



FOLKETINGETS
OMBUDSMAND



The Danish Parliamentary Ombudsman has been elected by Parliament. His task is to help ensure that administrative authorities act in accordance with the law and good administrative practice, thus protecting citizens' rights vis-à-vis the authorities. The Ombudsman investigates complaints, opens cases on his own initiative and carries out monitoring visits.

Annual Report 2021

The Danish Parliamentary Ombudsman

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Dear Reader,

In accordance with the Ombudsman Act, the Danish Parliamentary Ombudsman submits an annual report on his work to the Danish Parliament. The international edition of the 2021 Annual Report of the Danish Parliamentary Ombudsman seeks to share information and experiences internationally with colleagues and others with a special interest in ombudsman work. This report contains elements from our Danish report but also elements that are unique to this international version.

2021 was dominated by the COVID-19 pandemic as was 2020. In spite of the pandemic, the Parliamentary Ombudsman processed a large number of complaints and carried out the monitoring visits that were already planned. Internationally, we were happy to be able to receive guests from abroad in 2021 for the first time in two years. Representatives from the Ombudsman of the Republic of Indonesia visited Denmark to discuss the role of ombudsman institutions in securing access to public facilities for persons with disabilities.

On the following pages, I will cover some of our most important cases in 2021. This report also contains two articles about some of the most significant monitoring visits in 2021. One of the articles describes our monitoring visit to Greenland, while the other presents the conclusions from the Ombudsman's thematic report 2020 on convicted persons with intellectual and developmental disabilities.

Because of the great diversity of ombudsman institutions around the world, we have included an appendix, which will enable readers with a special interest to get a deeper understanding of the Danish Ombudsman institution.

Enjoy the read!



Niels Fenger
Parliamentary Ombudsman

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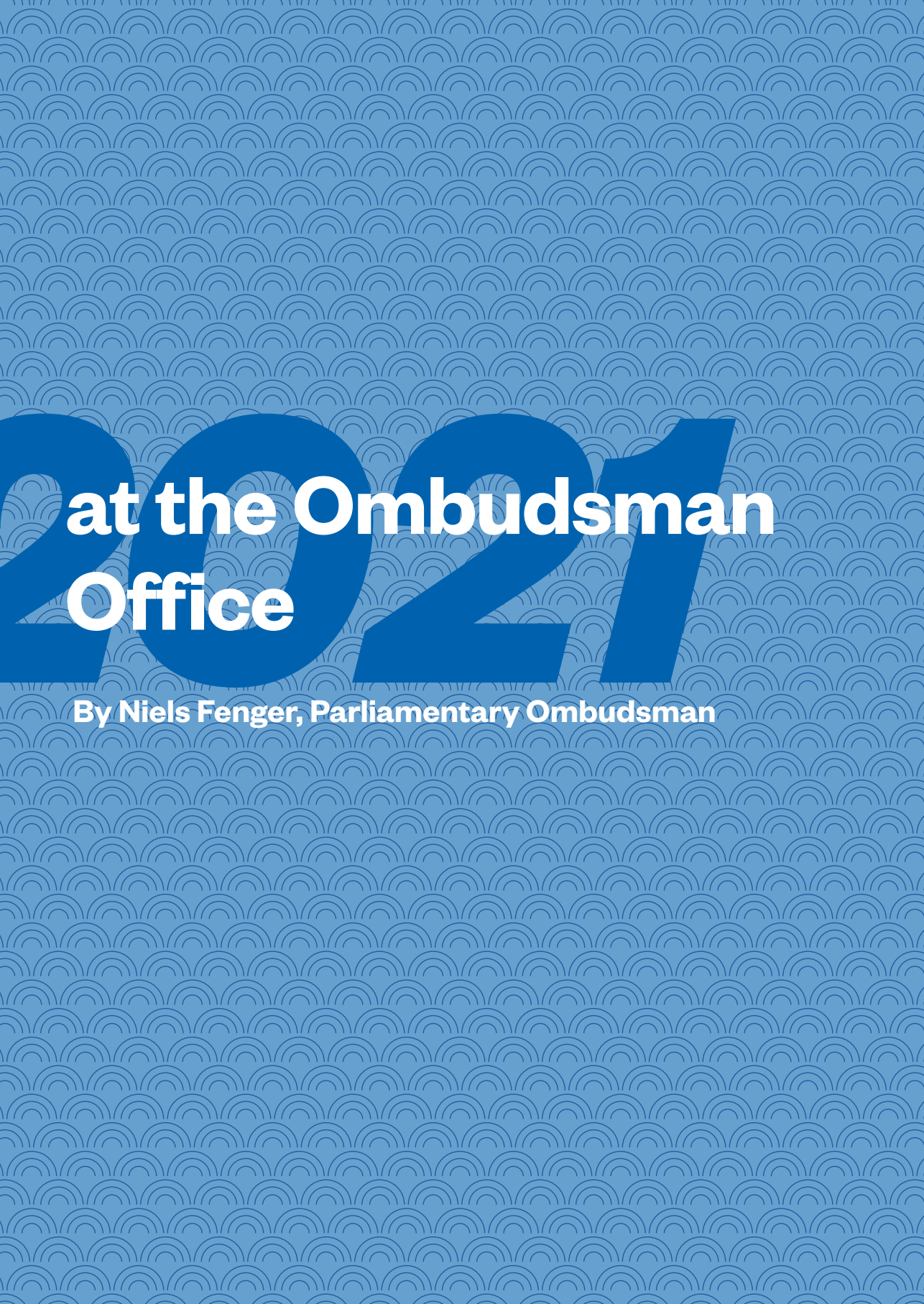
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2021 at the Ombudsman Office

