsman's assessment, it is crucial that all residential facilities get an anti-violence policy and specific

guidelines which do not only cover staff but also threats and violence directed at other residents.

At the same time, however, it is important to point out that our impression is that the residential facilities are making great efforts already. In general, the residents we talked with said that they liked and felt safe around the staff. In this way, the residential facilities have a good basis for improving residents' safety and feeling of safety.

The outcome of this year's visits to residential facilities will be discussed at meetings with both the Ministry for Children and Social Affairs and the Ministry of Health in the spring of 2018. The objective of these discussions is to assess whether the formulation of guidelines within the social psychiatric sector can be done centrally with the ultimate intent to improve residents' safety and feeling of safety.

All names of residents mentioned in the article have been changed.

The outcomes of the year's monitoring visits to 13 residential facilities have been gathered in a thematic report (in Danish only), which can be found at www.ombudsmanden.dk/tilsyn. Please find more information about the Ombudsman's activities in the monitoring field on pages 36-75.

THEME ON THE SOCIAL PSYCHIATRIC SECTOR

The social psychiatric sector was chosen as the theme for monitoring visits carried out in 2017 by the Ombudsman to institutions for adults in collaboration with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

The theme consisted of two sub-themes:

- Resident safety at social psychiatric residential facilities
- Sector transfers and cooperation between social psychiatric residential facilities and the psychiatric sector

Out of a total of 40 monitoring visits to institutions for adults, the Ombudsman visited 13 social psychiatric residential facilities and seven psychiatric wards in connection with the theme for 2017.

The criteria which the 13 residential facilities selected by the Ombudsman had to meet included being temporary or long-term residential facilities covered by section 107 or section 108 of the Social Services Act and their target group consisting, among others, of persons with hospital orders and persons with dual diagnoses (a mental health illness combined with a substance abuse problem).

Please find more information about the theme, including the Ombudsman's conclusions and recommendations, on page 38.

MONITORING ACTIVITIES

- Adults
- Children

THE OMBUDSMAN'S MONITORING VISITS

Where: The Ombudsman carries out monitoring visits to public and private institutions, especially institutions where persons are or may be deprived of their liberty, such as prisons, social care institutions and psychiatric wards.

Why: The purpose of the Ombudsman's monitoring visits is to help ensure that daytime users of and residents at institutions are treated with dignity, respect and in compliance with their rights.

The monitoring visits are carried out in accordance with the Ombudsman Act as well as the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Pursuant to this Protocol, the Ombudsman has been appointed 'national preventive mechanism'. The task is carried out in collaboration with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights, which contribute with medical and human rights expertise.

The Ombudsman has a special responsibility to protect the rights of children under the UN Convention on the Rights of the Child, etc.

How: During monitoring visits, the Ombudsman often gives recommendations to the institutions. Recommendations are typically aimed at improving conditions for users of the institutions and in this connection also at bringing conditions into line with the rules. Recommendations may also be aimed at preventing, for example, degrading treatment.

Monitoring visits may also cause the Ombudsman to open investigations of general problems.

Who: The Monitoring Department carries out monitoring visits to institutions for adults, whereas the Ombudsman's Children's Division carries out monitoring visits to institutions for children. The Ombudsman's special advisor on children's issues participates in monitoring visits to institutions for children and, if deemed relevant, in monitoring visits to institutions for adults.

Usually a medical doctor from DIGNITY – Danish Institute Against Torture participates in the visits, and often a human rights expert from the Danish Institute for Human Rights will participate as well.

MONITORING ACTIVITIES - ADULTS

THEME FOR 2017

The social psychiatric sector - with focus on

- safety for residents at social psychiatric residential facilities
- sector transfers and cooperation between residential facilities and the psychiatric sector

The Ombudsman's monitoring teams visited 13 social psychiatric residential facilities and seven psychiatric wards in connection with the theme for 2017.

Important conclusions

- At all residential facilities visited, at least one resident felt unsafe at times due to other residents' behaviour.
- Cooperation agreements between the individual residential facility and the psychiatric sector have a good effect.

The Ombudsman generally recommends

- that social psychiatric residential facilities systematically record incidents involving violence and threats among residents and that they analyse data for the purpose of prevention etc.
- that social psychiatric residential facilities draw up written guidelines on how to handle violence and threats among residents (anti-violence policies)
- that social psychiatric residential facilities systematically record admissions to and discharges from psychiatric wards which they consider undesirable
- that cooperation agreements are made between social psychiatric residential facilities/the municipality and the psychiatric treatment sector/the region about admissions, hospital stays and discharges

Specific recommendations (extracts) can be found in the table on pages 42-53.

Reports on the themes for our monitoring visits in recent years can be found at www.ombudsmanden.dk by clicking the globe icon, selecting 'English' and choosing the heading 'Publications'. Please also read the article 'Residential facilities in the social psychiatric sector must be safe - also for residents' on pages 30-35.

CASES CONCLUDED IN 2017 IN RELATION TO MONITORING ACTIVITIES

67 cases about suicide attempts, deaths etc. at Prison and Probation Service institutions or among persons in police custody

None of the cases gave rise to criticism.

19 cases opened by the Ombudsman on his own initiative (12 of which were opened in direct continuation of monitoring visits)

Seven cases resulted in criticism and/or formal recommendations.

Selected cases opened by the Ombudsman on his own initiative in connection with monitoring visits

Conditions for mentally ill inmates were investigated: The Ombudsman carried out an investigation of conditions for inmates of a special prison unit for mentally ill inmates, especially their possibilities for participating in occupational and other activities. When the Ombudsman was informed by the authorities about definite improvements of their conditions, he concluded the case without criticism. (News story published on 11 January 2017).

The rules on door and window alarms were not observed at a residential facility (three cases): Various types of alarms had been used at the housing units of a number of residents at a municipal residential facility without observance of the relevant rules. The Ombudsman criticised the municipality's course of action, and the municipality tightened up its procedures. (Case No. 2017-9 and news story published on 29 March 2017).

Reports on placements in security cells were inadequate: The Ombudsman criticised the Prison and Probation Service in two cases in which inmates were placed in security cells (and typically forcibly restrained to a bed). In one of the cases, an inmate had been in a security cell for more than four days and nights. The Ombudsman assessed that the reports on the placements were inadequate, and he also criticised several other matters in the cases. The Prison and Probation Service would undertake various improvement initiatives. (Case No. 2017-18 and news story published on 21 August 2017).

Regime of checking residents' mail was criticised: The Ombudsman criticised a regime of checking letters and parcels received by residents at a secure institution, and he recommended that the regime be discontinued. The institution took note of the Ombudsman's recommendation. The Minister for Children and Social Affairs has subsequently introduced a bill (L 119/17) which contains rules, among others, on checks of mail. (Case No. 2017-27 and news story published on 6 September 2017).

Safety in unstaffed police detention facilities in Greenland was improved: The safety of persons placed in police detention facilities in Greenland which are not permanently staffed has been significantly improved. However, some aspects of their safety still give cause for concern. That was the Ombudsman's conclusion after extensive dialogue with the authorities in charge following a monitoring visit to Greenland in 2013 which included unstaffed detention facilities. (Case No. 2017-33 and news story published on 9 March 2017).

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WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
	40 visits in total		306 talks	40 talks	35 visits	19 visits
16 Jan.	'Psykiatrisk Center København', Bispebjerg	Emergency admission unit and bed unit for general psychiatric patients	5	1		✓
18 Jan.	'Psykiatrisk Center København', Rigshospitalet	Two bed units for general psychiatric patients	4	1		
25 Jan.	'Søbysøgård Fængsel', Årslev	Closed section in an open prison, particularly for persons serving time	11	0	✓	
26 Jan.	'Nyborg Fængsel'	Closed section particularly for 'negatively strong' persons serving time and arrestees	6	0	✓	✓
2 Feb.	'Maribo Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	10	0	✓	
3 Feb.	'Nykøbing Falster Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	9	0	✓	✓

- 1) The Ombudsman collaborates with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights (IMR) on monitoring activities. Among other things, they participate in a number of monitoring visits.
- 2) Number of inmates, residents and patients etc. with whom the visiting teams had talks.
- 3) Number of relatives, guardians, social security guardians and patient advisors with whom the visiting teams had talks.

Selected recommendations etc. ⁴	
	<p>Visits concluded with recommendations: 38 Visits concluded without comments: 0 Not concluded at the time of going to press: 2</p>
	<ul style="list-style-type: none"> - Ensure medical assessment at least three times a day in connection with forcible physical restraint - Ensure an external physician undertakes an assessment of forcible restraint if it lasts more than 24 hours
	<ul style="list-style-type: none"> - Ensure the anti-violence policy contains clear information about prevention of physical and mental violence among patients - Analyse why most incidents with sedatives involving coercion have occurred during the summer months for a number of years - Keep records of use of coercion with information about grounds and names of staff involved
	<ul style="list-style-type: none"> - Give guidance to inmates about body searches and urine sampling and follow up on whether they are carried out in accordance with the rules
	<ul style="list-style-type: none"> - Give guidance to inmates about body searches and urine sampling and follow up on whether they are carried out in accordance with the rules <p><i>Case opened on the Ombudsman's own initiative regarding 14 reports on placements in security cells. Concluded without criticism based on a statement and initiatives from the Prison and Probation Service.</i></p>
	<ul style="list-style-type: none"> - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules - Increase focus on inmates' right to an initial medical examination and remand prisoners' right to call in their own doctor - Exercise greater care when completing consent forms for sharing medical information <p><i>Case opened on the Ombudsman's own initiative about an incident involving use of force in connection with the use of pepper spray. The case was still pending at the time of going to press.</i></p>
	<ul style="list-style-type: none"> - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules - Inform inmates about their contact person and ensure regular contact between contact person and inmate - Increase focus on thorough and informative arrival interviews and the use of interpreters at the interviews – and otherwise to the extent necessary

4) The table contains selected, abbreviated recommendations. The full recommendations can be found (in Danish only) at www.ombudsmanden.dk, where concluding letters on monitoring visits are published on an ongoing basis. The table also includes information about cases taken up on the Ombudsman's own initiative following monitoring visits.

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
9 to 10 Feb.	'Psykiatrien Slagelse', forensic psychiatric ward	Three bed units for forensic psychiatric patients	15	2			
27 Feb.	'Asylcenter Segen', Bornholm	Accommodation centre particularly for single male asylum seekers awaiting the processing of their case	5	0	✓		
28 Feb.	'Børnholm Arrest', Rønne	Local prison particularly for persons remanded in custody during investigation of their case	4	0	✓		
8 Mar.	'Botilbuddet Røde Mellemvej', Copenhagen	Municipal social psychiatric residential facility for adults with combined problems	12	2	✓	✓	
9 and 24 Mar.	'Botilbuddet Robert Jacobsens Vej', Bagsværd	Municipal social psychiatric residential facility for adults with a mental disorder combined with substance abuse	7	1	✓	✓	
15 Mar.	'Østergården', Rude	Municipal social psychiatric residential facility for adults with combined problems	5	5	✓	✓	
27 Mar.	'Renbæk Fængsel', Skærbæk	Three closed prison sections particularly for persons serving time, including an isolation unit	9	0	✓		
28 Mar.	'Botilbuddet Skovsbovej', Svendborg	Municipal social psychiatric residential facility for adults needing specialised treatment 24 hours a day	8	4	✓		

	Selected recommendations etc.⁴
	<ul style="list-style-type: none"> - Carry out further analysis of patterns and reasons behind the use of coercion, including comparison with other, similar wards - Change the house rules so that the wording about opening patients' mail reflects the condition of suspicion pursuant to the Mental Health Act - Ensure that patients are given guidance on channels of complaint in a way which is adapted to practical conditions at the units, for example in relation to internet access
	<ul style="list-style-type: none"> - Add information to the house rules about consequences of violations - Extend local directions on the use of force
	<ul style="list-style-type: none"> - Label measured out medicine with name and civil registration number - Update house rules in accordance with applicable regulations - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules
	<ul style="list-style-type: none"> - Record incidents involving violence and threats among residents and follow up with a view to documentation, knowledge and learning - Clarify applicable regulations in relation to the municipality's feedback to the residential facility on reported incidents involving use of force
	<ul style="list-style-type: none"> - Same recommendations as those given at visit on 8 March - Draw up house rules - Intensify focus on handling of medicines and in this connection ensure that staff have the necessary qualifications - Follow up systematically on inadvertent incidents
	<ul style="list-style-type: none"> - Draw up house rules - Draw up written guidelines on handling of violence and threats among residents (anti-violence policy) - Record incidents where staff found that residents should have been admitted to a psychiatric ward and of discharges perceived to be undesirable - Enter into a cooperation agreement with the psychiatric sector about admissions and discharges, among other things
	<ul style="list-style-type: none"> - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules
	<ul style="list-style-type: none"> - Draw up an anti-violence policy for residents as well as for staff - Draw up house rules - Give guidance on how complaints about the use of force can be made via a spouse, relative, guardian or another representative where residents are unable to complain themselves - Enter into a cooperation agreement with the psychiatric sector about admissions to, stays in and discharges from psychiatric wards

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
3 Apr.	'Lindegårdshusene', Roskilde (unannounced visit)	Municipal social psychiatric residential facility for adults with mental and social challenges	8	0	✓	✓	
6 to 7 Apr.	'Psykiatrien Slagelse', Sikringsafdelingen (Maximum Security Unit)	Maximum security psychiatric bed unit particularly for psychiatric patients who are conviction placed or placed on order for compulsory admission to a mental hospital	15	1	✓		
26 Apr.	'Hillerød Arrest' (partly announced visit) ⁵	Local prison particularly for persons remanded in custody during investigation of their case	6	0	✓	✓	
26 Apr.	'Botilbuddet Teglgårdshuset', Middelfart	Municipal social psychiatric residential facility for adults with severe social psychiatric problems and substance abuse	2	2	✓	✓	
27 Apr.	'Psykiatrisk Afdeling Svendborg'	Two bed units for general psychiatric patients	3	2	✓		
3 May	'Åkandehuset', Højby	Private social psychiatric residential facility for adults	4	4	✓	✓	
8 May	'Aarhus Universitetshospital', Risskov (unannounced visit)	Bed unit for general psychiatric patients	4	0	✓		

5) 'Partly announced visits' (introduced in 2017) are visits where the institution is informed that the Ombudsman will carry out a monitoring visit within a specific period – for example within one month – but not exactly when.

	Selected recommendations etc.⁴
	<ul style="list-style-type: none"> - Keep statistics of the occurrence of violence and threats among residents and analyse data on an ongoing basis to detect causes and patterns
	<ul style="list-style-type: none"> - Systematically analyse records of use of coercion to detect causes and patterns - Ensure that checks of mail are carried out in accordance with regulations - Establish a system which provides information about the duration of coercive measures – to track developments <p><i>Case opened on the Ombudsman's own initiative about the use of body scanners and restrictions of patients' access to literature, among other things. The case was still pending at the time of going to press.</i></p>
	<ul style="list-style-type: none"> - Ensure that only legal forcible measures are used and ensure adequate written documentation of the use of force and other restrictive measures - Update medicine directions – and train staff in them - Explore the possibilities of healthcare professionals undertaking health screenings of new inmates - Handle unused medicines according to regulations
	<ul style="list-style-type: none"> - Draw up written guidelines on how to handle violence and threats among residents (anti-violence policy) - Analyse records of incidents involving violence and threats to detect causes and patterns for the purpose of prevention - Draw up local directions on the use of force - Record – for documentation and learning purposes – incidents where staff found that residents should have been admitted to a psychiatric ward and of discharges perceived to be undesirable - Enter into a cooperation agreement with the psychiatric sector about admissions to and discharges from psychiatric wards, among other things
	<ul style="list-style-type: none"> - Draw up guidelines on violence and threats among patients and record such incidents - Enter into cooperation agreement(s) with municipalities/residential facilities about admissions/stays/discharges - Follow up on record-keeping of use of coercion and overrulings by appeals bodies
	<ul style="list-style-type: none"> - Revise and extend the directions on the use of force
	<ul style="list-style-type: none"> - Draw up a policy on prevention of violence and threats among patients - Systematically record incidents involving violence and threats among residents and between patients and staff for documentation, knowledge and learning purposes - Enter into cooperation agreements with municipalities about, among other things, admissions and discharges (to residential facilities)

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹	
			Users ²	Relatives etc. ³	DIGNITY	IMR
18 May	'Bostedet Visborgsgaard', Hadsund	Regional social psychiatric residential facility for adults, particularly adults with dual diagnoses ⁶	10	4	✓	
19 May	'Silkeborg Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	5	0	✓	
22 May	'Enner Mark Fængsel', Horsens	Focus section ⁷ in closed prison, particularly for persons serving time, with behaviour posing a risk to others	10	0	✓	✓
7 June	'Regionspsykiatrien Vest', Herning	Two bed units for general psychiatric patients	9	4	✓	
8 June	'Herning Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	5	0	✓	
21 June	'Københavns Fængsler', Vestre Hospital (unannounced follow-up visit)	Prison section particularly for mentally ill persons remanded in custody during investigation of their case	14	0	✓	✓
28 June	'Bostedet Vendelbo', Vrå (unannounced visit)	Private social psychiatric treatment, development and residential facility for adults with personality disorders and other mental difficulties	5	0	✓	

- 6) A dual diagnosis is normally defined as the co-existence of disturbances caused by the use of a psychoactive drug and other mental disturbances. At all residential facilities visited in 2017, there were residents with a dual diagnosis and/or who had been placed on probation with a condition of psychiatric treatment.
- 7) Special section with limited association with other inmates, particularly for inmates whose presence gives rise to a special risk of assault on fellow inmates, staff and other persons at the institution.

	Selected recommendations etc.⁴
	<ul style="list-style-type: none"> - Draw up a policy on the prevention of violence and threats among residents - Clarify guidelines on recording incidents involving violence and threats and on reporting them to the police - Record incidents where staff found that residents should have been admitted to a psychiatric ward and of discharges perceived to be undesirable - Enter into a cooperation agreement with the psychiatric sector about admissions and discharges, among other things
	<ul style="list-style-type: none"> - Ensure that inmates are briefed after searches of their cells - Remind staff to knock as a general rule before opening the door to a cell - Explore the possibilities of healthcare professionals undertaking health screenings of new inmates - Handle unused medicines according to regulations
	<ul style="list-style-type: none"> - Inform inmates about the procedure and criteria for assessing whether they can be transferred from the focus section - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules
	<ul style="list-style-type: none"> - Revise house rules - Draw up guidelines on violence and threats among patients and record such incidents <p><i>Case about special shielding of a patient opened on the Ombudsman's own initiative. The case was still pending at the time of going to press.</i></p>
	<ul style="list-style-type: none"> - Label medicine boxes and bottles with name and civil registration number and hand out personally prescribed medicines or send them to a pharmacy for disposal when the inmate leaves the prison - Find an approved method to access health data for inmates - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules
	<p><i>Still pending at the time of going to press</i></p>
	<ul style="list-style-type: none"> - Extend the directions on the use of force - Draw up directions on (prevention of) suicides/suicide attempts - Focus on the handling of medicines to ensure that they are handled in accordance with the applicable regulations

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
29 June	'Bostedet Brovst'	Regional social psychiatric residential facility for adults with dual diagnoses	4	3	✓		
21 to 22 Aug.	'Sdr. Omme Fængsel'	Open prison particularly for persons serving time	22	0	✓	✓	
29 to 30 Aug.	'Center Sandholm', Birkerød	Arrival section at asylum centre, particularly for asylum seekers arriving in Denmark	17 ^a	0	✓	✓	
7 Sep.	'Tangkær', Ørsted	Two sections at a regional social psychiatric residential facility for adults, particularly persons with dual diagnoses and/or sentenced to placement	6	0	✓		
8 Sep.	'Viborg Arrest'	Local prison particularly for persons remanded in custody during investigation of their case	8	0	✓		
15 Sep.	'Politigårdens Fængsel', Copenhagen	Prison with focus on remand prisoners who according to a safety evaluation require 3-4 guards when cell door is opened	3	0	✓	✓	
26 Sep.	'Psykiatrisk Afdeling Odense'	Two bed units for general psychiatric patients	4	4	✓		

8) Including five talks with minors carried out by the special advisor on children's issues of the Ombudsman's Children's Division.

	Selected recommendations etc.⁴
	<ul style="list-style-type: none"> - Draw up written guidelines on violence and threats among patients - Record incidents involving violence and threats among residents and analyse data - Draw up local guidelines on the use of force - Enter into a cooperation agreement with the psychiatric sector about admissions and discharges, among other things
	<ul style="list-style-type: none"> - Ensure availability of occupational activities for inmates excluded from association with other inmates - Increase focus on the handling of medicines and record-keeping to ensure the applicable requirements are met - No exchange of sensitive information via insecure e-mail in communication with physician - Give guidance to inmates about body searches and urine sampling and ensure that, and follow up on whether, they are carried out in accordance with the rules
	<ul style="list-style-type: none"> - Add information in house rules about consequences of violating the rules and about zero tolerance against violence and threats - Ensure the quality of the documentation when reporting incidents involving use of force - Extend guidelines about violence and threats among residents
	<ul style="list-style-type: none"> - Extend guidelines about violence and threats among residents - Ensure, for reasons of due process, that the most important rules on behaviour are available in writing and that residents receive a copy
	<ul style="list-style-type: none"> - Update and extend house rules, among other things with information about channels of complaint following body searches or urine sampling - Give directions to the prison's physician about fields of responsibility and duties and follow up. Ensure in this connection that the physician gives directions to his or her assistants (prison officers) - Use request forms with copies to avoid complaints, doubts etc.
	<ul style="list-style-type: none"> - Efforts to provide more meaningful activities and human contact for inmates who were the target group of the monitoring visit - Finalise cooperation agreement with the psychiatric sector - Intensify the effort to have a specific inmate transferred to a psychiatric ward <p><i>Case opened on the Ombudsman's own initiative about an inadequate number of places available at a psychiatric ward for persons remanded in non-prison custody during investigation of their case.</i></p>
	<ul style="list-style-type: none"> - Amend the house rules to bring the rules on body searches and searches of patients' belongings in line with applicable regulations - Draw up guidelines on violence and threats among patients and record such incidents

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
27 Sep.	'Pension Kværndrup' (partly announced visit)	Prison and Probation Service institution particularly for persons serving time who are in a social re-entry phase	7	0	✓	✓	
11 Oct.	'Pension Hammer Bakker', Vodskov	Prison and Probation Service institution particularly for persons serving time who are in a social re-entry phase	6	0			
12 Oct.	'Tagabo', Copenhagen	Municipal social psychiatric residential facility for adults with a minor need for support	2	0	✓	✓	
23 Oct.	'Udrejsecenter Kærshovedgård', Ikast	Departure centre for rejected asylum seekers – the monitoring visit solely focused on persons with tolerated residence status	15 ⁹	0	✓	✓	
25 Oct.	'Gartnervænget', Sakskøbing	Municipal social psychiatric residential facility for adults, particularly persons with dual diagnoses	2	0		✓	

9) Six of these residents had tolerated residence status and were therefore part of the target group of the monitoring visit. The other residents were rejected asylum seekers.

	Selected recommendations etc.⁴
	<ul style="list-style-type: none"> - Introduce procedures for clearing out the medicine cabinet
	<ul style="list-style-type: none"> - Update house rules
	<ul style="list-style-type: none"> - Continuous focus on whether residents' need for support corresponds to the target group, and relevant handling in concrete situations where individual residents cause feelings of unsafety
	<p><i>The Ombudsman has asked for a statement in the case. The case was still pending at the time of going to press.</i></p>
	<ul style="list-style-type: none"> - Draw up a policy on prevention and handling of violence and threats among residents - Record incidents where staff found that residents should have been admitted to a psychiatric ward and of discharges perceived to be undesirable - Enter into a cooperation agreement with the psychiatric sector

MONITORING ACTIVITIES - CHILDREN

THEME FOR 2017

Young persons at secure 24-hour residential facilities, local prisons and state prisons - with focus on

- seclusion and use of physical force
- schooling
- relations among the young persons (rights, composition of the group of young persons, involvement of the young persons and their personal development)

The Ombudsman's monitoring teams visited six secure 24-hour residential facilities, two local prisons and two state prisons.

Important conclusions

- Young persons are frequently placed in seclusion, and at several facilities, there is room for improvement of the way in which seclusion is handled.
- At some facilities, a connection between the staff's approach to the young persons and the use of force is seen.
- There is generally room for improvement of the recording and/or reporting of incidents involving use of force at the secure 24-hour residential facilities.
- There are various challenges in regard to conditions for young persons aged 15 to 17 years at Prison and Probation Service institutions, for example staff's knowledge of the rules applicable to these inmates and the regulation of the schooling of inmates of compulsory school age.
- The in-house schools at the secure 24-hour residential facilities have various challenges in relation to the schooling of the young persons, for example in regard to teaching the full range of subjects, exemptions from certain subjects and holding examinations.

The Ombudsman generally recommends that secure 24-hour residential facilities

- endeavour to observe the deadlines for recording and reporting incidents involving use of force
- report such incidents adequately

Specific recommendations (extracts) can be found in the table on pages 58-63.

Reports on the themes for our monitoring visits in recent years can be found at www.ombudsmanden.dk by clicking the globe icon, selecting 'English' and choosing the heading 'Publications'.

CASES CONCLUDED IN 2017 IN RELATION TO MONITORING ACTIVITIES

22 cases were opened by the Ombudsman on his own initiative (12 of which were opened in direct continuation of monitoring visits).

11 cases resulted in criticism and/or formal recommendations.

Selected cases opened by the Ombudsman on his own initiative in connection with monitoring visits

Guidelines on the use of force were revised: The Red Cross decided to revise its guidelines on the use of force at asylum centres for children when it became aware, following an enquiry from the Ombudsman, that only the provisions of the Danish Criminal Code on self-defence and *jus necessitatis* apply at the centres.

Inadequate recording and reporting of incidents involving use of force: In a number of instances, a private 24-hour residential facility had not recorded incidents involving use of force individually in report forms. The facility had also failed to record the incidents within the 24-hour deadline and to immediately send the completed forms to the municipality which had placed the young person at the facility. The Ombudsman criticised the facility's inadequate recording and reporting of the incidents.

No authority for obligatory washing of clothes: A secure 24-hour residential facility consistently washed all the young persons' clothes on their arrival, even if the young persons did not want it. This was done for hygienic purposes, but also to destroy any euphorants which might have been hidden in the clothes. The Ombudsman concluded that there was no authority for the practice and recommended that the facility discontinue it. (Case No. 2017-13 and news story published on 16 May 2017).

Action plans had not been drawn up or were inadequate (nine cases): During two monitoring visits, it was revealed that there were problems with action plans for nine children. The Ombudsman opened cases with the municipalities that had placed the children at the facilities and criticised them for not having drawn up action plans and/or revised them. He also criticised the failure of some of the municipalities to provide the facilities with copies of relevant parts of the action plans. The cases are two out of 26 investigated by the Ombudsman about action plans for children. (News story published on 17 January 2018).

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WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
	12 visits in total		80 talks	44 talks	9 visits	3 visits	
12 Jan.	'Københavns Fængsler', Vestre Fængsel	Prison section particularly for young persons remanded in custody during investigation of their case	4	0	✓	✓	
31 Jan. to 1 Feb.	'Bakkegården', Nykøbing Sjælland	Two secure sections for children and young persons, particularly persons remanded in non-prison custody during investigation of their case In-house school	7	1			
28 Feb. to 1 Mar.	'Stevnsfortet', Rødvig Stevns	Two secure sections for children and young persons, particularly persons remanded in non-prison custody during investigation of their case In-house school	5	2			
21 to 22 Mar.	'Grenen', Grenå	Two secure sections and a high-security section for children and young persons, particularly persons remanded in non-prison custody during investigation of their case In-house school	6	4	✓		

- 1) The Ombudsman collaborates with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights (IMR) on monitoring activities. Among other things, they participate in a number of monitoring visits.
- 2) Number of children and young persons with whom the visiting teams had talks.
- 3) Number of relatives and personal representatives with whom the visiting teams had talks.

	Selected recommendations etc.⁴
	<p>Visits concluded with recommendations: 7 Visits concluded without comments: 1 Not concluded at the time of going to press: 4</p>
	<ul style="list-style-type: none"> - Consider preparing written information about the rights and duties of young persons which is linguistically targeted to young persons - Ensure that staff know the special regulations on 15- to 17-year-old inmates - Ensure adequate documentation for decisions to place inmates in a punitive cell - Consider activities for young people on Saturdays <p><i>Case opened on the Ombudsman's own initiative about 15- to 17-year-old inmates at Prison and Probation Service institutions. The case was still pending at the time of going to press.</i></p>
	<ul style="list-style-type: none"> - Provide an adequate description of grounds in reports on incidents involving use of force - Endeavour to observe the deadlines for reporting incidents involving use of force - Ensure awareness and knowledge of the procedures for supervision of young persons in seclusion - Ensure that medical assistance is available for children and young persons with mental disorders placed in seclusion
	<ul style="list-style-type: none"> - Endeavour to observe the deadlines for recording and reporting incidents involving use of force - Ensure forms for reporting incidents involving use of force have been completed adequately - Consider whether staff's access to information about the young persons is in compliance with the Act on Processing of Personal Data
	<ul style="list-style-type: none"> - Design seclusion room in such a manner that the risk of self-harming behaviour is minimised as far as possible - Carry out self-check of the safety of the seclusion room once a year - Be aware that self-defence is normally only exempt from punishment if it is necessary to prevent a wrongful attack and unreasonable force is not evidently used

4) The table contains selected, abbreviated recommendations. The full recommendations can be found (in Danish only) at www.ombudsmanden.dk, where concluding letters on monitoring visits are published on an ongoing basis. The table also includes information about cases taken up on the Ombudsman's own initiative following monitoring visits.

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
30 Mar.	'Kolding Arrest'	Local prison particularly for persons remanded in custody during investigation of their case. The monitoring visit concerned conditions for an asylum seeker between 15 and 17 years of age who was remanded in custody.	1	0	✓		
4 Apr.	'Kompasset', Brønderslev	Secure 24-hour residential facility for children and young persons, particularly persons remanded in non-prison custody during investigation of their case. The monitoring visit concerned conditions for a person between 15 and 17 years of age who was serving time.	1	0	✓		
4 to 5 Apr.	'Børnecenter Østrup', Aars	Asylum centre for unaccompanied underage asylum seekers	11	5	✓	✓	
9 to 10 May	'Egely', Nørre Aaby	Three secure sections and a high-security section for children and young persons, particularly persons remanded in non-prison custody during investigation of their case In-house school	11	1	✓		
5 to 6 Sep.	'Sølager', Skibby and Hundested	Three secure sections for children and young persons, particularly persons remanded in non-prison custody during investigation of their case In-house schools	10	4		✓	

	<p>Selected recommendations etc.⁴</p>
	<ul style="list-style-type: none"> - Arrange for activities with the inmate that involve contact with other persons - Check which language an inmate speaks best and provide an interpreter who speaks the language - Ensure adequate documentation in reports on placements in observation cells - Ensure closer medical supervision of inmates excluded from association with other inmates <p><i>Case opened on the Ombudsman's own initiative about 15- to 17-year-old inmates at Prison and Probation Service institutions. The case was still pending at the time of going to press.</i></p> <p><i>Case opened on the Ombudsman's own initiative about secure 24-hour residential facilities' rejecting young persons who are undergoing age determination. The case was still pending at the time of going to press.</i></p>
	<p><i>Concluded without comments</i></p>
	<ul style="list-style-type: none"> - Consider the basis for the house rule that young persons are not allowed to start a relationship with another resident while staying at the centre – and ensure that the content and application of the rule (if upheld) do not exceed what is required in order for the centre to function as intended and meet its objectives - Ensure a continuous, accessible overview of the number of incidents involving use of force and that the incidents are reported to the Immigration Service - Ensure the development plans for the residents are regularly updated and that they contain specific agreements - Ensure that medicines are handled in accordance with applicable regulations
	<ul style="list-style-type: none"> - Continue endeavours to prevent and reduce the number of incidents involving use of force - Ensure that use of physical force is only followed by seclusion if there is a legal basis for this - Discontinue unlawful use of force and seclusion in person's own room - Tighten up on documentation in reports on incidents involving use of force - Ensure that young persons placed in a seclusion room are allowed to go to the toilet when needed and based on a specific assessment of whether it is safe for the young person and others to allow the young person to leave the seclusion room
	<p><i>Still pending at the time of going to press</i></p>

WHERE DID WE GO IN 2017?

When	Where	What	With whom did we speak?		Who also participated? ¹		
			Users ²	Relatives etc. ³	DIGNITY	IMR	
10 and 23 Oct.	'Udrejsecenter Sjælsmark', Hørsholm (unannounced spontaneous visits)	Departure centre, particularly for rejected asylum seekers. The monitoring visit focused on children and young persons.	19	27	✓		
12 Oct.	'Ringe Fængsel'	Closed prison for persons serving time. The monitoring visit focused particularly on the youth section.	4	0	✓		
13 Oct.	'Nyborg Fængsel'	Closed prison particularly for persons serving time. The monitoring visit concerned conditions for a person aged 15 to 17 years who was serving time.	1	0	✓		

	Selected recommendations etc.⁴
	<i>The Ombudsman has asked for a statement in the case. The case was still pending at the time of going to press.</i>
	<i>Still pending at the time of going to press</i>
	<i>Still pending at the time of going to press</i>

DISCUSSIONS, ACTIVITIES ETC. IN RELATION TO BOTH CHILDREN AND ADULTS

DISCUSSIONS WITH KEY AUTHORITIES

Dialogue with the relevant authorities – both at the local level in connection with monitoring visits and at central level – plays an important part in the Ombudsman's monitoring activities.

When	What	Subjects (extract)
17 May	Annual meeting with Ministry of Health	<p>Legal authority problems in house rules at psychiatric wards</p> <p>Coercion in connection with somatic treatment of permanently legally incapable persons</p> <p>Guidance about medical re-assessment of forcible restraint when the patient is asleep</p> <p>Recording of immobilisations with restraint belts in connection with stomach tube feeding</p> <p>Monitoring of record-keeping of use of coercion at psychiatric wards</p> <p>The need for written information for children and young persons about their rights</p>
29 May	Annual meeting with Department of Prisons and Probation	<p>Investigation of inmates' complaints about staff members</p> <p>Follow-up on the theme for 2016 in regard to body searches and urine sampling at institutions for adults</p> <p>Healthcare assistance at Prison and Probation Service institutions</p> <p>The need for written information for 15- to 17-year-old inmates about their rights</p>

OTHER ACTIVITIES

- Six meetings with foreign ombudsmen etc. and two meetings with representatives from the other Nordic ombudsmen offices with discussion and exchange of experience.
- Five meetings with national monitoring authorities with discussion and exchange of experiences.
- Together with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights, the Ombudsman held a meeting with representatives of the civil society. The objective of the meeting was to inform the participants about our monitoring activities and to obtain information about their experiences and gain inspiration through joint dialogue.
- As part of the Danish children's ombudsman collaboration, the Ombudsman generally collaborates with the Danish National Council for Children and with Children's Welfare (a Danish organisation offering the Child Helpline, the Children's Chatroom etc.). As part of the collaboration, a dialogue meeting about asylum children was held with relevant interested parties.
- Developing a catalogue of recommendations for monitoring visits to institutions for adults as an operational tool for visiting teams (improvement of our own practice).

OTHER RESULTS

- The National Board of Social Services published the handbook 'Vold og seksuelle overgreb mod børn med handicap – Håndbog om forebyggelse, opsporing og håndtering' ('Violence and sexual abuse against children with disabilities – A handbook on prevention, detection and handling of such abuse'), only available in Danish. The background for this publication was, among other things, the Ombudsman's general recommendation in his thematic report for 2015 to draw up guidelines on how institutions for children with disabilities may prevent sexual abuse and which procedures the institutions should follow in cases of suspected abuse.

MONITORING ACTIVITIES DISABILITY ACCESSIBILITY

MONITORING VISITS TO INVESTIGATE DISABILITY ACCESSIBILITY

Where: The Ombudsman carries out monitoring visits to investigate the accessibility of public buildings, such as primary and lower secondary schools, other educational establishments, town halls, libraries, hospitals and polling stations.

Why: At the request of Parliament, the Ombudsman monitors developments regarding equal treatment of persons with disabilities. In this connection, the Ombudsman monitors, among other things, physical accessibility for persons with disabilities. The aim is to check that the rules intended to ensure that public buildings are accessible to everybody are observed.

How: During monitoring visits, the Ombudsman's monitoring team are shown round the buildings. The Ombudsman's monitoring team bring along measuring equipment to check, for example, whether the dimensions of toilet facilities for persons with disabilities and lifts are in accordance with building regulations.

Who: The Monitoring Department carries out the monitoring of accessibility. A wheelchair user, who works as a consultant for the Ombudsman, participates in the monitoring visits. In addition, a consultant from the Danish Association of the Blind participated in the monitoring visits on 9 November 2017. The Ombudsman's special advisor on children's issues participated in three monitoring visits to primary and lower secondary schools in 2015-2016 and also participated in such monitoring visits in previous years.

MONITORING VISITS TO INVESTIGATE DISABILITY ACCESSIBILITY IN 2017

When	Where	What
20 September	Department of Political Science at Aarhus University	University
9 November	Four polling stations for postal ballots on the island of Funen (in connection with the municipal and regional election on 21 November 2017)	Polling stations

EXAMPLES OF RESULTS IN 2017

Outcomes of monitoring visits to investigate disability accessibility

The cases about the disability accessibility of the Department of Political Science at Aarhus University and the four polling stations for postal ballots on Funen were still pending at the time of going to press.

In 2017, the Ombudsman concluded a case about the disability accessibility of the primary and lower secondary school Rosengårdskolen in Odense. The monitoring visit, which was carried out in 2016, resulted in a number of recommendations about, among other things, parking spaces for persons with disabilities, means of access, signposting and marking and height adjustable desks in the teaching facilities. It was also recommended that a hard surface for wheelchairs be established at an outdoor playground.

In addition, the Ombudsman noted that Rosengårdskolen was including the comments made by the visiting team about the school's website in its development of a new website. The monitoring team had pointed out that the school's website should include information about the actual disability accessibility of the school, for example about parking spaces and toilet facilities for persons with disabilities. Moreover, the website should be accessible to persons with, for example, a reading and/or hearing impairment.

This could be done by means of a reference to the website www.adgangforalle.dk, from which a screen-reading program can be downloaded.

More information about the Ombudsman's activities in relation to equal treatment of persons with disabilities and the Ombudsman's reports on monitoring visits to investigate disability accessibility can be found at www.ombudsmanden.dk/handicap (in Danish only).

Other activities

The Ombudsman collaborates with the Danish Institute for Human Rights and the Danish Disability Council to facilitate, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities. As part of this collaboration, the Ombudsman held a meeting in 2017 with these institutions.

MONITORING ACTIVITIES FORCED DEPORTATIONS

MONITORING OF FORCED DEPORTATIONS

What: The Ombudsman monitors forced deportations by the police of foreign citizens without legal residence in Denmark.

Why: The monitoring is especially aimed at ensuring that the police carry out deportations with respect for the individual and without unnecessary use of force. Thus, the Ombudsman assesses whether the police act in accordance with applicable law – including EU law and international human rights conventions – and good administrative practice.

How: The monitoring covers the period from the decision on forced deportation until the deportation is completed.

The Ombudsman reviews police reports and a number of concluded deportation cases. In addition, Ombudsman staff participate in a number of deportations.

The Ombudsman's monitoring is particularly focused on the use of force, separation of families, vulnerable groups, for example persons with health problems, prior contact and information, the security assessment prior to the deportation, aborted deportations and the deportation report.

Who: The Monitoring Department carries out the monitoring of forced deportations.

For more information on the Ombudsman's monitoring of forced deportations, please see www.ombudsmanden.dk/udsendelser (in Danish only).

FORCED DEPORTATIONS¹ MONITORED IN 2017²

When	Number of persons comprised by the deportation	Use of force during deportation?	Deportation completed?	
10 ³ deportations in total	29 persons in total	3 deportations	7 completed 3 aborted	
28 February – 1 March	16	Yes	Yes (partly)	
22 March	3	No	No	
10 July	2	No	No	
1 August	1	No	Yes	
22 August	1	Yes	No	
4 and 5 September	1	No	Yes	
26 September	1	No	Yes	
31 October	1	No	Yes	
22 November	3	Yes	Yes	

- 1) Deportation of foreign nationals who do not depart voluntarily can either be carried out through a supervised departure, where the departure from the country is supervised by police, for example when the person boards a plane, or through an escorted departure, where police escort the person out of the country to his or her home country or a third country where s/he is entitled to take up residence. In 2017, all deportations monitored by the Ombudsman were escorted departures.
- 2) In 2017, the destinations of the deportations monitored by the Ombudsman included Armenia, Nigeria, Afghanistan, Nepal, Georgia and Kenya.

	Comments
	<p>Deportations completed without criticism of the police: 8 Still pending at the time of going to press: 2</p>
	<p>Forced deportation by chartered plane of 16 foreign nationals. During the deportation, force was used in the form of manual restraint, helmets, an adult diaper and transport belts with strapped arms, hands and legs. The deportation was monitored by two of the Ombudsman's legal case officers, who had special focus on specific persons when the foreign nationals were picked up and during the flight. The deportation of some of the foreign nationals was aborted when they were denied entry by the authorities at their destination upon arrival. The Ombudsman subsequently asked the National Police a number of questions in connection with the deportation. The case was still pending at the time of going to press.</p>
	<p>Forced deportation by scheduled flight of a 38-year-old woman and her two sons, who were 12 and five years old. Only part of the deportation was monitored by an Ombudsman legal case officer, more specifically from the time when the police picked up the woman until boarding at the airport.</p>
	<p>Forced deportation by scheduled flight of a 29-year-old woman and her two-year-old daughter.</p>
	<p>Forced deportation by scheduled flight of a 19-year-old man. Only part of the deportation was monitored by an Ombudsman legal case officer, more specifically from the time when the police picked up the man until boarding at the airport.</p>
	<p>Forced deportation by scheduled flight of a 20-year-old man. Force was used in the form of a transport belt with strapped hands and manual restraint.</p>
	<p>Forced deportation by scheduled flight of a 68-year-old woman.</p>
	<p>Forced deportation by scheduled flight of a 40-year-old woman. Only part of the deportation was monitored by an Ombudsman legal case officer, more specifically from the time when the police picked up the woman until boarding at the airport.</p>
	<p>Forced deportation by scheduled flight of a 30-year-old man. Only part of the deportation was monitored by an Ombudsman legal case officer, more specifically from the time when the police picked up the man until boarding at the airport.</p>
	<p>Forced deportation by chartered plane of three men of 23, 40 and 47 years, respectively. Only part of the deportation was monitored by an Ombudsman legal case officer, more specifically from the time when the police picked up the men until they boarded a flight in Austria organised by Frontex, the European Border and Coast Guard Agency. Force was used in the form of manual restraint and a transport belt with strapped hands and arms on one of the men and a transport belt with one hand strapped on one of the other two men.</p>

- 3) Since two Ombudsman legal case officers, with a different focus, participated in the deportation on 28 February to 1 March 2017, this deportation has been recorded as two deportations in the Ombudsman's listing.

EXAMPLES OF IMPORTANT ACTIVITIES IN 2017

Specific deportations

In 2017, the Ombudsman assessed in the eight concluded cases about deportations that the deportations were carried out according to Danish and international law and good administrative practice, including with respect for the individual and without unnecessary use of force. The Ombudsman had no comments on the documentation in the cases.

In 2017, the Ombudsman also concluded a case about a forced deportation in 2015 in which the Ombudsman had participated. The Ombudsman concluded, among other things, that the police had not adequately substantiated that the use of restraint on the man, by keeping his hands/arms strapped, after the deportation was aborted, had been necessary for its entire duration. In addition, the Ombudsman criticised the police documentation in the case. (Case No. 2017-16).

Finally, the Ombudsman concluded three cases in 2017 about forced deportations in 2016 in which the Ombudsman had participated, with criticism of the police documentation of the use of force which took place during the deportations.

Discussions

In 2017, the Ombudsman had dialogue meetings with the National Police, the National Immigration Centre and North Zealand Police, the North Zealand Immigration Centre, about the Ombudsman's monitoring of forced deportations carried out by the police. In addition, the Ombudsman held a meeting with the Danish Refugee Council.

International collaboration

In November 2017, the Ombudsman participated in a European conference in Greece about forced deportations. In addition, legal case officers from the Ombudsman's office were registered with the pool of forced-return monitors of Frontex, the European Border and Coast Guard Agency. This was due to a new provision in section 30(6)¹ of the Danish Aliens Act, which gives the Parliamentary Ombudsman the authority to monitor forced returns pursuant to the regulation on the European Border and Coast Guard².