By Niels Fenger, Parliamentary Ombudsman

As we all know, 2021 was characterised by the COVID-19 pandemic, which left its distinctive mark on Danish society for the second year running. Looking back at 2021, it is therefore natural to ask oneself how 'corona world' has looked from an Ombudsman perspective.

As I will touch upon elsewhere in my report, we have in the past year received approx. 100 complaints related to the authorities' handling of the COVID-19 pandemic or to measures related to the pandemic. In addition, we have had a fair amount of complaints about refusal to grant access to files in precisely such cases. They covered a wide field, from access to files cases with the health authorities to access to files cases related to the work of the commission of inquiry into the case of the culling of mink and the outside counsel investigation about the so-called action cards (Case No. 2021-13 and Case No. 2021-14 published in Danish at www.ombudsmanden.dk). Another important case related to COVID-19 concerned a complaint from a business about the right to receive wage compensation being limited for businesses that were parties to labour disputes (Case No. 2021-28).

Even though we had to work from home over extended periods of time in 2021, fortunately we were to a large extent able to maintain a high number of cases being processed. To a high degree, this is due to my dedicated staff who also in 2021 delivered strong results. However, as we touch upon below, the COVID situation has among other things sadly had the consequence that we have had to postpone a number of monitoring visits and carry out others virtually (page 34-45).

Focus on digitisation

When I took up the position as Ombudsman in 2019, I expected that the authorities' growing digitisation of case processing would become of increasing importance to the Ombudsman's portfolio of tasks. This applied to the type of complaint cases that the office expects to see as well as in relation to our own-initiative investigations. In both areas, we had to focus on the special challenges regarding compliance with legislation and good administrative practice that digitisation entails.

The expectation proved correct. So, in 2021, we received complaints not only from individual citizens but also from a trade organisation and a union about IT solutions which their members had to use for work or when communicating with the public administration. These complaints gave cause for my investigation of two IT systems' problematic issues. In both cases, the authorities caught the ball and described to me the initiatives they were in the midst of implementing in order to improve the systems.

2021 was also the year when an increased focus on digitisation in our own-initiative investigations had an impact.

As I described in my 2019 Annual Report, the Ombudsman is normally the last player on the field, meaning that we do not go into a case until it has been concluded by the authority. The Ombudsman's role is to be a controller and not a developer that solves the cases on the authorities' behalf. But as I also wrote, flawed digital systems may affect a great number of citizens. Furthermore, it can be rather difficult to rectify the shortcomings even when a flaw has been identified – as cases from the tax authorities have shown on more than one occasion.

Therefore, we are attempting something new – and for the time being on a trial basis – namely to add a new angle to our monitoring of the authorities’ digital solutions. We will continue to look at existing digital systems. But in addition to this, we will attempt to enter the process relatively early – meaning already at the development stage of the IT systems – in order to see if we can play a part in the authorities preventing and avoiding flaws rather than just wait for the damage to be done and then react to complaints about fully developed systems.

It is a new approach for us to bring ourselves into play at an earlier stage than usual. Indeed, it is actually almost like a voyage into uncharted territory. And I am keen to find out if this approach can contribute to the authorities’ performance when developing new systems.

Specifically, the Ombudsman’s Taxation Division is in charge of this task and has made the tax authorities’ digitisation a special theme. This task belongs to the Taxation Division because, among other things, we thereby have a very broad impact: Tax administration affects us all, and the tax administration has used many digital systems for a long time.

For instance, the Taxation Division is investigating how the tax authorities take administrative law into account at the actual development stage. The investigations continue but I am looking forward to telling you more about the results, including in my 2022 Annual Report.

Case processing too slow

Long processing times are another issue that we have worked on a great deal in the past year at the Ombudsman Office.

After all, citizens are not only entitled to correct case processing. They are also entitled to having their cases concluded within a reasonable time so they are not stuck in limbo indefinitely.

An important case this year was our investigation of the Agency of Family Law’s processing times in cases about supervised visitation after sentencing and temporary visitation. In this context, we found that the processing times were far too long – more than 12 weeks on average. Obviously, it is of importance in general to have reasonable processing times but it is especially important in this type of cases concerning families in crisis-ridden situations. In 2022, we will continue to investigate cases about the Agency of Family Law’s processing times, including by means of own-initiative investigations.