1) Amendment to the Danish Aliens Act by Act No. 235 of 14 March 2017 on amendment of the Danish Aliens Act (Amendment due to the European Border and Coast Guard Regulation etc.)

2) Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No. 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No. 2007/2004 and Council Decision No. 2005/267/EC.

CASE NO. 17/01707

'I can't take it anymore, I'm living in an inferno of pain, fatigue and failing memory', a 56-year-old woman wrote to the municipality when she was offered a rehabilitation programme for the second time. The woman suffered from degenerative joint disease and had also developed depression and anxiety.

The municipality rejected disability pension as an option even though the woman's doctor assessed that she had no working capacity and that a work ability test would aggravate her health issues. The National Social Appeals Board agreed with the municipality: information other than from the doctor had to be taken into account when a citizen's working capacity was to be assessed. Therefore, it was not to be ruled out that a work ability test might help the woman in the right direction.

The Ombudsman did not find that he could help the woman. As Ombudsman, he did not have the qualifications to consider the expert assessments and considerations on which the decision was based.

The Ombudsman is a law graduate and deals predominantly with legal matters. Normally, he cannot consider medical expert assessments or make a thorough investigation of the assessments which authorities have carried out in accordance with the rules.

CASE NOS. 17/02604 AND 17/03132

The Danish Agriculture and Fisheries Agency rejected financial support to a number of projects intended to boost sales of fish. The Agency wrote that the applicants could appeal to the Agency itself within four weeks. The Agency would then send on the appeals to the then Complaints Centre for Food, Agriculture and Fisheries.

The applicants appealed to the Agency, which after almost eight months upheld the refusals. However, the Agency did not forward the appeals to the Complaints Centre as stated.

The Ombudsman sent the cases to the Ministry of Foreign Affairs, which is responsible for fisheries, in order for the Ministry to consider if the appeals had been dealt with correctly.

The jurisdiction of the Ombudsman extends to all parts of the public administration. The subjects of the cases he processes are therefore wide-ranging.

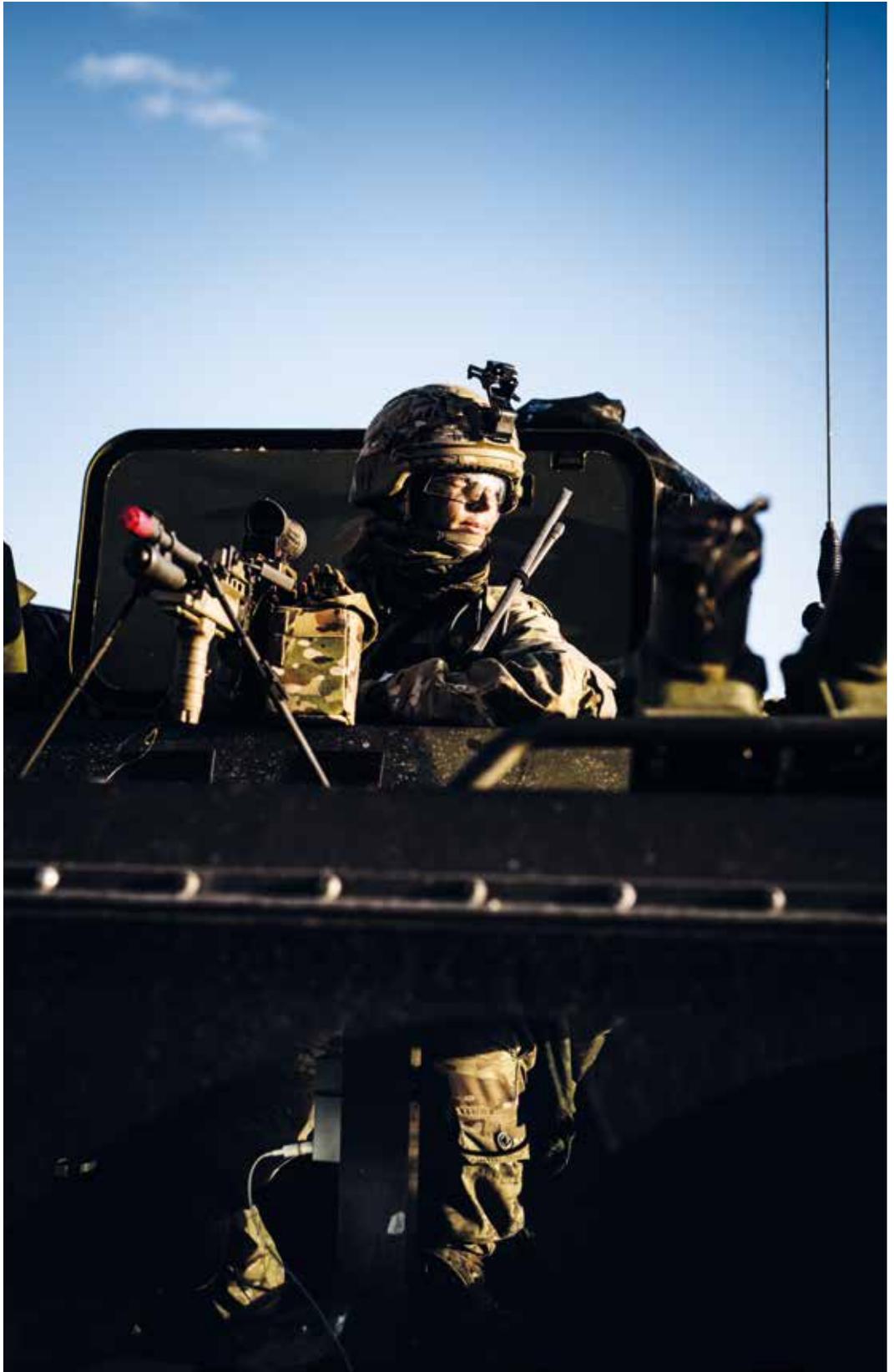
CASE NO. 17/00431

'I strongly disagree that I should not be entitled to get access to information about myself', a woman wrote. The National Social Appeals Board had denied her access to a letter which her mother had written to the Board some years earlier. The letter was about the woman's son, who was given up for adoption in the 1970s.

As grounds for the refusal, the National Social Appeals Board had stated that the letter contained information about the private circumstances of other individuals.

The National Social Appeals Board had not, however, considered if the woman was entitled to access to the information about herself in the letter. Therefore, the Ombudsman sent the case to the National Social Appeals Board. After this, the woman was granted access to parts of her mother's letter.

One of the Ombudsman's essential powers according to the Ombudsman Act is to make statements - where relevant with criticism of or recommendations to authorities. In practice, however, many cases are resolved in a more flexible way.



OVERVIEW OF THE

YEAR

2017



SUMMARIES OF SELECTED STATEMENTS

The Ombudsman regularly publishes statements (in Danish) on certain types of cases on www.ombudsmanden.dk and on www.retsinformation.dk, the official legal information system of the Danish state.

Summaries are provided below (by ministerial area¹) of the statements which have been published on cases concluded in 2017.

A. MINISTRY OF EMPLOYMENT

No statements on cases concluded in 2017 have been published.

B. MINISTRY FOR CHILDREN AND SOCIAL AFFAIRS

No statements on cases concluded in 2017 have been published.

C. MINISTRY OF ENERGY, UTILITIES AND CLIMATE

No statements on cases concluded in 2017 have been published.

D. MINISTRY OF INDUSTRY, BUSINESS AND FINANCIAL AFFAIRS

The following statement on a case concluded in 2017 has been published:

2017-11. Reference to previous critical articles in decision to refuse access was regrettable. Access to name of company could not be denied under section 30 paragraph (2) of Access to Public Administration Files Act

A journalist asked the Danish Business Authority for access to the export licences for surveillance technology granted by the Authority within a specified time period.

1) The summaries have been classified under the ministries which had the remit for the relevant areas at the end of the year.

After consulting the companies which had been granted export licences, the Authority denied the journalist access to various information, stating, with reference to section 30 paragraph (2) of the Access to Public Administration Files Act on exemption of information on business matters or on matters pertaining to operations, that there would be an obvious risk of the companies suffering financial loss if the information was released to the journalist.

The Ministry of Industry, Business and Financial Affairs upheld the decision and in this connection added a supplementary comment that the journalist had previously written critical articles about export of surveillance technology. The journalist then complained to the Ombudsman.

The Ministry informed the Ombudsman that it had not used the journalist's critical articles as grounds for denying him access. The Ministry stated that it had exclusively given weight to the information in question being information on business matters or on matters pertaining to operations which was subject to section 30 paragraph (2) of the Access to Public Administration Files Act.

The Ombudsman took the information from the Ministry into account but criticised the Ministry's wording, which he considered 'very regrettable'.

In addition, the Ombudsman was of the opinion that the authorities could not decline to disclose the name of one of the two companies on the grounds given. For this reason, he recommended that the Ministry reconsider the case.

Finally, the Ombudsman found that the Danish Business Authority should have consulted the journalist as a party to the case over the parts of the statements from the companies which did not contain information on business matters or on matters pertaining to operations. However, as the Ministry had partially remedied the error, the Ombudsman did not find sufficient cause to recommend that the Ministry consider the consequences of its failure to consult the journalist. Nevertheless, in the light of his recommendation that the Ministry reconsider the case, the Ombudsman also recommended that it consider over which parts of the statements the journalist should have been consulted and send him those parts of the statements.

The Ministry subsequently referred the case back to the Danish Business Authority, which disclosed to the journalist the name of the company whose name the authorities had withheld and sent him the parts of the statements from the companies which were not exempt from access.

E. MINISTRY OF FINANCE

The following statement on a case concluded in 2017 has been published:

2017-19. The administration of NemID² gave rise to questions about adequacy of statutory authority etc.

After being contacted by a municipal citizen advisor, the Ombudsman raised a number of questions with the Agency for Digitisation and the Ministry of Finance about the legal basis for NemID.

The Ombudsman asked the Agency and the Ministry about the legislative basis enabling the state to leave tasks in relation to NemID to the privately owned enterprise Nets DanID. In addition, he asked about the legislative basis for Nets DanID having entered into agreements with the municipal Citizen Service Centres that they are to handle the registration and issuing of NemIDs. In that connection, the Ombudsman also asked about the legal framework when, for instance, Citizen Service Centres decline to issue NemIDs to certain citizens.

The Agency for Digitisation stated to the Ombudsman that because of the way in which the use of NemID had evolved and in order to ensure the legal protection of citizens, a clear legislative framework for rights and responsibilities in relation to NemID would be desirable.

The Agency informed the Ombudsman that the Ministry had already begun legislative work. A bill would be introduced in the coming parliamentary year, and the resulting Act was expected to come into force in 2018. The bill would be able to address the questions in relation to NemID pointed out by the Ombudsman.

On that basis, the Ombudsman informed the authorities that he would take no further action on the matter.

2) The digital signature that is used as a single login for public websites, online banking and many other websites and services in Denmark

F. MINISTRY OF DEFENCE

No statements on cases concluded in 2017 have been published.

G. MINISTRY OF JUSTICE

The following statements on cases concluded in 2017 have been published:

2017-4. Decision not to process request for access to documents because it would require a disproportionate amount of resources should have been made earlier

A man complained to the Ombudsman because the Ministry of Justice had made a decision on 23 September 2016 not to process his request of 17 March 2016 for access to documents. The request had originally been made to the National Police, which had forwarded it to the Ministry as the National Police was of the opinion that the request concerned documents which were part of a case concerning legislation.

The grounds given by the Ministry for its decision were that further processing would require a disproportionate amount of resources, cf. section 9(2) paragraph (1) of the Access to Public Administration Files Act. The Ministry explained that prior to its decision, it had already spent more than 25 hours on processing, which included identifying the documents forwarded by the National Police in the Ministry's own records system and going through the documents identified in order to assess whether they were (still) part of a case concerning legislation.

The Ombudsman found no grounds for criticising the Ministry's decision to decline to process the request to conclusion. However, the Ombudsman was of the opinion that the Ministry should have determined much earlier that processing the request to conclusion would require a disproportionate amount of resources. Although a certain amount of processing is necessary to assess the expected amount of resources required to process a request to conclusion, a decision with reference to section 9(2) paragraph (1) of the Access to Public Administration Files Act was in the Ombudsman's opinion to be made relatively soon after receipt of the request.

The Ombudsman agreed with the Ministry that it was regrettable that the Ministry did not consistently inform the man of further delays before the dates by which it had previously informed him that it expected a decision to be made. In addition, the Ombudsman found it regrettable that when the Ministry had informed the man of delays along the way, it had been unable to give him a realistic estimate of when a decision could be expected.

2017-12. Writer's diaries copied, kept and archived by Danish Security and Intelligence Service

A writer had his diaries seized in connection with the investigation by the Danish Security and Intelligence Service (PET) of a case against him back in 1981. The original diaries were returned to the writer when the case against him was dismissed five months later.

In 2009, the writer discovered that PET had kept a copy of his diaries all through the years. The writer asked PET to hand the copy over to him, but PET assessed that the copy was to be kept for posterity as a consequence of an agreement between the Danish National Archives and PET.

The writer complained to the Ombudsman, stating, among other things, that the authorities had breached his copyright by declining to hand the copy of his diaries over to him.

On investigating the matter, the Ombudsman found no grounds for criticising the decisions of PET and the Ministry of Justice. The Ombudsman included Article 8 of the European Convention on Human Rights, among other provisions, for the purpose of assessing whether the writer's privacy had been invaded.

The Ombudsman could not criticise that the Ministry of Justice found no basis for establishing that it was illegitimate for PET to make a copy of the diaries in 1981-82 in connection with its investigation of the case against the writer. In addition, the Ombudsman found no grounds for criticising that the Ministry found no basis for establishing that PET was not entitled to keep a complete copy of the diaries on the operations case file after the case against the writer had been dismissed in 1982.

Finally, the Ombudsman could not criticise that the documents of the operational case file concerning the writer – including the copy of the diaries in their entirety – had since 2010 been kept for posterity under archiving legislation etc. The Ombudsman agreed with the authorities that despite the writer's copyright, PET had the required legal authority to gather and copy his diaries, keep the copy and archive it for historical purposes.

2017-14. Criticism of processing times following reorganisation and of the time it took to reduce them

As part of a reorganisation within the police force, the processing of cases concerning driving licences, automatic speed checks, arms and miscellaneous licences and permits was moved from the individual police districts to two administrative centres, one in eastern Denmark and one in western Denmark. The Ombudsman opened investigations of the processing times of the two administrative centres on his own initiative and monitored developments in their processing times for a period of time.

On that basis, the Ombudsman noted that there were several, partly linked causes of the backlog of cases which had built up at the administrative centres – and the resulting increase in processing times.

Among other things, the Ombudsman noted that it appeared that allowance had not been made for the pressure on resources which would be associated with the establishment of the administrative centres, for instance as a result of the need to train new staff and for the establishment of new and/or changed administrative procedures. In addition, expectations of when rationalisation gains would be achieved as a result of the reorganisation were unrealistic. Thus, efficiency gains of 15 per cent already in the first year had been anticipated in connection with the establishment of the two administrative centres.

The Ombudsman stated that the errors of judgement made in connection with the establishment of the two administrative centres had resulted in their processing times being considerably longer than acceptable in a large number of cases for a long period of time. That had had consequences for a significant number of citizens, which the Ombudsman found regrettable.

In the Ombudsman's opinion it may in certain circumstances be considered acceptable if it takes a certain, limited period of time for processing times to reach normal, acceptable levels in connection with major reorganisations and restructurings. In the specific situation, however, where it was 27 months

before operations were normal at both administrative centres, the amount of time it had taken was clearly not acceptable.

2017-15. Guidelines for employees of the police force on acceptance of gifts of gratitude, invitations to externally financed seminars etc. required tightening

Following media coverage of a case of a police commissioner accepting free tickets etc., the National Police revised its guidelines for employees of the Danish police force on acceptance of gifts and hospitality.

The Ombudsman reviewed the revised guidelines and subsequently asked the National Police to consider whether the guidelines complied with the general principles of administrative law on acceptance of gifts and other benefits.

In its reply to the Ombudsman, the National Police stated that the guidelines could leave the impression that employees of the police force were permitted to accept gifts to a greater extent than what follows from the guidance notes on good behaviour in the public sector and a supplementary memorandum on acceptance of gifts, invitations and other benefits. In addition, the National Police informed the Ombudsman that the guidelines would be made more specific in the sense that they would make it clear, among other things, that the overriding principle was that employees of the police force were neither permitted to accept gifts of gratitude from citizens nor to attend externally financed seminars etc.

The Ombudsman agreed and on that basis took no further action on the matter.

2017-16. Not adequately substantiated that use of restraint in connection with attempted deportation was necessary for its entire duration

In October 2015, an Ombudsman legal case officer monitored an attempted deportation by the National Police of a man, his wife and their young child. During boarding, the deportation was aborted at the request of airline staff as the man and his wife offered resistance.

The Ombudsman concluded that the deportation report of the police did not meet the requirements on documentation. The Ombudsman found the documentation to be inadequate because the use of restraint by the police officers

on the man and the woman during boarding was not adequately described in the deportation report. In addition, the course of events after the deportation had been aborted was inadequately documented as the deportation report contained no information about the factors and assessments on which the police officers had based their decision to keep the man's hands/arms strapped in a restraint belt after the deportation was aborted at about 6 p.m. and until he was returned to the Ellebæk Institution for Detained Asylum Seekers at 9.30 p.m.

Finally, the Ombudsman concluded that the police had not adequately substantiated that the use of restraint on the man after the deportation was aborted had been necessary for its entire duration.

2017-18. Significant documentation errors in connection with protracted placement in security cell

Following a monitoring visit to a prison, the Ombudsman initiated an investigation of a case of the prison having kept an inmate in a security cell for more than four days in order to prevent him from harming himself. The inmate had been forcibly restrained to the bed by means of a waist belt, wrist straps, ankle straps and gloves. The prison had reported the case to the Department of Prisons and Probation, which had informed the prison that it had taken note of the report.

Under the Corrections Act, an inmate may be placed in a security cell if, for instance, it is necessary in order to prevent suicide or other self-harm. If necessary, the inmate may also be forcibly restrained to a bed by means of a waist belt, wrist straps, ankle straps and gloves. A guard must be permanently present to supervise an inmate who has been forcibly immobilised, and the guard must note his or her observations at least every fifteen minutes in a special supervision form. If in exceptional cases an inmate remains immobilised for more than 24 hours, the case must immediately be reported to the Department of Prisons and Probation.

During the Ombudsman's investigation of the case, the prison provided significant information which had not previously been available about the inmate's behaviour while he was immobilised. Both the prison and the Department expressed their regrets that the documentation in the case had been inadequate, and the Department acknowledged that it should have asked for supplementary information on receiving the report from the prison.

The Ombudsman agreed that the documentation had been inadequate and that the Department of Prisons and Probation should not have informed the prison on the basis of the information then available that it had taken note of the report.

The Ombudsman was unable to carry out an in-depth investigation of the case but had no grounds for assuming that the inmate had been kept in the security cell for longer than necessary.

2017-33. Significant improvements in Greenland police detention facilities

A visiting team with representatives from the Ombudsman's office and a human rights expert from the Danish Institute for Human Rights made a monitoring visit to the police detention facility at Kulusuk in Greenland in August 2013. The facility is not permanently staffed by police.

The visit revealed, among other things, that persons placed in the facility had no possibility of summoning help from the municipal bailiff ('kommunefoged'), that they were not offered food or drink and that they could not use the toilet unless the municipal bailiff was present. In addition, all persons placed in the facility were stripped to their briefs and searched regardless of whether there was a specific reason for this. Further, the municipal bailiff had the only key to the facility.

Following the visit, the Ombudsman raised some questions with the Ministry of Justice, the National Police and the Chief Constable of Greenland. As a result, the authorities improved the conditions in a number of respects, and new rules on the duties, training and equipment of municipal bailiffs were issued.

One of the improvements was that municipal bailiffs were now required to keep persons placed in detention facilities under continuous supervision. A municipal bailiff was only permitted to leave a person placed in a detention facility in the event of another incident of extreme urgency, such as a shooting incident, arising elsewhere where attending to the incident clearly outweighed the risk and disadvantages of leaving the person alone in the facility.

However, the Ombudsman was still concerned about the safety of persons placed in the five detention facilities in Greenland which were not permanently staffed by police – as persons placed in the facilities would in most cases be unsupervised and unable to summon help in situations where the municipal bailiff temporarily left the facility.

For this reason, the Ombudsman recommended that the authorities consider a number of questions in relation to the safety of persons placed in the five facilities.

Based on the information which the Ombudsman had received about the conditions at the time for persons placed in the detention facility at Kulusuk, he agreed with the authorities that the general conditions for these persons did not contravene the prohibition of torture and other inhuman or degrading treatment under Article 3 of the European Convention on Human Rights.

2017-35. Refusal of access to information about possible collaboration between Danish Security and Intelligence Service and Armed Forces

A journalist asked the Ministry of Justice for access to information about a possible collaboration between the Danish Security and Intelligence Service (PET) and the Armed Forces.

The Ministry partially refused the journalist's request with reference to, among other provisions, section 23(1) paragraph (1) and section 24(1) paragraph (1) of the Access to Public Administration Files Act on internal documents and ministerial advice and assistance documents, respectively.

In addition, the Ministry stated that it could not generally give information about which specific tasks had occasioned PET to request assistance from the Armed Forces, or details of how such assistance was arranged, as such information could reveal PET's working methods. The Ministry was of the opinion that such information would be exempt from access under section 31 of the Access to Public Administration Files Act, under which the right of access may be restricted to the extent this is of significant importance to the security of the state or the defence of the realm. Further, the Ministry stated that it could neither deny nor confirm that it had withheld information from access under this provision in the specific case as this would compromise the protection of knowledge of PET's working methods.

The Ombudsman found no grounds for criticising the result of the Ministry's decision, including its applying section 31 of the Access to Public Administration Files Act and its decision to neither deny nor confirm that it held any information within the scope of the journalist's request.

H. MINISTRY OF ECCLESIASTICAL AFFAIRS

No statements on cases concluded in 2017 have been published.

I. MINISTRY OF CULTURE

The following statement on a case concluded in 2017 has been published:

2017-2. Invitations etc. to public employees were to be considered under the rules on acceptance of gifts - a legitimate purpose was a prerequisite for attendance

Following a previous Ombudsman case (Case No. 2015-4) concerning the circumstances under which employees were permitted to accept free tickets for events, the Ombudsman reviewed the gift policy of the Ministry of Culture in relation to acceptance of invitations, free tickets etc.

In the Ombudsman's opinion invitations, free tickets etc. received by public employees in connection with their work were to be considered individually and in accordance with the general principles of administrative law on acceptance of gifts and other benefits. This meant that invitations, free tickets etc. could not generally be regarded as given to the authority as such. If attendance of events served a legitimate purpose, such as official supervision of adherence to a contract, employees were permitted to accept such invitations etc.

During its dialogue with the Ombudsman, the Ministry of Culture adjusted its gift policy. The Ministry also explained the special circumstances characterising its area of work. On that basis, the Ombudsman found no cause to take further action in relation to employees also being able to attend an event both because of the necessity of keeping up to date in their field of work *and* for representative reasons (the latter due to expectations by external parties that they attended).

With regard to the question whether employees were permitted to bring a private companion, the Ombudsman agreed with the Ministry of Culture that this was not possible if an employee attended an event solely for the purpose of carrying out specific work activities or because of the necessity of keeping up to date. In the light of the circumstances, the Ombudsman found no cause to take further action in relation to employees in certain cases being able to bring a private companion to events which they attended also for representative reasons.

J. MINISTRY OF ENVIRONMENT AND FOOD

The following statements on cases concluded in 2017 have been published:

2017-20. Partial access to environmental information in minister's internal speech notes

A journalist complained to the Ombudsman because the Ministry of Environment and Food had denied her access to the Minister's speech notes from a citizens' meeting about coast protection. The decision had been made with reference to the Environmental Information Act read with the provision on internal documents in section 7 of the 1985 Access to Public Administration Files Act.

The Ombudsman agreed with the Ministry that the Minister's speech notes were an internal work document. However, the Ombudsman was of the opinion that depending on the circumstances, some of the items in the speech notes could be subject to extraction under section 11(1) of the previous Access to Public Administration Files Act because, as far as he could tell, the information appeared to describe events which had already taken place, initiatives that had been implemented by the Government and measures which the Government had at that time decided to implement.

The Ombudsman stated that the decisive factor when assessing whether speech notes contain information which is subject to extraction is not whether the minister actually chose to use the information during his or her speech, but the nature of the individual items of information and their context.

In addition, the Ombudsman pointed out that to the extent some of the contents of the notes were proposals or ideas for political or strategic decisions which the Minister might make (for instance at the time of his speech), they would in his opinion not be subject to extraction.

The Ombudsman could not criticise the Ministry's assessment and balancing of interests under section 2(3) of the Environmental Information Act, according to which the authority is required to conduct a specific balancing of the interests of the public which would be met if the environmental information was released as against the interests which would be met if access to the information was denied. The right to restrict access to the information is to be interpreted restrictively.

The Ombudsman recommended that the Ministry reopen the case in order to consider – in the light of what he had stated – which of the information in the internal document was subject to extraction.

The Ministry of Environment and Food subsequently reopened the case and granted the journalist access to various parts of the document.

2017-21. Processing time of appeals body in case about access to environmental information much too long

A journalist complained to the Ombudsman because he still had not received a decision a year after lodging an appeal with the Environmental Board of Appeal (now the Danish Environment and Food Board of Appeal) against a refusal from the Danish Natural Environment Portal of access to an extract from a database with environmental information.

Neither the Environmental Information Act nor the 1985 Access to Public Administration Files Act sets out time limits for decisions by the appeals body. The Ombudsman stated that for this reason, a specific assessment must instead be made of the processing time of the Danish Environment and Food Board of Appeal. However, the Ombudsman was of the opinion that it must be taken into account in this assessment that the Environmental Information Act stipulates an absolute time limit of two months for the processing of requests for access to information, and that the explanatory notes to the new Access to Public Administration Files Act – and the basic considerations behind the very principle of free access to public records – imply that cases concerning access to information, including appeals against decisions, must be processed with a certain speediness.

The Ombudsman stated that in spite of the case involving questions of fundamental importance, and in spite of a number of other circumstances mentioned by the Danish Environment and Food Board of Appeal, a total processing time of more than 14 months, at the time of his statement, for an appeal against a decision on access to information was much too long and therefore a matter for criticism.

The Ombudsman recommended that the Board expedite the conclusion of the case to the greatest extent possible.

In addition, the Ombudsman found it regrettable that the Board had not on its own initiative acknowledged receipt of the journalist's appeal and kept him informed of the progression of the case.

2017-29. Environmental information was not 'information on emissions into the environment'

A journalist asked the Ministry of Environment and Food for access to all its documents concerning the Food and Agriculture Package which had been sent or otherwise submitted to the Government's Committee on Economic Affairs or the Government's Coordinating Committee.

The Ministry considered the journalist's request under the provisions of the Environmental Information Act and the 1985 Access to Public Administration Files Act. The Ministry's decision included a partial refusal – with reference to section 10 paragraph (1) of the 1985 Access to Public Administration Files Act on documents prepared for meetings of ministers, among other types of documents – of access to two documents. The documents concerned, among other things, the expected effects of various aspects of the regulation of the release of nitrogen proposed in the Food and Agriculture Package.

A central question in the case was whether the information contained in the two documents was to be regarded as 'information on emissions into the environment', as section 2(5) of the Environmental Information Act states that, among other provisions, the provision in section 10 paragraph (1) of the 1985 Access to Public Administration Files Act is not applicable to 'information on emissions into the environment' to the extent refusal of access would be contrary to the provisions in Article 4(2) of the Environmental Information Directive.

Two judgements by the European Court of Justice stated that the concept of 'emissions into the environment' comprises not only actual emissions of a substance or product into the environment but also foreseeable emissions of the substance or product under normal or realistic conditions of use. However, the concept does not include emissions which are purely hypothetical.

In the Ombudsman's opinion it could be difficult to liken the situation in the two cases in which the European Court of Justice had pronounced judgements to the situation in the present case.

On that basis – and in the absence of further guidelines, including from the European Court of Justice – the Ombudsman found that he could not repudiate the Ministry’s assessment that – unlike in the two cases in which the Court had pronounced judgements – the two documents in the present case did not contain information on actual or foreseeable emissions, but that the information on emissions which could result from the Food and Agriculture Package was to be regarded as relating to ‘hypothetical emissions’ in the sense in which the term was used in the judgements by the Court.

In this connection, the Ombudsman also gave weight to the fact that following the agreement on the Food and Agriculture Package, a number of discussions took place – also at the time when the case about access to the documents was being processed – with the European Commission which according to the available information resulted in changes to the overall package.

Based on the available information, there was thus great uncertainty about the final result of the Food and Agriculture Package and therefore also about the emissions which could result from the Package.

K. MINISTRY OF TAXATION

The following statement on a case concluded in 2017 has been published:

2017-34. Processing times of Tax Appeals Agency of just over five months were too long for appeals against decisions on access of a party to a case to documents of the case

A man lodged an appeal with the Tax Appeals Agency because in his opinion the Danish Customs and Tax Administration (SKAT) had not given him access to all documents of his tax case. In a letter to the man, the Agency informed him that it would take two years to process his appeal. On becoming aware of the letter, the Ombudsman opened a general investigation of the processing times of the Tax Appeals Agency for appeals lodged by citizens against decisions on access to documents of their own tax cases.

In connection with the investigation, the Tax Appeals Agency informed the Ombudsman that its average processing time for such appeals concluded in 2016 was just over five months.

The Ombudsman carried out an assessment of the Agency's average actual processing time in 2016. As there is no legislation on the processing times of the Tax Appeals Agency for appeals against decisions on access of a party to a case to documents of the case, the Ombudsman made a specific assessment of whether the Agency's average processing time for such appeals was acceptable.

Factors which entered into the Ombudsman's assessment included that the Tax Administration Act sets out a number of time limits, including for tax assessment and appeals, to be observed by both tax authorities and taxpayers, and that in a number of instances, a processing time which is considerably shorter than five months is necessary in order that these time limits can be observed. In addition, the Ombudsman was of the opinion that the Agency's average processing time was not in line with the time limit set out by the Public Administration Act for decisions at first instance on access of a party to a case to documents of the case.

In the Ombudsman's opinion an average of just over five months therefore exceeded what was an acceptable processing time for appeals against decisions on access of a party to a case to documents of the case.

After being contacted by the Ombudsman on the matter, the Tax Appeals Agency transferred these appeals to a newly established division for processing and gave priority to them in order that they would be processed as quickly as possible.

L. PRIME MINISTER'S OFFICE

The following statement on a case concluded in 2017 has been published:

2017-26. Requirement to extract and grant access to certain information is also applicable to documents with speech notes

A journalist complained to the Ombudsman because he had received a partial refusal from the Prime Minister's Office of access to documents about the American whistle-blower Edward Snowden.

In the Ombudsman's opinion access to the documents to which the journalist's complaint related could be denied under section 24(1) paragraph (2) of the Access to Public Administration Files Act on ministerial advice and assistance.

In addition, the Ombudsman agreed with the Prime Minister's Office that some of the documents contained factual information which was in principle to be released to the journalist under section 28(1), first sentence, of the Access to Public Administration Files Act on the obligation to extract and grant access to certain information.

However, the Ombudsman did not concur with the view of the Prime Minister's Office that the assessment whether information was subject to extraction was to be made differently for those parts of the documents which contained speech notes than for the parts of the documents which contained background information.

For this reason, the Ombudsman recommended that the Prime Minister's Office go through the documents which contained speech notes again in order to consider whether they contained more information which was subject to section 28(1), first sentence, than the Prime Minister's Office had at first assumed.

In addition, the Ombudsman made some further comments on the extraction of information under section 28(1), first sentence, by the Prime Minister's Office and some comments on its use of section 28(2) paragraph (2), under which there is no requirement to extract information which is also included in other documents released in response to the request for access.

The Ombudsman could not criticise that the Prime Minister's Office had denied access to various information – including information which was in principle subject to extraction – with reference to, among other provisions, section 30 paragraph (1) of the Access to Public Administration Files Act (on the private circumstances of individuals) and section 32(1) and (2) of the Act (on the realm's foreign policy interests etc.).

M. MINISTRY OF HEALTH

The following statements on cases concluded in 2017 have been published:

2017-7. No authority to introduce requirement of higher minimum marks to be achieved by foreign dentists on website

The Danish Patient Safety Authority and the Ministry of Health refused an application from a foreign dentist for a dentist's licence and a permit to work

independently as a dentist in Denmark on the grounds of inadequate Danish language proficiency.

According to the relevant executive order, the dentist had to 'pass' a test of his language/communicative skills (a Danish language test).

However, the Danish Patient Safety Authority and the Ministry required the dentist to pass the language test and achieve at least the marks 7 and 10 (equivalent to C and B, respectively, on the ECTS scale). That was stated on the Authority's website.

The dentist had passed a Danish language test but had not achieved at least 7 and 10.

He complained to the Ombudsman, who stated that the word 'pass' in the executive order was to be understood as meaning 'achieve a minimum mark of 02' (equivalent to E on the ECTS scale), which is the pass mark on the marking scale used by educational establishments in Denmark. Therefore, the executive order did not authorise an interpretation that a higher minimum mark than 02 was required. The case also occasioned the Ombudsman to comment that an authority cannot establish new requirements (or rights) for citizens on its website.

The Danish Patient Safety Authority has now amended the executive order so that the specific language test to be taken and the minimum marks to be achieved are directly stated.

2017-8. Case concerning access to document from 1997 should have been investigated in more detail before access was denied

A man complained to the Ombudsman because the Ministry of Health had denied him access to a statement of 4 February 1997 from the Danish Health Authority to the Ministry of Health. In its decision, the Ministry referred to the provision of the Access to Public Administration Files Act on ministerial advice and assistance. The statement of the Health Authority had been made as a contribution to the Ministry's answer to a parliamentary question on the state of the law in relation to the circumcision of boys.

The man pointed out to the Ministry of Health that the statement of the Danish Health Authority had been made available to third parties as it was enclosed with a letter from the Ministry sent in 1999 to, among others, the

Norwegian health authorities. The Ministry replied that it was unable to verify whether the statement of 4 February 1997 of the Health Authority was identical with the statement enclosed with the letter from 1999 as the enclosure had not been registered to the case to which the letter had been registered. In the letter from 1999, the enclosure was referred to as ‘a statement of 4 February 1997 from the Danish Health Authority’.

The Ombudsman was of the opinion that in pursuance of the ex officio investigation principle, the Ministry of Health should have investigated the case in more detail with a view to verifying whether the documents were identical. This could have been done, for instance, by contacting the Norwegian authorities to which the letter with the enclosed statement was sent in 1999. In the Ombudsman’s opinion a requirement for the Ministry to contact, among others, the Norwegian authorities could also follow from the Ministry being required to make reasonable efforts to reconstruct the enclosure, which had erroneously not been registered to the case.

The Ombudsman therefore recommended that the Ministry of Health reopen the case in order to investigate it in more detail and make a new decision on the right of access to the statement of the Danish Health Authority. In addition, the Ombudsman recommended that the Ministry reconsider whether access could be granted according to the principle of extended openness, also because the statement was 20 years old and in the light of the specific contents of the statement compared with the answer to the parliamentary question.

2017-24. Access to decisions concerning a doctor who had been criticised by the Disciplinary Board of the Danish Healthcare System could not be denied

A woman complained to the Ombudsman because the Disciplinary Board of the Danish Healthcare System had denied her access to some decisions. The decisions had previously been publicly available on the website of the Danish Patient Safety Authority under the rules on the publication of decisions in complaint cases about health services. The patients’ identities had been anonymised in the published decisions, but the doctor’s identity had not.

In the decisions, the Disciplinary Board had expressed criticism of the doctor in connection with his activities as a doctor of psychiatry in private practice.

The Board had denied the woman access to the decisions with reference to section 30 paragraph (1) of the Access to Public Administration Files Act, under

which information about the private circumstances of individuals, including their finances, is exempt from access – as the Board assessed that protecting the doctor as a medical specialist in private practice was a type of consideration which was covered by the provision.

Following the woman's complaint, the Ombudsman asked the Board for a statement. In his letter to the Board, the Ombudsman set out the law in relation to access to information of the nature concerned. He pointed out, among other things, that it is an established presumption in legal literature and practice that information about disciplinary matters, including disciplinary measures, is not generally confidential unless the information concerns aspects of the employee's private life or unless the employee's neglect of his or her duties is also punishable. This applies to information relating to public and private sector employees alike.

In the light of what the Ombudsman had stated in his letter, the Board reopened the case and granted the woman full access to the decisions.

On that basis, the Ombudsman concluded the case without carrying out a full investigation.

N. MINISTRY OF TRANSPORT, BUILDING AND HOUSING

The following statements on cases concluded in 2017 have been published:

2017-5. No authority under Act on Private Communal Roads for decisions made on sharing of costs of repairs to road

A municipality had made decisions on the sharing of the costs of repairs to a private communal road. The municipality – which was the owner of a public path that ran along one side of the private communal road – had exempted itself from contributing to the costs. In addition, the municipality had decided that a private property owner was to pay a reduced contribution because his property bordered on the public path in addition to the private communal road. The Danish Road Directorate agreed with the municipality's decisions.

One of the owners of properties bordering on the private communal road who were to pay a full contribution complained to the Ombudsman about the decisions on the sharing of the costs.

The Ombudsman stated that there was no authority under the Act on Private Communal Roads to exempt the municipality – as the owner of the public path running along the private communal road – from contributing to the costs. Under the then current section 50(1) of the Act on Private Communal Roads, owners of ‘public roads’ were not to contribute to the costs, but there was no basis for applying this rule to public paths.

The Ombudsman also stated that there was no authority under the Act for a decision that the private property owner whose property bordered on the public path in addition to the private communal road was to pay a reduced contribution. Under the then current section 50(6) of the Act, appropriately reduced contributions were to be calculated in respect of properties which also bordered on a ‘public road’. However, there was also no basis for applying this rule to public paths.

The Ombudsman recommended that the Danish Road Directorate make a new decision on the sharing of costs in the specific case. Further, the Ombudsman recommended that in future, the Directorate interpret the legislation on roads in line with the Ombudsman’s conception of the law and that in this connection, the Directorate consider whether there might be cause to reopen some of the recent cases which had been decided on the basis of its existing interpretation.

2017-22. Compensation for delayed flight

A man complained to the Ombudsman because the Danish Transport and Construction Agency (now the Danish Transport, Construction and Housing Authority) had made a decision that he was not entitled to compensation for a delayed flight from New York to Copenhagen. The delay had been caused by illness of a crew member. The Agency had referred to the provision in Article 5(3) of EU Regulation No. 261/2004, which establishes common rules on, among other things, compensation to airline passengers in the event of cancellations or long delays of flights.

In accordance with the Regulation and case law of the European Court of Justice, airline passengers are entitled to compensation if a flight is cancelled or if they arrive at their final destination three hours or more after the time of arrival originally planned by the air carrier.

There is no right to compensation in cases where a cancellation or delay has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken (Article 5(3)). The Regulation does not define what is to be understood by 'extraordinary circumstances'. However, the Regulation states that such circumstances may, in particular, occur in cases of political instability, meteorological conditions which are incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.

The Transport and Construction Agency was of the opinion that the delay had been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

In the Ombudsman's opinion illness of one cabin crew member in a case such as the present could not be regarded as an 'extraordinary circumstance' within the meaning of Article 5(3). Even for that reason alone, the Ombudsman did not concur with the Agency's decision that the man was not entitled to compensation for the delay.

O. MINISTRY OF HIGHER EDUCATION AND SCIENCE

The following statements on cases concluded in 2017 have been published:

2017-3. Access to information in research evaluation report could not on the available basis be denied under section 33 paragraph (5) of Access to Public Administration Files Act

A journalist complained to the Ombudsman because the Technical University of Denmark (DTU) and the Danish Agency for Institutions and Educational Grants (formerly the Danish Agency for Higher Education) had denied him access with reference to section 33 paragraph (5) of the Access to Public Administration Files Act to information in a research evaluation report.

The evaluation had been carried out by five external researchers, and the authorities stated to the Ombudsman that granting access to the specific evaluation report would involve an obvious risk that the DTU would not in future be able to ensure that it could obtain reliable, critical expert evaluations of research carried out at the University. The authorities were also of the opinion that there was a need to protect the researchers and research groups whose

work was evaluated in the report as their professional reputation could otherwise be affected. Finally, the authorities stated that it was necessary to protect the researchers who had carried out the evaluation.

The Ombudsman stated that the provision in section 33 paragraph (5) of the Access to Public Administration Files Act is intended to have a narrow scope of application and is therefore only applicable if non-disclosure is to be regarded as clearly required and there is an obvious risk that the interests worthy of protection would otherwise be significantly damaged.

The Ombudsman was of the opinion that in an assessment whether access to information could be denied under section 33 paragraph (5), the need to ensure that the research carried out at a university is of sufficient quality could be deemed a legitimate interest to protect. At the same time, however, the Ombudsman was of the opinion that the argument put forward by the authorities that the DTU would not in future be able to ensure that it could obtain reliable, critical expert evaluations of research carried out at the University was too general and undocumented: their argument was not substantiated by, for instance, statements from the researchers who had carried out the evaluation or by specific information about what is common practice with regard to confidentiality in relation to evaluations of research.

The Ombudsman therefore recommended that the Danish Agency for Institutions and Educational Grants reopen the case in order to reconsider the request for access to the report.

2017-28. Environmental information was ‘information on emissions into the environment’

A journalist asked a university for access to information about the identities of six farmers in whose soils elevated concentrations of zinc and copper had been found according to a report prepared by the university. He also asked for access to information about the identities of two piglet producers whose slurry had been found to contain zinc and copper according to the report.

The university denied the journalist access, and the Danish Agency for Higher Education (now the Danish Agency for Institutions and Educational Grants) made a statement in its capacity as regulatory authority and in essence concurred with the university’s decision. The authorities considered the case in accordance with the provisions of the Environmental Information Act and

the 1985 Access to Public Administration Files Act. Reference was made to, among other provisions, section 13(1) paragraphs (5) and (6) of the 1985 Access to Public Administration Files Act.

In the Ombudsman's opinion access to the information concerned could not be denied with reference to the provision in section 13(1) paragraph (5) of the 1985 Access to Public Administration Files Act.

A central question in the case was thus whether the information was to be regarded as 'information on emissions into the environment', as section 2(5) of the Environmental Information Act states that, among other provisions, the provision in section 13(1) paragraph (6) of the 1985 Access to Public Administration Files Act is not applicable to 'information on emissions into the environment' to the extent refusal of access would be contrary to the provisions in Article 4(2) of the Environmental Information Directive.

Two judgements by the European Court of Justice stated that the concept of 'emissions into the environment' comprises not only actual emissions of a substance or product into the environment but also foreseeable emissions of the substance or product under normal or realistic conditions of use. However, the concept does not include emissions which are purely hypothetical.

In addition, under the two judgements, the public must have access not only to information on emissions as such – i.e. information concerning the nature, composition, quantity, date and place of those emissions – but also to information concerning the medium to long-term consequences of those emissions on the environment, including information relating to residues in the environment.

In the Ombudsman's opinion information about the location of the sites where zinc and copper had been found in the soil and the sites where the slurry had been found to contain zinc and copper was thus 'information on emissions into the environment'.

On that basis, the Ombudsman recommended that the Danish Agency for Institutions and Educational Grants reopen the case and – in the light of what he had stated – make a new decision.

P. MINISTRY OF FOREIGN AFFAIRS

The following statement on a case concluded in 2017 has been published:

2017-6. Refusal of access to letter of formal notice of infringement proceedings from European Commission

A journalist had asked the Ministry of Foreign Affairs for access to a letter of formal notice of infringement proceedings from the European Commission. The letter of formal notice concerned Denmark's implementation with regard to the limit values for NO₂ of an EU directive on ambient air quality and cleaner air for Europe.

The Ministry considered the case under the provisions of the Environmental Information Act and denied the journalist access with reference to section 13(1) paragraph (2) of the 1985 Access to Public Administration Files Act, cf. section 2(3) of the Environmental Information Act. In addition, the Ministry referred to provisions of two EU regulations and to case law of the European Court of Justice.

The Ombudsman found no grounds for criticising that the Ministry of Foreign Affairs had not consulted the Commission regarding the request for access before making its decision. In this connection, the Ombudsman stated that it followed from a judgement by the European Court of Justice that in relation to requests to EU institutions for access to documents in pending treaty infringement proceedings, there is a general presumption that there are such considerations that access to the documents can be denied, even if they contain environmental information. The Ombudsman also pointed to a practice of the Commission to which the Ministry of Foreign Affairs had referred.

In addition, the Ombudsman found no grounds to criticise the Ministry's decision to deny access. Thus, the Ombudsman had no basis for criticising the result of the Ministry's assessment and balancing of the interests involved. Again, the Ombudsman gave weight to the general presumption in relation to requests to EU institutions for access to documents in pending treaty infringement proceedings – including documents which contain environmental information – that there are such considerations that access to the documents can be denied.

Q. MINISTRY OF IMMIGRATION AND INTEGRATION

The following statements on cases concluded in 2017 have been published:

2017-10. Illegal instruction to accommodate all married or cohabiting 15- to 17-year-old asylum seekers separately from their partner

On 10 February 2016, the then Ministry of Immigration, Integration and Housing issued a press release stating that in future, no asylum seekers under 18 years of age would be permitted to be accommodated in Danish asylum centres together with a spouse or cohabitee. On the same day, the press release was sent to the Danish Immigration Service as an instruction.

The Ombudsman opened a general case about the legality of the instruction. The Ombudsman concluded that it was a requirement under, among other things, general principles of administrative law and international conventions that a specific assessment was to be made in each case of the issue of separate accommodation. Although it was to be assumed on the basis of the written information available in the case that the Ministry's overall intention had not been to order the Immigration Service to adopt an illegal practice, the instruction – which was categorical and allowed no exceptions – was therefore illegal by virtue of its content.

The Ombudsman found the Ministry's course of action very difficult to understand and very risky in the light of the fundamental requirement for the Ministry to ensure lawful administration in the area. In conclusion, the Ombudsman found that the Ministry's course of action was a matter for extreme criticism.

While the Ombudsman was investigating the case, he was informed that in November 2016, there were no longer any couples who were accommodated separately from each other against their will. In addition, the Ministry drew up a memorandum in December 2016 on the interpretation of Denmark's international obligations in cases involving the accommodation by the Immigration Service of married or cohabiting underage asylum seekers in asylum centres. Overall, the Ombudsman agreed with the description in the memorandum of Denmark's international obligations, and on that basis, he took no further action on the matter.

2017-25. No requirement to give access to information which had previously been given verbally to another medium as part of an exclusive story

A journalist complained to the Ombudsman because the then Ministry of Immigration, Integration and Housing had declined to give him some information which had previously been given verbally to another medium. In the journalist's opinion, he had been subjected to illegitimate differential treatment.

The journalist had asked to be informed whether the Minister supported a parliamentary motion to tighten the rules on deportation of criminal foreign nationals and had been given the reply that the Minister would state her position during the parliamentary debate, which was due to take place two days later.

On the day of the parliamentary debate, the journalist learnt that the Minister had given an interview to the other medium the day before and had stated during the interview that the Liberal Party would vote against the motion. It later turned out that the Ministry's dialogue with the other medium had been initiated the day before the journalist who complained to the Ombudsman contacted the Ministry about the same question. It also emerged that the Ministry had decided to present the Government's position on the motion as an exclusive story in the other medium.

The Ombudsman noted that there are no written sources of law governing the question whether an authority is required to give access to information which it has previously communicated verbally to another medium as part of an exclusive story. For this reason, the issue was to be considered in accordance with the general principles of administrative law on equality and legitimacy.

On the one hand, it could be argued that the acceptance of differential treatment which the very recognition of the concept of exclusive stories reflects has the necessary consequence that the further differential treatment constituted by the authority declining to give the same information to another medium will also be legal. On the other hand, it could be regarded as unreasonable if the present situation were to be different from a situation in which the information had been provided in document form. In the latter situation, the Ministry would as a general rule have been required to give access to the documents under the Access to Public Administration Files Act.

In the Ombudsman's opinion both lines of reasoning were legally tenable, and on that basis, he found no grounds for criticising the Ministry's refusal.

2017-30. Danish Immigration Service gave inadequate guidance in case about residence permit of indefinite duration

A man telephoned the Danish Immigration Service and enquired whether his cohabitee receiving cash benefit could have an impact on his pending application for a residence permit of indefinite duration. The reason for his enquiry was that he was aware that in order for him to be granted a residence permit of indefinite duration, it was a requirement that he did not receive any public welfare assistance himself.

The Immigration Service replied that his cohabitee receiving cash benefit would have no impact on his possibility of getting a residence permit of indefinite duration.

Subsequently, however, as a result of his cohabitee receiving cash benefit, the man himself was automatically paid supplementary cash benefit for a month where his own income had been below cash benefit level. This was a consequence of the mutual obligation of support which cohabiting couples one (or both) of whom received cash benefit had at the time under the Act on an Active Social Policy.

The Immigration Service subsequently refused the man's application for a residence permit of indefinite duration. The man appealed the refusal to the Immigration Appeals Board, which upheld the refusal.

The Ombudsman stated, among other things, that the guidance given by the Immigration Service did not meet the requirements of section 7(1) of the Public Administration Act. It must have been clear to the Immigration Service that the purpose of the man's enquiry was to ensure that he would not get into a situation where his cohabitee receiving cash benefit would be an obstacle to his possibility of getting a residence permit of indefinite duration. For this reason, it must also have been clear that he needed guidance on the interaction between the Aliens Act and the Act on an Active Social Policy.

The Immigration Service should have informed the man that its guidance was subject to reservations and should have recommended that he enquire at, for instance, his municipality about the rules in relation to cash benefit.

While the Ombudsman was investigating the case, the man stated that he could have avoided being paid supplementary cash benefit if he had received correct guidance. He informed the Ombudsman, among other things, that his family had previously managed without his cohabitee receiving cash benefit.

The Ombudsman recommended that the Immigration Appeals Board reconsider the case. In this connection, the Ombudsman referred to the principle of redress of the adverse effects of guidance errors, the legal principle that a person who has been given erroneous or inadequate guidance by authorities may be entitled to be placed in a position as if he or she had received adequate and correct guidance and followed the guidance.

The man was subsequently granted a residence permit of indefinite duration.

2017-32. Processing of cases about proof or retention of Danish citizenship

Following two previous investigations of the processing of cases about proof or retention of Danish citizenship and the processing times for such cases, the Ombudsman asked the Ministry of Immigration and Integration in early 2017 for new information and statistics for 2016 about cases concerning proof or retention of Danish citizenship.

The Ministry informed the Ombudsman that the average processing time had increased from 12 months in 2015 to 12.8 months in 2016 and that in 2016, the number of applications received by the Ministry exceeded the number of applications on which it made a decision by 188.

The Ombudsman noted that 137 pending cases were more than 18 months old as at 1 April 2016. In addition, the number of pending cases which were more than 12 months old had gone up by approximately 37 per cent from 1 April 2016 to 15 March 2017.

The Ombudsman stated that the number of pending cases about proof or retention of Danish citizenship was still large – despite the long-standing focus on the area – and that the processing times were generally too long, which he found regrettable.

It was stated in Danish passports that an application for retention of Danish citizenship was to be submitted between the applicant's 21st and 22nd birthdays.

However, the website of the Ministry of Immigration and Integration stated that in certain circumstances, an application should – in the light of the processing time at the time – be submitted between the applicant's 20th and 21st birthdays.

The Ombudsman found it undesirable that there was – still – inconsistency between the guidance in Danish passports and that on the Ministry's website and that the guidance in passports was thus not correct in all circumstances.

At the same time, the Ombudsman noted that the Ministry of Immigration and Integration would discuss with the Ministry of Justice whether the guidance in passports on when applications were to be submitted could be replaced by a reference to the current, correct guidance on the website of the Ministry of Immigration and Integration.

The Ministry of Immigration and Integration subsequently informed the Ombudsman that it had launched a number of new initiatives in May 2017 which had resulted in shorter processing times and a reduction in the number of pending cases. However, the Ministry still expected that the average processing time would be approximately 12 months. The Ombudsman acknowledged receipt of the update but upheld his criticism that the processing times were generally too long.

R. MINISTRY OF EDUCATION

No statements on cases concluded in 2017 have been published.

S. MINISTRY FOR ECONOMIC AFFAIRS AND THE INTERIOR

The following statement on a case concluded in 2017 has been published:

2017-17. Doubts about correctness of information which entered into decision to refuse application for working tool from person with disability

A man who was a permanent wheelchair user applied to his municipality for payment of the price differential between a car with front-wheel drive and one with four-wheel drive in order that he would be better able to carry out his

job. The man had got stuck several times with his car with front-wheel drive when visiting seed plantations and plant nurseries as part of his job.

The municipality refused the man's application, explaining, with reference to a statement from a guidance unit under the Ministry of Employment, that he could use an already granted four-wheeled ATV (all-terrain vehicle), which could be transported on a trailer.

The man was of the opinion that the municipality and the guidance unit had misunderstood the type of ground on which he had to drive. For this reason, he contacted the guidance unit, which now expressed support of his wanting a car with four-wheel drive. The man subsequently wrote to the National Social Appeals Board that the municipality had made its decision on the basis of a 'hard-and-fast, incorrect assessment' and recommended that the Board contact the guidance unit. In addition, the man found that the option involving the ATV had a number of disadvantages.

The National Social Appeals Board did not respond to the man's recommendation and gave weight to the information which it had already received from the municipality.

The man complained to the Ombudsman, who found that the National Social Appeals Board should have followed the man's recommendation to ask the guidance unit for further information. The Ombudsman stated that the man had raised relevant doubts about the correctness of the information which had entered into the Board's decision to uphold the municipality's refusal of his application.

The Ombudsman recommended that the National Social Appeals Board reopen the case and make a new decision.

T. MUNICIPAL AND REGIONAL AUTHORITIES ETC.

The following statements on cases concluded in 2017 have been published:

2017-1. Offensive remark overstepped limits to public employees' freedom of expression - duty of loyalty not relevant

A municipal employee posted some comments on Facebook on an article about severance pay for municipal chief executives. In one of his posts, the

employee described the chief executive of the municipality where he worked as, among other things, ‘a person whose greatest core competence may not be truthfulness’.

The municipality subsequently gave the employee a warning.

In the Ombudsman’s opinion the employee’s remark about the chief executive was unreasonably offensive and overstepped the limits to his freedom of expression. In this connection, the Ombudsman gave weight to the facts that the remark concerned the chief executive as a person and that it must be understood as an accusation against the chief executive of telling untruths to a not insignificant extent. The Ombudsman found that such an accusation – if not documented or rendered probable – was to be regarded as very offensive.

However, the Ombudsman found it very unfortunate that – at least until the Ombudsman asked for a statement on the matter – the municipality appeared to have considered the case solely as a matter of whether the remarks posted by the employee were loyal to the municipality, and not whether his remarks overstepped the express limits to public employees’ freedom of expression. In the Ombudsman’s opinion the way in which the municipality had handled the case could leave doubts as to whether it had considered the case on the basis of a correct understanding of applicable law.

In addition, the Ombudsman disagreed with the municipality that the fact that the employee had not made it clear that his remarks on Facebook were made in a private capacity was of any significance.

The Ombudsman found that it would be most appropriate if the municipality was given the opportunity to consider – on a correct legal basis – whether the warning should be upheld and, if so, its specific wording. On that basis, he recommended that the municipality reconsider the case.

2017-9. Significant errors in relation to use of door alarms in municipal residential facility

Following a monitoring visit to a municipal residential facility, the Ombudsman opened three cases concerning the installation of door alarms at the housing units of three residents with impaired mental functioning. The objective of the alarms was to warn staff if the residents, whose behaviour caused problems, left their housing units – thus making it possible to prevent injury to the residents themselves or others.

Under the Social Services Act, the use of door alarms is to be approved by the municipality before alarms are installed. However, the Ombudsman took for his basis that in the three cases, the door alarms had been installed without a decision having been made and thus without the necessary legal basis. The Ombudsman considered this a matter for severe criticism.

The Ombudsman found no grounds for criticising the period of use of the alarms specified by the municipality in its subsequent decisions. However, he found it regrettable that the municipality had not reassessed the need of continuing to use the alarms after no later than eight months, as required by the Executive Order on Forcible Measures and Other Restrictions, in any of the cases.

The Ombudsman also noted that the documentation was inadequate in several respects in all three cases. For this reason, among others, the Ombudsman was unable to reach a final conclusion as to whether the affected residents and their relatives/guardians had been adequately included before the municipality made its decisions.

Further, the Ombudsman considered it very regrettable that the decisions were not communicated in writing to the affected residents and/or their relatives in two of the three cases. In addition, it was an error that incorrect (obsolete) guidance on appeal was given in the same two cases.

The large number of errors made in the three cases caused the Ombudsman to express general concern about the procedures of the municipality. However, he noted at the same time that in the light of these cases, the municipality had initiated various measures of a general nature in order to ensure adherence to the rules of administrative law in future.

2017-13. No authority for secure institutions to wash young residents' clothes to destroy illegal substances

In connection with a monitoring visit to a secure institution, the Ombudsman's visiting team became aware that the institution had an established practice of washing all the young residents' clothes on their arrival. This was done, among other reasons, because it enabled the institution to destroy or reduce the quality of any illegal substances which might be hidden in the clothes.

In a statement on the case, the Ombudsman explained when and in what ways secure institutions are permitted to use forcible measures and other restrictions.

In the Ombudsman's opinion there was no authority under the relevant Act or Executive Order for the practice described of requiring the young people to hand in their clothes for washing on arrival. The Ombudsman also stated that it was to be regarded as highly doubtful whether such a restrictive measure could be authorised by the non-statutory legal principle of implied powers (a Danish principle that a public institution may to a certain degree establish such rules and make such decisions as are necessary for the overall functioning of the institution). The Ombudsman gave weight to, among other things, the fact that the legislature had decided when passing the Act on Adult Responsibility for Children and Young Persons in Placement Facilities not to follow a recommendation made by the pre-legislative committee to give secure institutions the right to search children's and young persons' clothes in addition to the right to frisk children and young persons.

However, the Ombudsman was of the opinion that the principle of implied powers did authorise the institution's practice of requiring residents to hand over their outdoor clothes on arrival and its ban on wearing outdoor footwear inside.

The Ombudsman recommended that the institution discontinue as soon as possible its practice of washing residents' clothes on their arrival.

2017-23. Document sent from municipally owned self-governing harbour to the municipality had been made available to a third party

The Ombudsman received three complaints about a refusal by a municipally owned self-governing harbour of access to a report prepared by the harbour administration.

The report concerned the possible misuse of assets of the harbour and had been prepared in continuation of an investigation carried out by an auditing firm. The harbour refused the requests for access to the report with reference to section 23(1) paragraph (1) of the Access to Public Administration Files Act, under which documents which have not been made available to third parties are exempt from access.

According to the available information, the harbour had sent the report to the municipality's HR and payroll department, which had registered the report in the personnel files of the relevant employees of the harbour in order that any taxable values of trips made etc. could be reported to the tax authorities.

In this connection, the Ombudsman was also informed that the municipality's HR and payroll department handles personnel administration tasks in relation to employees of the harbour.

The Ombudsman stated that a municipally owned self-governing harbour is not to be regarded as part of the municipal administration but as a separate authority. For this reason, the municipality was to be considered a 'third party' within the meaning of section 23(1) paragraph (1) in relation to the harbour. In reaching this conclusion, the Ombudsman gave weight to the facts, among others, that the legal basis for municipally owned self-governing harbours is the Act on Harbours, not the Local Government Act, and that a self-governing harbour is free to exercise control over its plant and equipment within the overall financial framework set by the municipal council.

In addition, the Ombudsman was of the opinion that the report was to be regarded as having been made available to the municipality on its receipt by the municipality. In this connection, the Ombudsman took into account that personnel files of staff of the harbour – and thus the documents registered in the personnel files – are in practice accessible to staff of the municipality.

On that basis, the Ombudsman recommended that the harbour reconsider the right of access to the report.

The harbour reconsidered the case and made a decision to release the report.

2017-27. No authority for secure institution to check residents' mail

In connection with a monitoring visit to a secure institution, the Ombudsman was informed that the institution checked the mail received by the residents. In addition, the house rules stated that mail was to be opened in the presence of staff.

In a statement on the matter, the Ombudsman examined the legal basis for when authorities are permitted to use measures of this nature. The Ombudsman agreed with the authorities that the Social Services Act did not authorise checks of residents' mail. In addition, the Ombudsman was of the opinion that, contrary to what the authorities had stated, there was not sufficient authority for the regime under the principle of implied powers (a Danish principle that a public institution may to a certain degree establish such rules and make such decisions as are necessary for the overall functioning of the institution). Further, because the regime could not be considered to be sufficiently

authorised, the requirement of legality under Article 8 of the European Convention on Human Rights on the right to respect for private and family life, the home and correspondence could not be considered to be met.

Although the Ombudsman was understanding of the views put forward by the authorities on the purpose and basis for the regime of checking the residents' mail, he recommended that the institution discontinue the regime.

The case also involved an issue of the institution's use of a 'seclusion room'. However, as the institution informed the Ombudsman that it no longer had such a room – which had been used for its purpose on one occasion only – the Ombudsman found no cause to comment in detail on this issue.

2017-31. Municipality's responsibility that meeting with employee was conducted in a manner showing full respect of her freedom of expression

A municipally employed nurse wrote a critical post on Facebook about a colleague giving notice as a result of restructurings in their workplace.

Three days later, the nurse was summoned to a meeting with the management and her shop steward at 13 minutes' notice. The management started the meeting by emphasising that it was not a disciplinary hearing: the purpose of the meeting was to give the nurse factual information, including about the restructurings on which she had commented in her post. At the meeting, the management pointed out, among other things, that the nurse had made some of her colleagues feel sad and said that it was 'a pity' that she had not first contacted the management or a representative in the contributory influence and co-determination system, for instance her trade union representative or her work environment representative.

The Ombudsman had no grounds for criticising that the municipality contacted the nurse to give her factual information about, among other things, the restructurings which had been carried out before she was employed and on which she had commented in her post.

In a situation such as the present, however, the municipality had a special responsibility to ensure that its contact with the employee was conducted in a manner which did not involve a risk that she would refrain from expressing her views in the public debate in future. The Ombudsman thus stated that it

was the municipality's responsibility to ensure that the process was characterised by full respect – and recognition – of the freedom of expression which the nurse had as a public employee.

The municipality acknowledged in its statement to the Ombudsman on the matter that the form of the meeting, its participants and the short notice could have contributed to the nurse's feeling under pressure, and it expressed its regret about the course of events. The Ombudsman concurred and noted the regret expressed by the municipality.

The Ombudsman pointed out that also some of the other aspects of the content of the meeting – combined with the circumstances about which the municipality had expressed its regret – were liable to leave the nurse with the impression that the management's intention might be to keep her from expressing her views on the issue in the public debate in future.

U. OTHER AUTHORITIES ETC. WITHIN THE OMBUDSMAN'S JURISDICTION

No statements on cases concluded in 2017 have been published.



CASE NOS. 17/01504 AND 17/02526

An aviation medical examiner demanded that a glider pilot undergo more detailed medical examinations before he could get his licence renewed. The pilot was dissatisfied but the Ombudsman rejected the man's complaint because aviation medical examiners are private practice doctors who do not fall under the Ombudsman's jurisdiction. This applies even though the aviation medical examiners receive their authorisation from the Danish Transport, Construction and Housing Authority and use the Authority's forms for the medical examinations.

Normally, the Ombudsman cannot investigate complaints about the activities of a private person or private enterprise but only about the public administration. This also applies in cases where the private enterprise has an authorisation from a public authority and performs tasks which are regulated by the public sector.

CASE NO. 17/01341

When do you have such a 'particularly strong' connection with Denmark that you can buy a holiday house here? A woman from Vietnam lived in Denmark and was undergoing vocational training, among other things. That was not enough, said the Ministry of Justice. Consequently, the woman was refused permission to buy a holiday house in Denmark.

The woman complained to the Ombudsman. She wrote, among other things, that she was married to a Dane and that she had already received a job offer. She was, in addition, going to apply for a permanent residence permit in Denmark. The Ombudsman sent the complaint on to the Ministry of Justice.

The Ministry of Justice wrote to the woman that based on the new information she now met the conditions for buying a holiday home in Denmark. She no longer needed the Ministry's permission.

If a complaint to the Ombudsman contains new information about a case, the Ombudsman will most often send it to the authority so that the authority can consider the case again.

CASE NO. 17/03826

What do municipalities spend the inclusion funds for schools on? A journalist asked Local Government Denmark (KL) to grant access to information on this question. However, the information that the journalist wanted could only be produced as an extract of data, and the rules in the Access to Public Administration Files Act on the right to extracts of data do not apply to Local Government Denmark. The journalist was therefore denied access.

The Ombudsman could not help the journalist because Local Government Denmark only falls within the Ombudsman's jurisdiction to the same extent as Local Government Denmark is subject to the Access to Public Administration Files Act. The Ombudsman therefore had to decline to investigate the complaint.

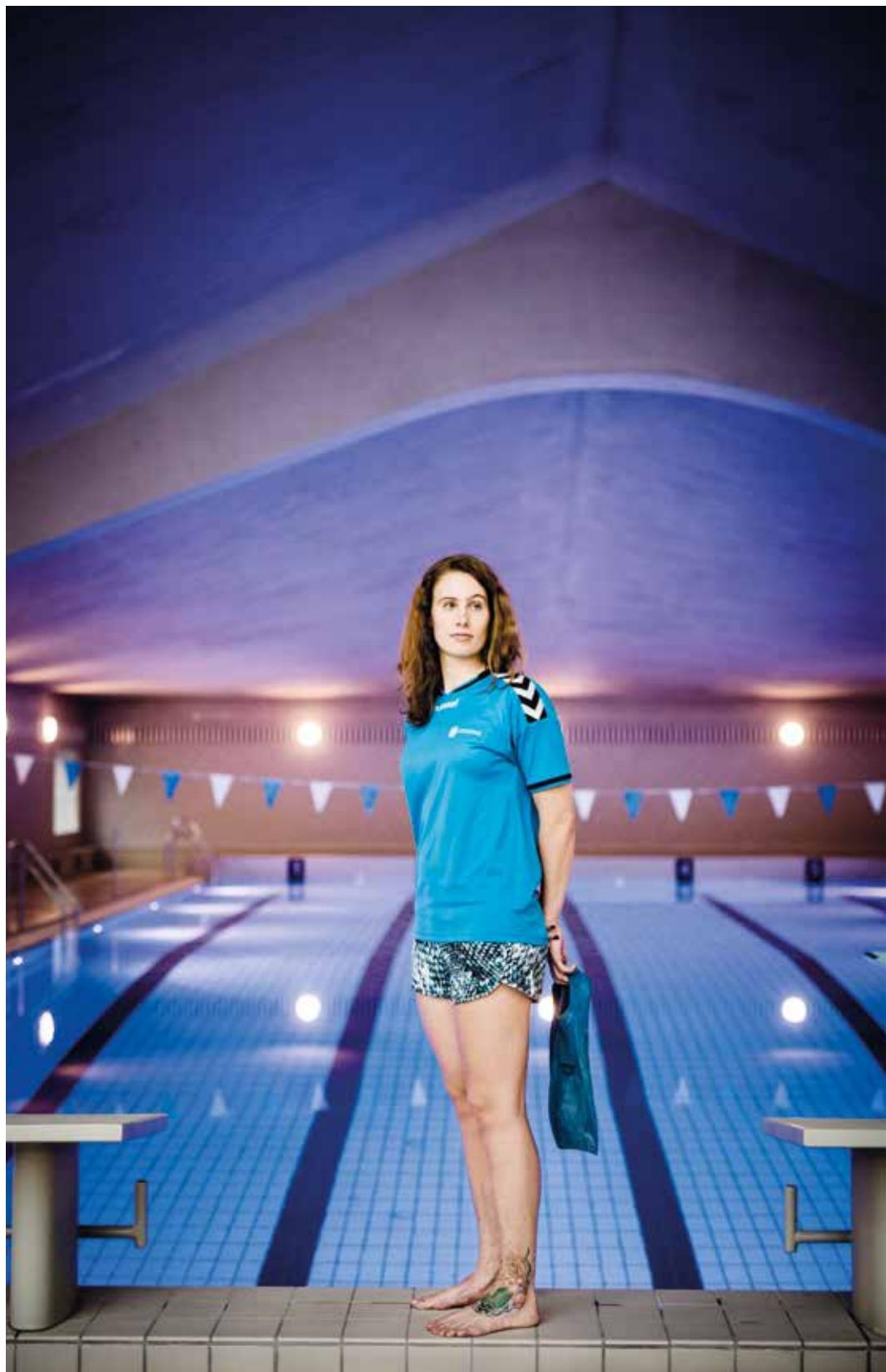
The Ombudsman can decide that his jurisdiction is to extend to a private enterprise, association or the like to the extent it is subject to the rules of the Access to Public Administration Files Act. He has done so in connection with Local Government Denmark and Danish Regions, among others.

CASE NO. 17/00780

During a monitoring visit to an asylum centre for unaccompanied underage asylum seekers, the Ombudsman's staff spoke with a boy who said that he was tired of life and did not wish to live any more. A few months before, the boy's application for asylum had been refused, and he was now waiting for his asylum case to be considered by the appeal body.

The Ombudsman's visiting team informed the centre's management that the boy was unhappy and urged the management to be mindful of the boy's mental health.

Annually, the Ombudsman's Children's Division pays 12 monitoring visits to institutions for children in order to check that their rights are respected. All visits include both legal case officers and a special advisor on children's issues, who has a special focus on children's well-being.



NEWS PUBLISHED ON THE OMBUDSMAN'S WEBSITE IN 2017

All news can be read in full (in Danish only) on www.ombudsmanden.dk.

4 January

Ombudsman to focus on social psychiatric residential facilities in 2017

In 2017, the Ombudsman's Monitoring Department will have special focus on conditions at the country's social psychiatric residential facilities.

9 January

More openness in relation to monitoring visits

The results of the Ombudsman's monitoring visits will in future be published on the Ombudsman's website. This will be done to enable interested parties to keep updated on which institutions the Ombudsman visits and the outcome of the visits. The information available will include the Ombudsman's final recommendations to the institutions.

In addition, the Ombudsman will publish on his website a new manual for monitoring activities which describes in detail how monitoring visits are carried out.

9 January

The Ombudsman's Taxation Division has now opened

With its new Taxation Division, which opened at the turn of the year, the Ombudsman institution now has more resources to investigate cases concerning tax matters. This is the result of a decision by Parliament in the spring of 2016.

11 January

Improved conditions for mentally ill inmates of Vestre Fængsel

The participation of mentally ill inmates of the local Copenhagen prison Vestre Fængsel in social activities has increased over the last four years. This is the good news following visits to the prison hospital in 2012, 2013 and 2016 by monitoring teams from the Ombudsman, assisted by medical experts from DIGNITY – Danish Institute Against Torture and human rights experts from the Danish Institute for Human Rights.

12 January

Ombudsman to look into conditions for young people deprived of their liberty

In 2017, staff of the Ombudsman's Children's Division are going to visit a number of institutions which mainly house young people who are serving a sentence or have been remanded in custody. The reason for this is that the theme for this year's monitoring visits by the Children's Division is young people in secure residential facilities and in state and local prisons.

13 January

Public employee went too far with remarks on Facebook

A municipal employee overstepped the limits to his freedom of expression when he described

the chief executive of the municipality as 'a person whose greatest core competence may not be truthfulness' in a post on Facebook. So says the Ombudsman in a recent statement. He gives weight to the fact, among others, that the employee had not documented his accusation or rendered it probable.

23 January

Public employees must be careful about accepting invitations and free tickets

Public employees must exercise great caution when they receive invitations in connection with their work to, for instance, dinners, concerts or theatre plays. On the basis of this principle, the Ombudsman has carried out a review, which has just been concluded, of the gift policy of the Ministry of Culture. The Ministry has adjusted its policy in dialogue with the Ombudsman.

2 February

Danish Immigration Service to follow up on Ombudsman's recommendations to centre for young asylum seekers

During a monitoring visit to Børnecenter Hundstrup, which houses young asylum seekers, the Parliamentary Ombudsman uncovered a variety of problems. The centre is now due to be closed down and the municipality is no longer to be an asylum centre operator. For this reason, among others, the Ombudsman has brought up some of his recommendations to the centre with the Danish Immigration Service.

6 February

Publication of documents of the case about separation of married or cohabiting underage asylum seekers

The Ministry of Immigration and Integration has issued the following press release today:

'Response from Minister for Immigration and Integration Inger Støjberg to Ombudsman's draft report on accommodation of married minors' [hyperlink to press release]

On that basis, hyperlinks are provided to the following documents:

...

10 February

Foreign dentist rejected on the wrong grounds

It was not easy for an Egyptian dentist to know what level of Danish language skills was required to work as a dentist in Denmark. According to the executive order, he had to 'pass' a Danish language test – but the website of the Danish Patient Safety Authority said that he had to pass the test and achieve at least the marks 7 and 10¹.

The dentist passed his language test – but he did not achieve at least 7 and 10 and was initially rejected.

The conclusion of the Ombudsman's investigation of the case was that the authorities' interpretation of the executive order was wrong. The dentist should not have been rejected.

22 February

Ombudsman to look into processing of cases by Customs and Tax Administration and National Tax Tribunal

The Parliamentary Ombudsman has just initiated a general investigation of a number of cases of the Danish Customs and Tax Administration (SKAT) and the National Tax Tribunal. The investigation will focus especially on whether the rules and principles of administrative law are complied with.

1) Equivalent to C and B, respectively, on the ECTS scale

6 March

Police processing times following re-organisations were unreasonably long

A large number of citizens were affected after the police force gathered the processing of certain cases, such as cases concerning driving licences, at two administrative centres. From the start, the reorganisation resulted in a substantial build-up of cases and an increase in processing times. (...)

...

'When an authority is reorganised, processing times will often increase. In certain circumstances, this may be considered acceptable for a relatively short period of time. However, a period of over two years, as in the case of the two administrative centres, is much too long', the Parliamentary Ombudsman, Jørgen Steen Sørensen, states.

9 March

Significant improvements in Greenland police detention facilities

The safety of persons placed in Greenland police detention facilities which are not permanently staffed has been significantly improved. However, some aspects of their safety still give cause for concern, the Ombudsman concludes following extensive dialogue with the responsible authorities.

23 March

Illegal to separate all young asylum-seeking couples against their will

In February 2016, the Ministry of Immigration, Integration and Housing issued an instruction that no asylum seekers under 18 years of age were to be permitted to be accommodated in Danish asylum centres together with a spouse or cohabitee.

That instruction was contrary both to Danish law and to international conventions, the Parliamentary Ombudsman concludes.

29 March

Municipality made significant errors in relation to use of door alarms in residential facility

A door alarm can be an important safeguard against people with impaired mental functioning leaving the facility in which they live and potentially exposing themselves or others to injury. But a door alarm also constitutes a restriction on the freedom of the individual, and a number of statutory requirements must be met before a municipality installs an alarm. This is emphasised by the Ombudsman, who became aware of significant errors in relation to the use of door alarms in connection with a monitoring visit.

31 March

Security and Intelligence Service complied with the rules when archiving well-known writer's diaries

Since 1982, the Danish Security and Intelligence Service (PET) has kept a copy of a well-known Danish writer's diaries. After investigating the matter, the Ombudsman concludes that he has no grounds for criticising the Ministry of Justice and PET.

4 April

Current legislation does not secure private school pupils' right to be heard

The Ministry of Education will seek to gain Parliament's support for a legislative change if dialogue and guidance prove not to be sufficient to secure the right of private and continuation school pupils under the UN Convention on the Rights of the Child to be heard.

The Ombudsman has previously recommended that the Ministry consider legislation to effectively secure the pupils' rights in this respect.

5 April

Managements of public authorities also have freedom of expression

The Ombudsman frequently criticises infringements by public authorities of their employees' freedom of expression. In an article in his Annual Report for 2016, which has just been published, the Ombudsman looks at the issue from managements' perspective. He explains, among other things, that managements of public authorities are permitted to reply to criticism from employees – as long as it is done for a legitimate purpose and in a legitimate manner.

6 April

Critical journalistic approach not grounds for refusal of access to information

An authority cannot refuse access to information on the basis of an assumption that the information would be used for critical articles.

So says the Parliamentary Ombudsman after investigating a case about access to export licences for surveillance technology. (...)

18 April

Ombudsman enters 'Ry case'

The Ombudsman has asked the municipality and the school of the boys involved in the so-called 'Ry case' for various information relating to the boys.

The case concerns the incident which took place on 6 February 2017 in the town of Ry where a 16-year-old boy suffered serious burns after a group of boys of the same age allegedly threw a bottle of burning petrol at him.

19 April

Rejected asylum seekers at Departure Centre Kærshovedgård treated according to rules

On 31 October 2016, the Ombudsman made a monitoring visit to Departure Centre Kærshovedgård. The visit exclusively concerned the conditions for

rejected asylum seekers – not for persons with tolerated residence status or persons sentenced to deportation.

Based on an overall assessment, the monitoring visit gave the Ombudsman no cause to take further action.

25 April

New Director General of Ombudsman institution

Louise Vadheim Guldborg will be the new Director General of the Ombudsman institution from 1 August 2017, when the present Director General, Jonas Bering Liisberg, will take up the position of State Secretary for Foreign Policy with the Ministry of Foreign Affairs.

3 May

New IT solutions must facilitate access by the public to information

New IT solutions – including databases – in the public sector must to the greatest extent possible facilitate access by the public to information. That follows from the Access to Public Administration Files Act.

The Parliamentary Ombudsman has just sent this message to the Ministry of Finance in connection with the Ministry's developing a new macroeconomic model.

4 May

Technical University of Denmark had to give access to external evaluation report

A journalist at a journal was at first denied access to an evaluation report commissioned by the Technical University of Denmark (DTU) of the department DTU Transport. The report had been prepared by five external researchers and contained a fairly critical evaluation of the quality of the research carried out by DTU Transport. Following the Ombudsman's investigation of the case, the journalist was given access to the whole report.

11 May

Udbetaling Danmark² too slow to reassess decisions on housing benefit

Far too many citizens who appealed decisions by Udbetaling Danmark on housing benefit in 2016 had to wait for more than four weeks for the decision to be reassessed by Udbetaling Danmark and their appeal to be subsequently forwarded to the National Social Appeals Board. This has emerged from a case opened by the Parliamentary Ombudsman and has resulted in criticism from the Ombudsman.

The four-week deadline is stipulated by an executive order issued by the Minister for Social Affairs and the Interior.

16 May

Obligatory washing of young residents' clothes illegal

An institution mainly for young people remanded in custody has consistently washed all the young people's clothes on their arrival, even if the young people have not wanted it. This has been done for hygienic purposes, but also to destroy any euphorants which may have been hidden in the clothes. However, the legislation does not permit such a measure, the Ombudsman concludes.

17 May

Mentally ill children and young people regularly strapped to beds

It happens regularly that a child or a young person in a psychiatric ward is involuntarily strapped to a bed. This is revealed by a report on children and young people in inpatient psychiatric care just published by the Parliamentary Ombudsman.

18 May

Body searches and urine sampling carried out according to rules

At 32 monitoring visits carried out in 2016, the Ombudsman focused on body-searching and urine sampling.

The Ombudsman's overall conclusion is that the rules are observed with very few exceptions and that the inmates and residents themselves find that body searches and urine sampling are carried out professionally. There is nothing to indicate that body searches and urine sampling are performed for harassment purposes.

14 June

Where to meet the Ombudsman at the People's Political Festival

This year again, the Parliamentary Ombudsman will be present at the People's Political Festival on the island of Bornholm, which takes place from 15 to 18 June.

16 June

Help for head teachers to secure pupils' rights

For several years, the Ombudsman has had focus on pupils' rights when primary and lower secondary schools make intrusive decisions in relation to pupils. Now the Ministry of Education is going to initiate a further guidance effort to ensure that head teachers use the rules of administrative law correctly.

19 June

Steps are now being taken to resolve doubts about the legal basis for NemID³ by means of legislation

After being contacted by a municipal citizen advisor, the Ombudsman raised a number of questions with the Agency for Digitisation and the Ministry of Finance about the legal basis for NemID.

22 June

Greater clarity about researchers' freedom of expression

Researchers at Danish universities are permitted to express their views in a private capacity in the public debate – also on matters in fields where they have provided research to public authorities.

2) An authority responsible for a number of public benefits

3) The digital signature that is used as a single login for public websites, online banking and many other websites and services in Denmark

That is clear after the Ministry of Environment and Food has replied to the Parliamentary Ombudsman that the standard terms of new contracts between universities and authorities do not restrict the individual researcher's freedom of expression or impose any requirements of confidentiality over and above the requirements which are laid down by the general legislative provisions.

7 August

Authorities must know the facts before making a decision

A man with a disability applied for payment of the price differential between a car with front-wheel drive and one with four-wheel drive in order that he would be better able to carry out his job. His application was refused. However, the National Social Appeals Board had not responded when the man had clearly pointed out doubts about the correctness of information in the case.

'It's a basic principle in public administration that an authority is required to investigate a case adequately so that it can make the right decision. As I see it, that did not happen in this case', says Ombudsman Jørgen Steen Sørensen.

21 August

Prisons tighten up on use of security cells

Being placed in a security cell and strapped to a bed is one of the most intrusive actions to which a citizen may be subjected by the state. For this reason, all the required procedures must be followed, the Ombudsman has emphasised in several contexts. The Prison and Probation Service has now taken a number of initiatives to ensure that the rules on placements in security cells are observed.

22 August

No criticism of ministry for withholding exclusive story from other journalists

If an authority has released documents to a journalist for an exclusive story, other journalists are entitled to the same documents if they ask for them. However, it is a different matter if the exclusive story was given verbally. That follows from a recent statement from the Ombudsman.

1 September

Ombudsman launches special page dedicated to activities in taxation area on his website

The Parliamentary Ombudsman regularly publishes statements and news stories on his website. The Ombudsman has now launched a special page on his website with examples of concluded Ombudsman cases in the area of taxation and an outline of pending investigations concerning tax matters opened on the Ombudsman's own initiative.

5 September

Ombudsman raises questions about treatment of 15- to 17-year-old inmates in institutions under the Prison and Probation Service

During a monitoring visit by Ombudsman staff to the local prison in Kolding, a young inmate told the Ombudsman staff that he thought he was 'going insane'. The young inmate had had to spend about 45 days alone in his cell – except for four days in company with another inmate.

...

The monitoring visit to the local prison in Kolding and another monitoring visit to the unit for young offenders of the local Copenhagen prison Vestre Fængsel have caused the Ombudsman to open an investigation of the conditions for 15- to 17-year-old inmates in institutions under the Prison and Probation Service.

6 September

Secure institution not entitled to check residents' mail

When a resident of the secure institution Kofoedsminde receives a letter or a parcel, he or she will be asked to open it in the presence of two staff members. If the resident refuses, the mail will be returned unopened. If he or she consents, contents such as dangerous objects or euphoricants will be confiscated.

The Ombudsman is understanding of the regime of checking the residents' mail, but in his opinion it is not legal. For this reason, the Ombudsman has recommended that Kofoedsminde discontinue the regime.

8 September

Police force tightens gift policy

A police officer should not accept a box of chocolates from a citizen who wants to express his or her gratitude for the work of the police in a case. He also has to be cautious about attending courses or seminars paid for by privately owned enterprises. These are two of several respects in which the National Police has now tightened its guidelines for employees of the police force on acceptance of gifts and other benefits.

The guidelines have been tightened after the National Police itself stated that its gift policy left the impression that employees of the police force were permitted to accept gifts to a greater extent than other public employees.

13 September

Passenger was entitled to compensation for delayed flight

If a flight is delayed or cancelled because a crew member has become ill, the passengers may be entitled to compensation. That follows from EU rules and case law of the European Court of Justice, the Ombudsman concludes in a recent statement.

5 October

Home care nurse summoned to talk following critical Facebook post

Managements of public authorities are not precluded from having a talk with employees who have used their freedom of expression to criticise their workplace – provided the managements have a legitimate reason for this. But managements are not permitted to criticise in any way the fact that an employee has used his or her freedom of expression, and the purpose of having a talk with the employee must not be to silence him or her. In addition, there must not be a risk that the employee might reasonably understand the situation in that way.

That is the essence of a recent case, which shows that managements of public authorities must be careful when responding to views that have been legally expressed by an employee.

27 October

Hearing in Parliament to focus on the Access to Public Administration Files Act, the area of immigration, freedom of expression and safety in social care residential facilities

On Wednesday 15 November 2017 at 10 a.m. to 12 noon, Parliament's Legal Affairs Committee will hold its annual hearing about the work of the Parliamentary Ombudsman, at which the Ombudsman and members of his staff will present issues of current interest for questions and discussion.

30 October

'Overviews' from Ombudsman aim to prevent errors

With the launch today of the Ombudsman institution's Guide for Authorities on its website, the institution is taking a new step to prevent errors on the part of public authorities.

'At the Ombudsman institution, we do not only give priority to investigating cases in which errors have been made, but increasingly also to preventing

errors being made in the first place. Our Guide for Authorities is a new step in this direction and may hopefully be a help to legal and other case officers with authorities – and in this way also contribute to improving the legal protection of citizens', says Ombudsman Jørgen Steen Sørensen.

2 November

Ombudsman raises question about legal basis for placing children of asylum seekers or foreign nationals without legal residence in care against parents' or guardians' wishes

The Ombudsman has raised the question with the Ministry for Children and Social Affairs whether the legal basis for placing children of asylum seekers or of foreign nationals without legal residence in Denmark in care against their parents' or guardians' wishes is adequate.

9 November

Ombudsman closes case about 26-year rule⁴ after appeals of eight couples have been upheld

The Immigration Appeals Board has upheld the appeals of eight couples against the refusal by the Immigration Service of their applications for family reunion. For this reason, the Ombudsman has now closed the case which he opened on his own initiative after the European Court of Human Rights established in 2016 that the 26-year rule in the Danish Aliens Act constituted discrimination.

14 November

Case about access to documents with connection to 2013 teachers' dispute

The Danish Union of Teachers has asked the Parliamentary Ombudsman to reconsider a case about access to documents with a connection to the 2013 teachers' dispute. The Union has explained that new information has emerged that is of material importance to the case, which the Ombudsman concluded in April 2013.

The Ombudsman has forwarded the Union's request to the Ministry of Finance in order that the Ministry can reply to the Union's letter. The Ombudsman has also asked the Ministry to inform him of its reply to the Union.

23 November

Ombudsman raises questions about right of employees of City of Copenhagen to pass on non-confidential information to press

The Ombudsman has today asked the City of Copenhagen for a statement about the right of its employees to pass on non-confidential information to the press.

This follows media reports last week that it was allegedly City Hall service workers who had informed the press that the City had let, among others, the former Mayor for Employment and Integration, use rooms in the City Hall for private purposes free of charge. The media reports state that the City regards the information as non-confidential.

4) A rule according to which, among others, persons who had held Danish citizenship or resided lawfully in Denmark for at least 26 years were exempted from the requirement that in order for family reunion with a spouse to be granted, the aggregate ties of the spouses to Denmark must be stronger than their attachment to any other country.





CASE NO. 17/04038

'Since Monday I have been sitting in a solitary confinement cell for 23 hours a day.' This is what an inmate said when he telephoned the Ombudsman office on a Wednesday. The inmate also stated that he did not know why he had been placed in isolation or for how long he was to be in isolation. A prison officer had told him that he would get the decision in writing, but that had not happened yet.

A staff member from the Ombudsman office telephoned the prison management and was informed of the basis for the placement in a solitary confinement cell. The management would make sure that the inmate received the decision in writing.

At times, information given over the telephone by a citizen causes one of the Ombudsman's staff members to telephone the authority involved to learn more about the case - for instance if the citizen is precluded from or has difficulty in telephoning the authority personally or if the matter is particularly intrusive.

CASE NO. 17/00652

SKAT (the Danish Customs and Tax Administration) refused a man's request for access to files in his own tax case. When the man appealed to the Tax Appeals Agency, he was told that it would take two years to process the appeal.

The statement about the long case processing time caused the Ombudsman to start a general investigation of the Tax Appeals Agency's case processing times in this type of cases, meaning appeals against refusals to grant access to files for persons who are parties to the case in question. In the Ombudsman's assessment, the average case processing time, which in 2016 was around five months, was unacceptable.

While the Ombudsman was processing the case, the Tax Appeals Agency decided to establish, as quickly as possible, a new division with the task of processing appeals against refusals to grant access to files for persons who are parties to the case in question.

The Ombudsman may take up matters on his own initiative and carry out major investigations. Please see www.ombudsmanden.dk for a list (in Danish) of so-called own-initiative investigations within the field of taxation.

CASE NO. 17/01486

Two care assistants on night duty at a nursing home were called in for a meeting because witnesses alleged that the care assistants had been sleeping while on duty. The care assistants disagreed: they had only been relaxing under a blanket. They did not understand how anybody could have seen them sleeping as they had been sitting with the curtains drawn and the door closed. In the municipality's opinion, the care assistants should have taken turns to relax, no matter what the circumstances. The care assistants were therefore issued with a warning for having caused uncertainty as to whether they were awake and alert.

The Ombudsman did not find that he could criticise the municipality's warning. He pointed out that the Ombudsman is not normally able to interrogate witnesses, and that for the same reason he was unable to shed light on the disagreement as to what had happened during the night watch.

The Ombudsman regularly receives complaints from public employees about their employment conditions. The complaints may, for instance, concern employment law sanctions or the right to be heard as a party to a case, the right to include a representative or the right to make public statements about conditions in the workplace.



THE YEAR IN FIGURES

The following pages contain key figures for the cases processed by the Ombudsman in 2017. More information about the Ombudsman's work and the rules governing the Ombudsman's activities can be found on www.ombudsmanden.dk.

NEW CASES

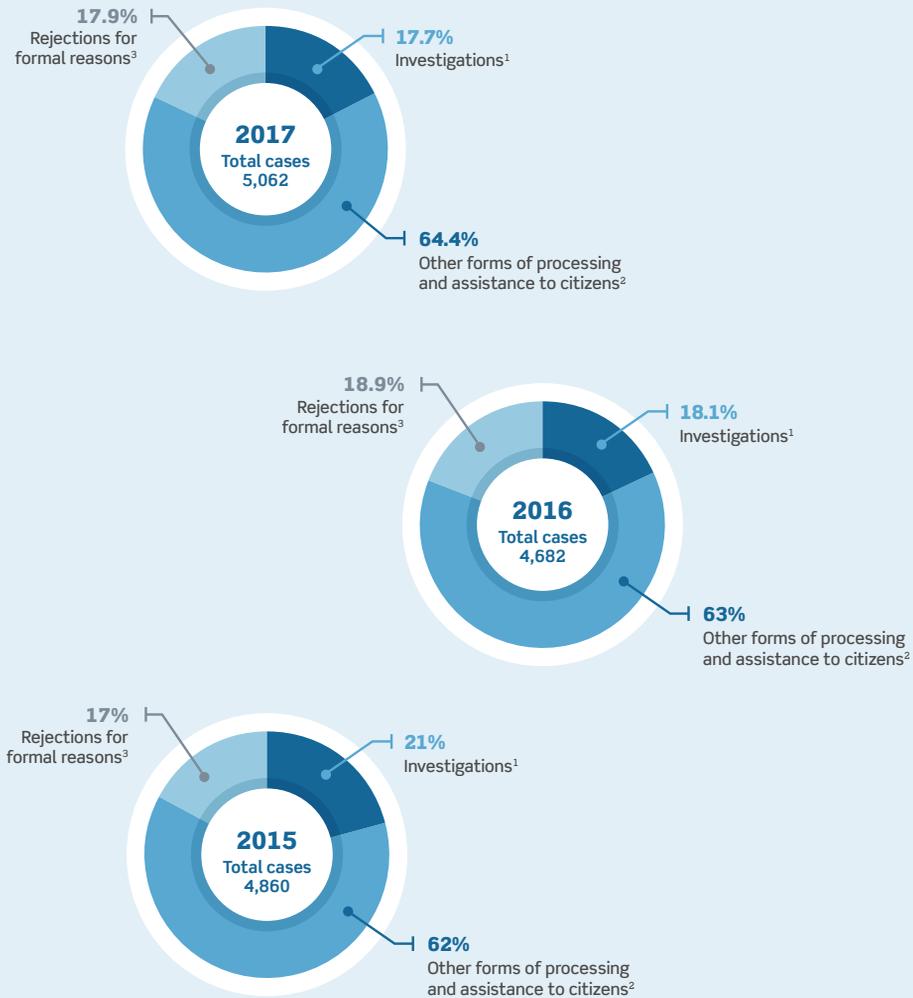
Cases opened in 2017 ¹	
Complaint cases	4,767
Cases opened by the Ombudsman on his own initiative	196
Monitoring cases ²	82
Total	5,045

- 1) The table does not include administrative cases, for instance cases concerning requests for access to documents/information in Ombudsman cases, cases connected with international cooperation, cases concerning the Ombudsman's work and cases requested by the Ombudsman in connection with general investigations opened on the Ombudsman's own initiative of authorities' processing of cases etc.
- 2) Comprise monitoring visits to institutions for adults and for children, monitoring visits to investigate physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals. See pages 36-75 for information about the Ombudsman's monitoring activities.

Developments in the number of cases opened



CONCLUDED CASES



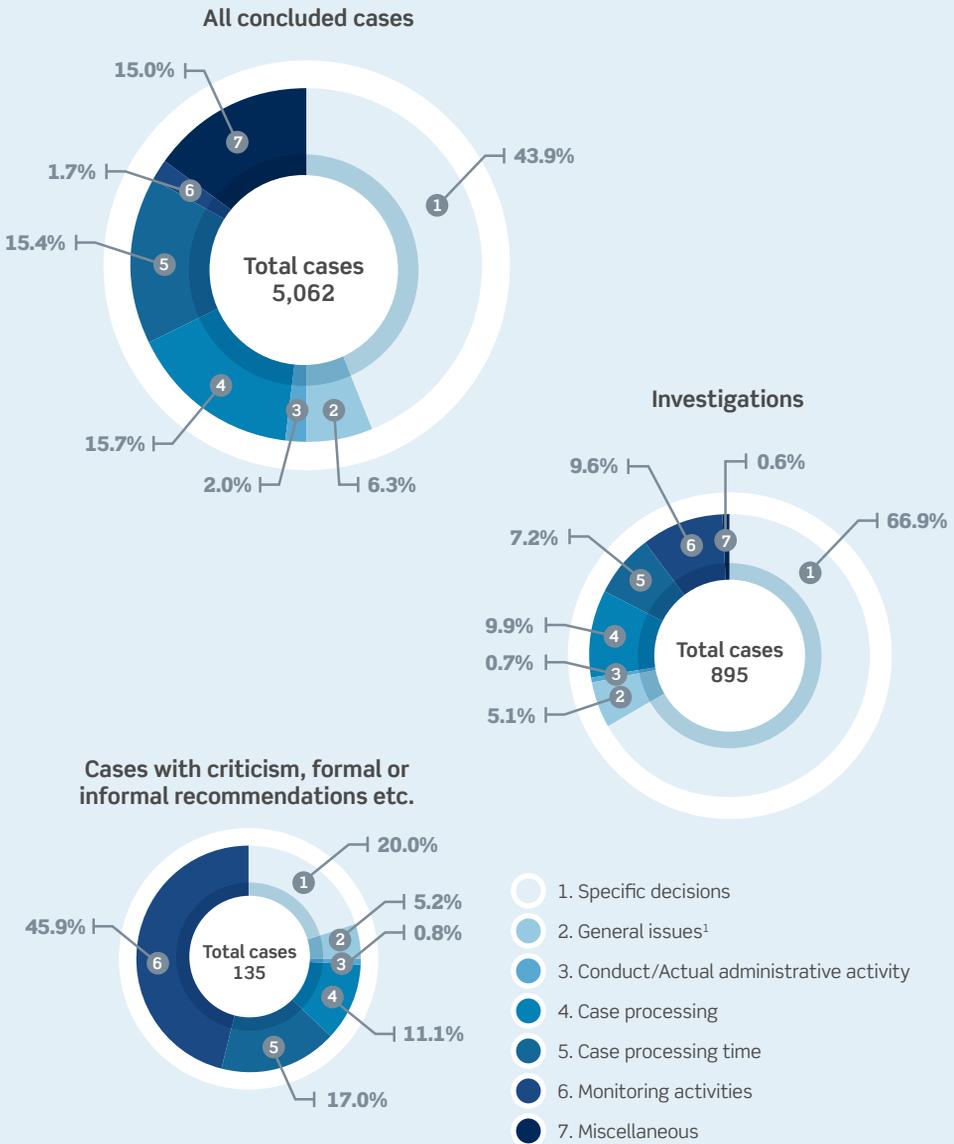
- 1) The overall category 'Investigations' comprises cases in which the Ombudsman carried out various investigations and assessments, including cases where the Ombudsman carried out an in-depth investigation after obtaining statements from the authorities involved.
- 2) The category 'Other forms of processing and assistance to citizens' comprises cases processed differently than by way of investigation. For instance, the Ombudsman may have provided guidance to the citizen. Or the Ombudsman may have forwarded the case to the authorities – for example as a complaint, in order for the citizen to get more details of the grounds for a decision, or with a view to the authorities expediting the case.
- 3) Cases are rejected for formal reasons if, for instance, the authority etc. to which a complaint relates is outside the Ombudsman's jurisdiction, if a citizen has exceeded the one-year deadline for lodging a complaint with the Ombudsman or if an appeal option has not been used and can no longer be used. See the table on page 135 for further information.

WHAT WAS THE OUTCOME OF THE CASES?

	Total concluded cases
1. Investigations	
1. Full investigations	254
– of which cases with criticism, formal or informal recommendations etc.	135
2. Shortened investigations ¹	641
Investigations, total	895
2. Other forms of processing and assistance to citizens	
1. Various forms of intervention in cases where the possibilities of having them processed by authorities had not been exhausted	1,929
– of which cases forwarded to authorities	1,155
2. The Ombudsman's review of the cases did not result in further investigation	870
3. Answers to enquiries, guidance etc.	463
Other forms of processing and assistance to citizens, total	3,262
3. Rejections for formal reasons	
1. Complaints which were submitted too late to the Ombudsman	132
2. Cases where the complaint/appeal options to authorities had not been used	60
– and could no longer be used	
3. Cases which related to courts, judges or matters on which a court had made or could be expected to make a decision – and which were thus outside the Ombudsman's jurisdiction	150
4. Cases which concerned matters relating to Parliament, including legislative issues, and which were thus outside the Ombudsman's jurisdiction	73
5. Complaints which related to other matters outside the Ombudsman's jurisdiction, including private legal matters	272
6. Complaints which were not clarified sufficiently to enable investigation and complaints which were withdrawn	192
7. Cases in which the Ombudsman declared himself disqualified	5
8. Anonymous approaches	21
Rejections for formal reasons, total	905
Total (1-3)	5,062

- 1) Shortened investigations especially comprise cases in which the Ombudsman reviewed a complaint but decided not to obtain statements from the authorities because it was unlikely that a full investigation would result in criticism or recommendations. The category of shortened investigations also includes, among others, cases which were reopened by the authorities following a request from the Ombudsman for a statement.

WHAT DID THE CASES CONCERN?



1) The category 'General issues' comprises, for instance, the overall conditions in an institution or the question whether the enabling act provides a sufficient legal basis for the provisions of an executive order or whether an authority's general practice in a specific area is acceptable.

WHICH AUTHORITIES ETC. WERE INVOLVED?

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
A. Central authorities etc. (within the Ombudsman's jurisdiction)					
a. Ministry of Employment					
The Department	2	3	8	1	14
Appeals Board for ATP	0	1	0	0	1
Labour Market Insurance	0	1	39	5	45
Labour Market's Holiday Fund	0	0	1	0	1
Council of Appeal on Health and Safety at Work	0	0	2	0	2
Danish Working Environment Authority	0	0	7	0	7
Unemployment Insurance Complaints Centre	0	0	0	2	2
Board of Equal Treatment	0	0	3	1	4
Employees' Guarantee Fund	0	0	2	0	2
Danish Agency for Labour Market and Recruitment	0	0	3	0	3
Total	2	5	65	9	81

b. Ministry for Children and Social Affairs

The Department	1	6	4	2	13
National Interpreters Funding Authority	0	0	1	0	1
Danish Supervisory Board of Psychological Practice	0	2	2	0	4
National Board of Social Services	0	0	1	0	1
The State Administration	0	7	101	18	126
Total	1	15	109	20	145

- 1) The cases in Section A of the table have been classified under the ministries existing at the end of the year. Concluded cases relating to authorities which have been moved to another ministry, closed down or reorganised have as a general rule been classified under the ministries which had the remit for the relevant areas at the end of the year.

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			

c. Ministry of Energy, Utilities and Climate

The Department	0	0	4	1	5
Danish Meteorological Institute	0	0	1	0	1
Energinet	0	0	1	0	1
Danish Energy Agency	0	0	4	1	5
Danish Energy Regulatory Authority	0	1	0	1	2
Danish Geodata Agency	0	0	2	0	2
Total	0	1	12	3	16

d. Ministry of Industry, Business and Financial Affairs

The Department	1	4	6	1	12
Danish Board of Appeal for Patents and Trademarks	0	0	1	0	1
Psychiatric Patients' Board of Complaints	0	1	4	0	5
Energy Board of Appeal	0	2	6	1	9
Company Appeals Board	0	0	1	0	1
Danish Business Authority	0	1	6	1	8
Danish Financial Supervisory Authority	0	0	3	0	3
Danish Consumer Ombudsman	0	0	3	0	3
Danish Competition and Consumer Authority	0	0	1	1	2
Danish Environment and Food Board of Appeal	1	7	18	3	29
Danish Appeals Boards Authority	0	1	1	0	2
Danish Town and Country Planning Board of Appeal	0	6	16	1	23
Danish Safety Technology Authority	0	0	3	0	3
SOLVIT Centre Denmark	0	0	1	0	1
Danish Storm Council	0	0	2	0	2
Danish Maritime Authority	0	0	1	1	2
Total	2	22	73	9	106

e. Ministry of Finance

The Department	0	0	1	1	2
Agency for Digitisation	1	0	4	0	5
Public servants' disability pension board	0	0	1	0	1
Agency for Modernisation	0	4	2	0	6
Total	1	4	8	1	14

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
f. Ministry of Defence					
The Department	0	4	3	0	7
Danish Emergency Management Agency	0	0	1	0	1
Danish Ministry of Defence Personnel Agency	0	0	3	0	3
Total	0	4	7	0	11

g. Ministry of Justice

The Department	5	9	45	10	69
Local prisons	6	3	14	2	25
Department of Civil Affairs	0	4	10	1	15
Danish Data Protection Agency	0	6	22	1	29
Independent Police Complaints Authority	0	3	4	2	9
Department of Prisons and Probation	2	65	45	7	119
Criminal Injuries Compensation Board	2	0	1	0	3
State prisons	5	12	84	7	108
Prison and Probation Service in Greenland	0	2	0	0	2
Regional offices of the Prison and Probation Service	6	44	26	3	79
Halfway houses and other institutions under the Prison and Probation Service	2	1	7	0	10
The police	1	6	79	22	108
Danish Security and Intelligence Service (PET)	0	1	1	1	3
Chief Constable of Greenland	0	1	1	0	2
Director of Public Prosecutions	0	4	8	2	14
National Police	10	16	22	2	50
Regional Public Prosecutors	1	38	28	6	73
Total	40	215	397	66	718

h. Ministry of Ecclesiastical Affairs

The Department	0	1	5	1	7
Parish church councils	0	0	1	0	1
Deaneries	0	0	0	1	1
Parishes	0	0	1	0	1
Dioceses	0	1	0	0	1
Total	0	2	7	2	11

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
i. Ministry of Culture					
The Department	0	2	2	0	4
Public Lending Right Remuneration Board	0	0	0	1	1
Danish Broadcasting Corporation (DR)	0	4	13	1	18
Danish National School of Performing Arts	0	0	1	0	1
The Royal Theatre	0	0	2	0	2
Nota – Danish Library and Expertise Center for People with Print Disabilities	0	1	0	0	1
Radio and Television Board	0	0	2	0	2
Danish National Archives	0	0	2	0	2
Agency for Culture and Palaces	0	4	2	0	6
Total	0	11	24	2	37

j. Ministry of Environment and Food

The Department	1	3	8	1	13
Danish Veterinary and Food Administration	0	0	2	1	3
Danish Coastal Authority	0	0	7	1	8
Danish Agricultural Agency	0	0	5	0	5
Environmental Protection Agency	0	0	5	1	6
Danish Nature Agency	0	0	6	1	7
Total	1	3	33	5	42

k. Ministry of Taxation

The Department	0	3	7	2	12
Director of Legal Protection	0	2	1	0	3
National Tax Tribunal	1	13	8	10	32
Danish Customs and Tax Administration (SKAT)	0	4	90	14	108
Regional tax appeals boards	0	1	0	2	3
Tax Appeals Agency	1	6	21	1	29
Regional assessment appeals boards	0	1	0	0	1
Total	2	30	127	29	188

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
l. Prime Minister's Office					
The Department	2	2	4	2	10
Total	2	2	4	2	10

m. Ministry of Health

The Department	3	5	15	1	24
Psychiatric Appeals Board	0	2	0	0	2
Danish Medicines Agency	0	0	1	1	2
Statens Serum Institut (SSI)	0	0	1	0	1
Danish Patient Safety Authority	0	20	38	6	64
National Health Data Agency	0	0	1	0	1
Danish Health Authority	0	1	10	1	12
Disciplinary Board of the Danish Healthcare System	0	6	14	0	20
Total	3	34	80	9	126

n. Ministry of Transport, Building and Housing

The Department	0	6	18	2	26
Rail Net Denmark (Banedanmark)	0	0	1	0	1
DSB (Danish State Railways)	0	0	3	1	4
Danish Road Safety Agency	0	7	11	0	18
Danish Transport, Construction and Housing Authority	1	0	8	1	10
Danish Road Directorate	1	2	5	2	10
Total	2	15	46	6	69

o. Ministry of Higher Education and Science

The Department	0	1	4	0	5
State Educational Grant and Loan Scheme Board of Appeal	0	9	3	1	13
Danish Agency for Science and Higher Education	1	2	7	0	10
Danish Agency for Institutions and Educational Grants	2	4	10	2	18
Educational establishments	0	1	24	8	33
Total	3	17	48	11	79

Cases concluded in 2017 – by authority etc.

Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
p. Ministry of Foreign Affairs					
The Department	1	4	4	0	9
Danish embassies, consulate generals etc. in foreign countries	0	0	1	1	2
Danish Fisheries Agency	0	0	4	0	4
Total	1	4	9	1	15
q. Ministry of Immigration and Integration					
The Department	6	14	41	12	73
Danish Agency for International Recruitment and Integration	0	0	6	0	6
Immigration Appeals Board	1	5	19	4	29
Danish Immigration Service	0	12	56	10	78
Total	7	31	122	26	186
r. Ministry of Education					
The Department	0	4	7	3	14
Special Education Appeals Board	0	2	3	0	5
National Agency for Education and Quality	0	2	11	0	13
Educational establishments	0	1	12	2	15
Total	0	9	33	5	47
s. Ministry for Economic Affairs and the Interior					
The Department	0	4	9	1	14
National Social Appeals Board ²	1	192	276	58	527
Unit of the National Social Appeals Board supervising municipalities' and regions' observance of legislation applying specifically to public authorities	0	10	28	2	40
Total	1	206	313	61	581
Central authorities etc., total	68	630	1,517	267	2,482

- 2) Cases where the authority with prime responsibility was a board to which the National Social Appeals Board provides secretariat assistance (the Special Education Appeals Board, the State Educational Grant and Loan Scheme Board of Appeal, the Psychiatric Patients' Board of Complaints, the Board of Equal Treatment or the Danish Supervisory Board of Psychological Practice) have been classified under the Ministry of Education, the Ministry of Higher Education and Science, the Ministry of Industry, Business and Financial Affairs, the Ministry of Employment and the Ministry for Children and Social Affairs, respectively.

Cases concluded in 2017 – by authority etc.					
Authority etc. with prime responsibility ¹	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
B. Municipal and regional authorities etc. (within the Ombudsman's jurisdiction)					
Municipalities	31	99	1,075	164	1,369
Regions	23	11	131	19	184
Joint municipal or regional enterprises	0	0	6	0	6
Special municipal or regional entities	3	1	4	1	9
Total	57	111	1,216	184	1,568
C. Other authorities etc. within the Ombudsman's jurisdiction³					
Other authorities etc. within the Ombudsman's jurisdiction	10	19	152	10	191
Total	10	19	152	10	191
D. Authorities etc. within the Ombudsman's jurisdiction, total					
Central authorities etc., total (A)	68	630	1,517	267	2,482
Municipal and regional authorities etc., total (B)	57	111	1,216	184	1,568
Other authorities etc. within the Ombudsman's jurisdiction, total (C)	10	19	152	10	191
Total	135	760	2,885	461	4,241
E. Institutions etc. outside the Ombudsman's jurisdiction					
1. Courts etc., cf. section 7(2) of the Ombudsman Act	0	0	1	90	91
2. Dispute tribunals, cf. section 7(3) of the Ombudsman Act	0	0	1	23	24
3. Other institutions, companies, businesses and persons outside the Ombudsman's jurisdiction	0	0	16	293	309
Total	0	0	18	406	424
F. Cases not relating to specific institutions etc.					
	0	0	359	38	397
Grand total (A-F total)	135	760	3,262	905	5,062

3) The figures comprise private institutions which fall within the Ombudsman's jurisdiction in connection with OPCAT or in the children's sector and other institutions etc. which have been included under the Ombudsman's jurisdiction, for instance Udbetaling Danmark (117 cases in 2017), an authority responsible for a number of public benefits. In 2017, the Ombudsman decided in pursuance of section 7(4) of the Ombudsman Act that his jurisdiction was to extend to Sund & Bælt Holding A/S to the extent to which the company is subject to the provisions of the Access to Public Administration Files Act.

PROCESSING TIMES

Types of cases and outcomes		Average processing time ¹	Targets and results
Complaint cases and cases opened by the Ombudsman on his own initiative	Investigations	4.7 months	Concluded within 6 months Target: 70% Actual: 73%
			Concluded within 12 months Target: 90% Actual: 95%
	– of which cases on access to public files ²	32 working days (from maturity date)	Investigated cases on access to public files concluded within 20 working days from maturity date Target: 45% Actual: 52%
			Investigated cases on access to public files concluded within 40 working days from maturity date Target: 90% Actual: 69%
	Other forms of processing and assistance to citizens and rejections for formal reasons	1.5 months	Concluded within 3 months Target: 90% Actual: 84%
			Concluded within 6 months Target: 98% Actual: 94%
Monitoring cases ³	3.8 months (from date of monitoring visit)	Concluded within 6 months from date of monitoring visit Target: 80% Actual: 75%	

- 1) Processing times are stated in *calendar days*, except for cases on access to public files, where processing times are stated in *working days* – as in the Access to Public Administration Files Act. The 'maturity date' for a case is the date on which it was ready for final processing after the Ombudsman had received the necessary information and statements from the citizen and the authorities.
- 2) Complaint cases concerning access to files under the Access to Public Administration Files Act, the Environmental Information Act, the Administration of Justice Act etc., with the exception of cases concerning the right of a party to a case to obtain access to documents of the case and cases of persons requesting access to information about themselves.
- 3) Monitoring cases comprise concluded cases concerning monitoring visits made to institutions for adults, monitoring visits to institutions for children carried out from 1 October 2016, monitoring visits to investigate physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals. See pages 36-75 for information about the Ombudsman's monitoring activities.

OTHER FACTS

The Ombudsman declared himself **disqualified** in five cases in 2017. Parliament's Legal Affairs Committee assigned these cases to Henrik Bloch Andersen, High Court Judge. The Ombudsman's office provided secretariat assistance in connection with the processing of the cases.

The Faroese Lagting (the Parliament) did not ask the Ombudsman to act as **ad hoc ombudsman** for the Faroese Parliamentary Ombudsman in any cases in 2017. The Inatsisartut (the Parliament of Greenland) asked the Ombudsman to act as ad hoc ombudsman for the Ombudsman for Inatsisartut in three cases.

STATEMENT OF REVENUE AND EXPENDITURE – 2017

The Ombudsman's ordinary activities

DKK

Revenue

Subsidy from Ministry of Foreign Affairs	-436,000
Other revenue	0
Total revenue	-436,000

Expenditure

Wages and salaries, pension costs	61,378,000
Rent	4,577,000
Staff and organisation, including staff welfare	176,000
Continuing training/education	1,064,000
Books and library	152,000
Specialist databases	1,141,000
Newspapers and journals	206,000
Communication	725,000
Computer systems – operations and development	3,830,000
Computer hardware	277,000
Telephony and broadband	418,000
Premises – repairs and maintenance	896,000
Furniture, fixtures and fittings	1,070,000
Cleaning, laundry and refuse collection	278,000
Heating and electricity	525,000
Premises – other expenditure	398,000
Travel	365,000
Entertainment and meals	112,000
Contribution to financial support scheme for trainees	318,000
Stationery and office supplies	176,000
Postage	56,000
Other goods and services	2,384,000
Total expenditure	80,522,000
Total expenditure (net)	80,958,000
Government appropriation	82,800,000
Result for the year	1,842,000

Public service pensions

	DKK
Revenue	1,714,000
Expenditure	1,931,000
Result for the year	-217,000

Collaboration agreement with Ministry of Foreign Affairs

	DKK
Revenue	667,000
Expenditure	667,000
Result for the year	0

Collaboration project with China

	DKK
Revenue	1,229,000
Expenditure	1,229,000
Result for the year	0



CASE NO. 16/05597

It was not clear where the Ombudsman came into the picture when a man sent in a pile of documents with many handwritten notes but without any specific complaint. Some of the documents concerned a complaint about the police which the Ombudsman had previously declined to investigate. Others apparently concerned a disagreement with a finance company.

In a letter, the Ombudsman asked the man to specify what he wished to complain about and gave him a deadline of four weeks to reply. When the four weeks had passed without any reply from the man, the Ombudsman wrote to him that he did not intend to take any further action in the matter.

In 2017, the Ombudsman closed 192 cases because it was not possible to clarify what the citizen wished to complain about or because the complaint was withdrawn.

CASE NO. 17/02496

A municipality complained about the time it took SKAT (the Danish Customs and Tax Administration) to answer a number of questions on settlement of an estate duty to the municipality. The municipality stated that it needed the answers to be able to calculate the amount it would claim from SKAT in a court case.

The Ombudsman declined to investigate the case because it was a complaint from one public authority about another public authority.

In practice, it is considered a principal task for the Ombudsman to investigate conflicts between public administration and citizens. The authorities must solve conflicts between themselves in other ways than by complaining to the Ombudsman, for instance by negotiation.

CASE NO. 17/03703

A forced deportation of a foreign national was aborted when the flight's captain refused the transport of the foreign national. The reason was that the foreign national resisted violently when he was about to board the plane and three police officers had to carry him by force to the entrance to the plane. A monitoring officer from the Ombudsman office was present and observed the police officers' work.

On the basis of the monitoring officer's observations and after receiving the police report on the aborted deportation, the Ombudsman closed the case without criticism of the police.

The Ombudsman monitors that the forced returns of foreign nationals effected by the police take place with respect for the individual and without undue use of force. This means, among other things, that staff from the Ombudsman's office participate in a small number of forced returns effected by the police. In 2017, three of a total of 10 returns in which staff from the Ombudsman office participated were aborted.

CASE NO. 17/01119

A mother and father had been refused reimbursement of extra costs for a special club facility for their 17-year-old disabled daughter. The parents wrote in a complaint to the Ombudsman that they had actually appealed against a refusal of a special educational club facility for the daughter which they believed that the municipality had a duty to make available for disabled young people according to the Act on Social Services.

The Ombudsman forwarded the parents' complaint to the National Social Appeals Board so that the Board could consider the case again. The Board reopened the case and pointed out that the Board had not considered the case according to all relevant provisions.

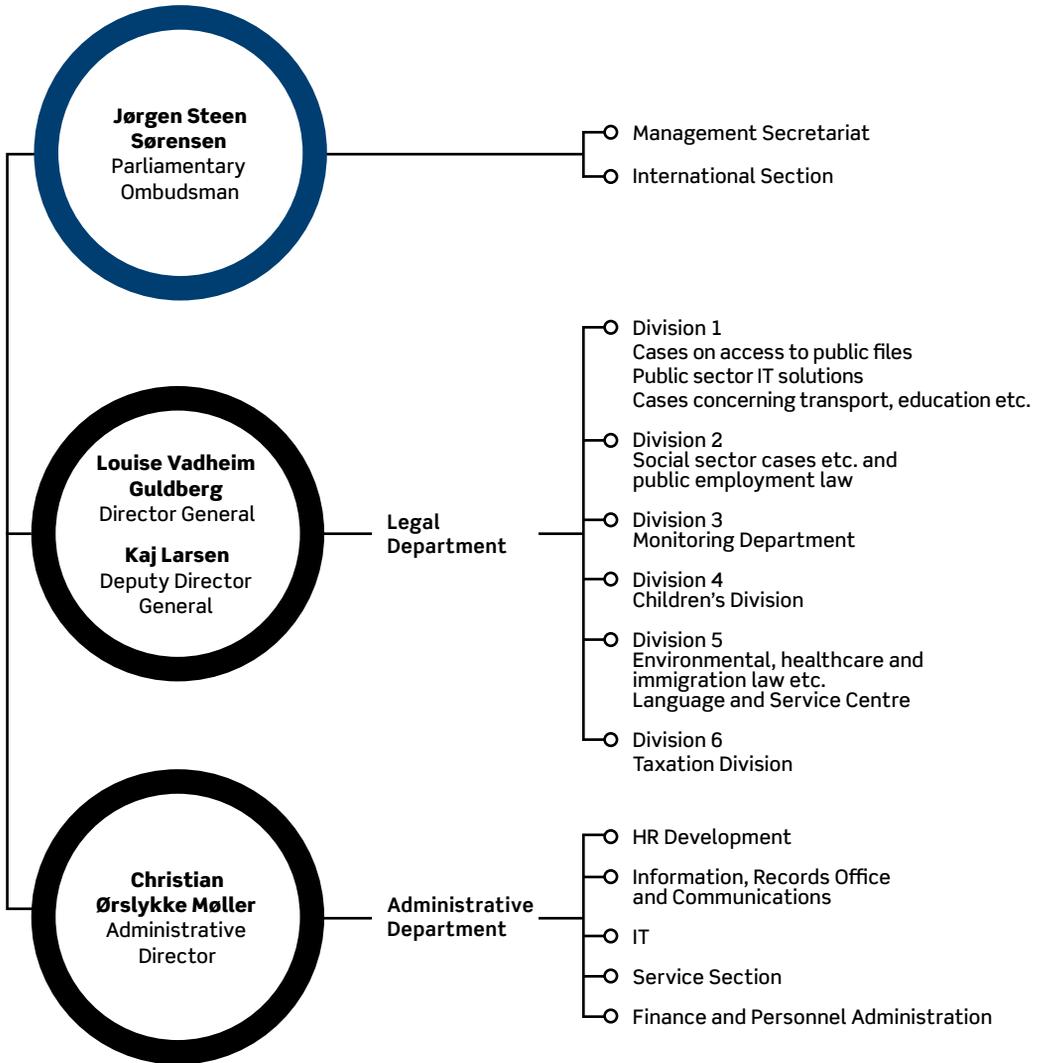
Sometimes, the Ombudsman can help a case along simply by throwing light on a misunderstanding.



ORGANISATION

MANAGEMENT

DEPARTMENTS



Christian Ørslykke Møller
Administrative Director

Jørgen Steen Sørensen
Parliamentary Ombudsman



Kaj Larsen
Deputy Director General

Louise Vadheim Guldborg
Director General



MANAGEMENT SECRETARIAT

Jens Møller, Chief Legal Advisor

Jacob Berner Moe, Special Communications Advisor

Signe Berg, Management Coordinator

Jannie Svendsen, Executive Secretary



INTERNATIONAL SECTION

Klavs Kinnerup Hede, Director of International Relations

Christian Ougaard, Special Legal Advisor

Yuxuan Ning, International Relations Student Assistant



DIVISION 1

- CASES ON ACCESS TO PUBLIC FILES
- PUBLIC SECTOR IT SOLUTIONS
- CASES CONCERNING TRANSPORT, EDUCATION ETC.

Kirsten Talevski, Senior Head of Division

Christina Ladefoged, Deputy Head of Division

Kristine Holst Hedegaard, Deputy Head of Division

Michael Gasbjerg Thuesen, Special Legal Advisor

Anna Stamhus Thommesen, Legal Case Officer

Janne Lundin Vadmand, Legal Case Officer

Lene Levin Rybtke, Legal Case Officer

Mai Vestergaard, Legal Case Officer

Marta Warburg, Legal Case Officer

Nina Melgaard Ringsted, Legal Case Officer

Stine Harkov Hansen, Legal Case Officer

Frederik Sindberg Walther, Legal Student Assistant



KEY SUBJECT AREAS OF CASES PROCESSED

- Access to public files
- Market and consumer issues, companies etc.
- Elections, registration of individuals, weapons, passports, permissions to appeal etc.
- Transport, communication, roads, traffic etc.
- Education and research
- Ecclesiastical affairs and culture



DIVISION 2

- SOCIAL SECTOR CASES ETC. AND PUBLIC EMPLOYMENT LAW

Karsten Loiborg, Senior Head of Division
Camilla Bang, Deputy Head of Division
Pi Lundbøl Stick, Deputy Head of Division
Bente Mundt, Senior Consultant
Dennis Sørensen, Legal Case Officer
Kirsten Broundal, Legal Case Officer
Mai Gori, Legal Case Officer
Marie Helqvist, Legal Case Officer

Mette Kildegaard Hansen, Legal Case Officer
Pernille Helsted, Legal Case Officer
Sara Lysemose Sørensen, Legal Student Assistant

KEY SUBJECT AREAS OF CASES PROCESSED

- Social security and labour market law
- Public employment law





DIVISION 3

– MONITORING DEPARTMENT

Morten Engberg, Senior Head of Department

Erik Dorph Sørensen, Deputy Head of Department

Stine Marum, Deputy Head of Department

Anne Hveisel Djurhuus, Legal Case Officer

Hanne Nørgård, Legal Case Officer

Katrine Rosenkrantz de Lasson, Legal Case Officer

Marie Nyborg Kvist, Legal Case Officer

Marjanne Kalsbeek, Legal Case Officer

Morten Bech Lorentzen, Legal Case Officer

Rikke Malkov-Hansen, Legal Case Officer

Anders J. Andersen, Disability Consultant, MA (Laws)

Jeanette Hansen, Senior Administrative Assistant

Trine Ravnholt, Legal Student Assistant



THE DEPARTMENT IS IN CHARGE OF THE OMBUDSMAN'S MONITORING ACTIVITIES IN RELATION TO ADULTS, WHICH INCLUDE IN PARTICULAR:

- State prisons
- Local prisons
- Halfway houses under the Prison and Probation Service
- Police detention facilities for intoxicated persons
- Psychiatric wards
- Social and social psychiatric residential facilities
- Asylum centres

- Non-discrimination of persons with disabilities
- Forced deportations of foreign nationals

THE DEPARTMENT ESPECIALLY PROCESSES SPECIFIC CASES INVOLVING:

- Sentence enforcement and custody
- Police and criminal cases
- Psychiatric healthcare and conditions for psychiatric patients
- Social care institutions



DIVISION 4

– CHILDREN'S DIVISION

Susanne Veiga, Senior Head of Division

Ann Thagård Gregersen, Deputy Head of Division

Mette Ravn Jacobsen, Deputy Head of Division

Rikke Ilona Ipsen, Special Legal Advisor

Irene Rønn Lind, Special Advisor on Children's Issues

Peter Kersting, Legal Case Officer

Sabine Heestermans Svendsen, Legal Case Officer

Signe Berg, Legal Case Officer

Yasaman Mesri, Legal Case Officer

Morten Pilgaard Pedersen, Legal Student Assistant

Yusrah Asgar, Legal Student Assistant



THE DIVISION CARRIES OUT MONITORING VISITS TO PUBLIC AND PRIVATE INSTITUTIONS FOR CHILDREN, SUCH AS:

- Social care institutions and privately run accommodation facilities for children placed in residential care
- Foster families
- Schools, including private schools
- Asylum centres
- Hospital wards and psychiatric wards for children
- Daycare facilities

THE DIVISION ESPECIALLY PROCESSES SPECIFIC CASES INVOLVING:

- Support measures for children and juveniles
- Social services for children
- Family law (visitation rights etc., child support and adoptions)
- Primary and lower secondary schools, continuation schools and private schools
- Institutions for children
- Other cases with a particular bearing on children's rights



DIVISION 5

- ENVIRONMENTAL, HEALTHCARE AND IMMIGRATION LAW ETC.
- LANGUAGE AND SERVICE CENTRE

Lisbeth Adserballe, Senior Head of Division
Karina Sanderhoff, Deputy Head of Division
Vibeke Lundmark, Deputy Head of Division
Camilla Schroll, Legal Case Officer
Christine Hagelund Petersen, Legal Case Officer
Morten Juul Gjermundbo, Legal Case Officer
Sofie Hedegaard Larsen, Legal Case Officer
Sverre Kjeldgaard Johansen, Legal Case Officer
Tina Andersen, Legal Case Officer
Cecilie Rahbek, Legal Student Assistant
Mads Whitta-Jacobsen, Legal Student Assistant

KEY SUBJECT AREAS OF CASES PROCESSED

- Environment and planning
- Building and housing
- Energy
- Food and agriculture
- Municipalities and regions etc.
- The non-psychiatric healthcare sector
- Foreign nationals
- The law of capacity, the law of names, foundations, trusts and the law of succession



LANGUAGE AND SERVICE CENTRE

Vibeke Lundmark, Deputy Head of Division

Lisbeth Nielsen, Senior Language Officer

Gurli Søndergaard, Senior Language Officer

Marianne Anora Kramath Jensen, Senior Language Officer

CORE RESPONSIBILITIES

- Production data

- Translation

- Proofreading

- Letters of confirmation and other minor case processing steps

- Replies to communications sent for our information

- Contact to external translators



DIVISION 6

– TAXATION DIVISION

Johannes Martin Fenger, Senior Head of Division

Inge Birgitte Møberg, Deputy Head of Division

Jørgen Hejstvig-Larsen, Deputy Head of Division

Lise Puggaard, Senior Consultant

Elizabeth Bøggild Monrad, Special Legal Advisor

Mette Vestentoft, Special Legal Advisor

Uffe Habekost Sørensen, Special Legal Advisor

Ulla Frederiksen, Special Legal Advisor

Marianne Halkjær Ebbesen, Legal Case Officer

Marte Volckmar Kaasa, Legal Case Officer

Martin Dyhl-Kristoffersen, Legal Case Officer

Professor Jan Pedersen, LL.D., External Consultant,

Aarhus Universitet

Jimmi Hilkøb, Legal Student Assistant



KEY SUBJECT AREAS OF CASES PROCESSED

- Direct taxes
- Indirect taxes, including value-added tax, etc.
- Levying and collection of taxes
- Own-initiative projects
- The Guide for Authorities on the Ombudsman's website



ADMINISTRATIVE DEPARTMENT

CORE RESPONSIBILITIES

- Finance and personnel administration
- HR development
- Organisational development
- Information and communications
- IT
- Service and maintenance
- Records office

Christian Ørslykke Møller, Administrative Director

HR DEVELOPMENT

Lisbeth Kongshaug, Head of HR and Development
Jannie Svendsen, Senior HR and Development Administration Officer

INFORMATION, RECORDS OFFICE AND COMMUNICATIONS

Karen Nedergaard, Head of Information, Records Office and Communications
Julie Gjerrild Jensen, Senior Communications Officer
Eva Jørgensen, Senior Communications Officer
Birgit Kehlet-Hansen, Senior Library Assistant
Carsten Christiansen, Senior Records Assistant



Denise Schärfe, Senior Records Assistant
Harriet Lindegaard Hansen, Senior Records Assistant
Julie Mie Lauridsen, Senior Records Assistant
Stine Holst Gamain-Nørgaard, Senior Records Assistant

IT

Seyit Ahmet Özkan, IT Administrator
Uffe Larsen, IT Officer
Kevin Pedersen, IT Student Assistant

SERVICE SECTION

Jeanette Schultz, Head of Service
Lisbet Pedersen, Receptionist
Flemming Wind Lystrup, Service Assistant

Niels Clemmensen, Service Assistant
Annitta Lundahl, Housekeeper
Charlotte Jørgensen, Housekeeper
David Jensen, Housekeeper
Kirsten Morell, Housekeeper
Suphaporn Nielsen, Housekeeper

FINANCE AND PERSONNEL ADMINISTRATION

Torben Frimer-Larsen, Head of Finance and Personnel
Mette Vestentoft, Special Legal Advisor
Jeanette Schultz, Head of Service
Lone Gundersen, Senior Personnel Officer
Neel Aggestrup, Senior Administrative Assistant



CASE NO. 16/02975

It was not easy to spot the disabled parking spaces when the Ombudsman's monitoring team arrived at a primary and lower secondary school on the island of Funen in a disability vehicle. The reason was that the school had not put up signs or otherwise indicated – for instance on its website – where the disabled parking spaces were.

Signposting of the parking spaces was one of the matters which the monitoring team looked into at a monitoring visit to the school to investigate its accessibility for persons with disabilities. On the monitoring team's check list were also lavatories for persons with disabilities, lifts, accessibility to, for instance, special subject classrooms, outdoor facilities etc. In a report to the school, the Ombudsman pointed out the problems with regard to accessibility for persons with disabilities which the monitoring team had encountered.

When the Ombudsman's monitoring teams go out on monitoring visits to investigate accessibility for persons with disabilities, the team normally includes, besides legal case officers from the Ombudsman's office, a disability consultant who is a wheelchair user. It is often an eye-opener that a high curb can mean that a wheelchair user cannot enter or that a lack of signposting makes it difficult or impossible for wheelchair users to find the lavatories or the parking space on their own.

CASE NO. 17/05255

A municipality decided to establish a playground in a conservation area. However, not everybody agreed that the playground was compatible with the conservation.

One of the townspeople complained to the Ombudsman about both the municipality's decision and a reply from the relevant nature conservancy board, but the Ombudsman could not help: the decision about the playground was made more than 12 months before the complaint was lodged with the Ombudsman, and this in itself meant that the Ombudsman could not consider the complaint about the municipality. Further, the nature conservancy board was not within the Ombudsman's jurisdiction because of its court-like nature.

The Ombudsman had to reject 132 complaints in 2017 because they had been lodged too late.

CASE NO. 17/03499

'Where do you belong when you have been living for four years with the same foster family?' This was what a foster family asked the Ombudsman in a complaint that their former foster child had been moved to another placement. In addition, the foster family complained because the National Social Appeals Board had declined to consider the case despite the foster family's concern about the boy's continued development.

The foster family's complaint caused the Ombudsman to obtain information about the case from the National Social Appeals Board. He wrote to the foster family that since they were not parties to the case – neither to the municipality's case on a new placement nor to the Board's case – he could not inform them about the case in more detail. This followed from the rules on confidentiality.

The Ombudsman and his staff are bound by a duty of confidentiality.

CASE NO. 17/02793

A taxpayer complained that SKAT (the Danish Customs and Tax Administration) in 2014 raised her taxable income for 2009. She did not think that the authorities could use a special time limit rule in the case, and in her opinion this meant that the authorities' time limit for changing the tax assessment had expired.

The Ombudsman forwarded the complaint to the National Tax Tribunal in order to borrow the documents in the case and also asked for the Tribunal's comments.

The Tribunal now chose to reopen the case and consider the question of the time limit. The Ombudsman then closed the case.

It often happens (in 2017 it happened in 19 cases) that an authority reopens a case after the Ombudsman has asked for the authority's comments on the case.



The public sector seen through the lens

'The public sector' is an abstract concept. What does the public sector really look like? In each year's Annual Report, we leave it entirely up to a photographer to give us his or her take on that.



Jakob Dall (born in 1971) is a freelance photojournalist who trained at the Danish School of Media and Journalism. Among other things, he works on portraying people's everyday lives in conflict and disaster areas. He has made exhibits about the climate change impact on local populations in more than 15 countries. Jakob Dall has won awards from World Press Photo, Pictures of the Year International, EISA etc. for his international photographic work.

Jakob Dall says: 'The portrait series 'The Uniform' shows public Denmark in its everyday uniform as well as the person behind it, with the individual filling his or her important role in Danish society. The uniform helps to quickly signal who fills which role. In addition, it is often the most practical attire, it helps protect the individual and it gives him or her the feeling of being part of something bigger. When we as ordinary citizens encounter the public sector, its representatives are often dressed in a uniform. That goes for the nurse and the policeman, for instance. Even the social worker – who just needs to look 'ordinary' in order to build trust – can be said to wear a uniform in a sense. The portrait series shows eight public employees' everyday lives in their environment and also illustrates the diversity of society.'