On an ongoing basis, I have also kept an eye on authorities’ processing times when they respond to access to files requests from journalists and other citizens. Access cases is one of the areas that are exhibiting strong growth at the Ombudsman Office. In 2021, we received 399 complaints, which was an increase of more than 100 compared to the year before.

In parallel with the processing of these complaints, I have opened a number of own-initiative cases regarding access to files at the Ministry of Health and at the Prime Minister’s Office, among others. COVID-19 has had an especially hard impact on their workload, and on that background, I have previously expressed my understanding that the processing times could be longer than usual. At some stage, however, the authorities must rise to the occasion and be able to handle the case processing requirements (Case No. 2021-7).



Furthermore, in an access to files case in the Ministry of Health, I had the opportunity to give a statement about the authorities' obligation to inform the person requesting access about the expected processing times.

The case concerned a journalist who had requested access to files in the Ministry and for months had been told that his request for access would be processed within a few weeks, without this actually happening. It took nine months from his request until the case was concluded. In my statement, I stressed that the case processing was very regrettable. Notifications about expected processing times from an authority must always be realistic – even if a realistic notification will show that the authority cannot observe the statutory deadlines (Case No. 2021-31).

Growing caseload

All in all, 2021 has been a busy year. We opened 5,643 cases, which is the second highest number in the lifetime of the Ombudsman Office – just a bit under the record number of 5,912 in 2020. So, we are seeing a continuously growing caseload, which in 2021 was approx. 15 per cent above the level five years ago.

It is of course nice to be in demand but it is also a challenge. As I wrote in the 2020 Annual Report, the number of complaint cases affects our capacity to start up own-initiative cases. It is often through the own-initiative cases that we can deliver maximum legal protection.

During the year, the caseload sometimes made me think of 2021 being the year of the ox in the Chinese horoscope. The Chinese regard the ox as 'the good helper' and as a symbol of hard work, thoroughness, honesty and a down-to-earth approach to the surrounding world. We rate these values highly at the Ombudsman Office. Looking back at 2021 now, I hope it has been appreciable for the citizens and authorities who have been in contact with us.





About the cases



**Complaint
cases**



**Own-initiative
investigations**



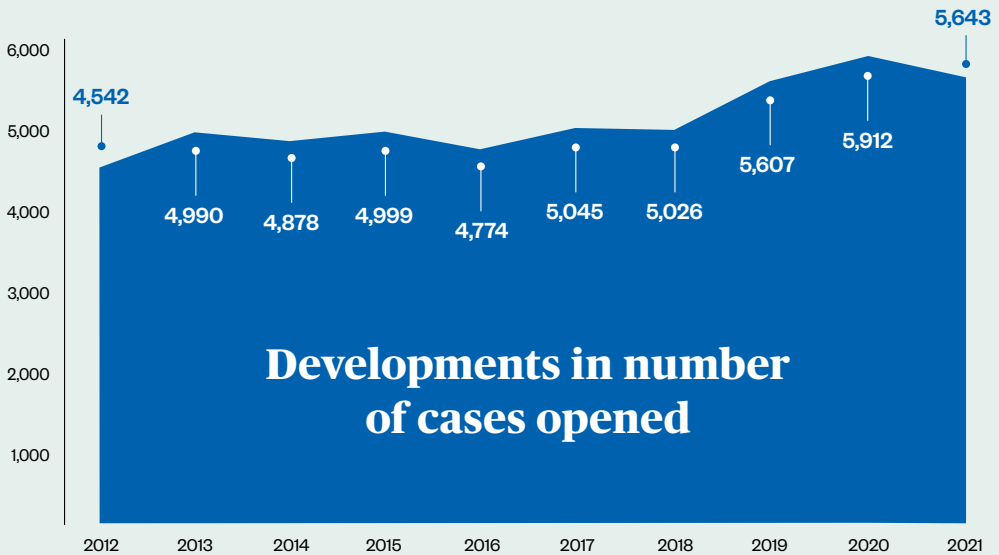
**Monitoring
activities**

Cases opened in 2021¹

5,643

1) Administrative cases are not included. In addition, cases selected for collective review in connection with general own-initiative investigations are not normally included.

5,391 — complaint cases
181 — own-initiative investigations
71 — monitoring cases





Complaint cases

Who: In general, anybody can complain to the Ombudsman, and it is not necessary to be a party to a case to lodge a complaint with the Ombudsman. A complainant cannot be anonymous.

What: The Ombudsman considers complaints about all parts of the public administration and in a limited number of situations also about private institutions, an example being complaints about conditions for children in private institutions.

The Ombudsman does not consider complaints about courts, nor about tribunals which make decisions on disputes between private parties.

When: The Ombudsman's task is to ensure that the authorities have observed the applicable rules. For this reason, the Ombudsman cannot consider cases before the authorities; he can consider a complaint only if the case has been considered by the relevant authority – and by any appeals bodies.

There is a deadline of one year for complaints to the Ombudsman.

How: When the Ombudsman receives a complaint, he first determines whether it offers sufficient cause for investigation. In some cases, the Ombudsman is unable to consider a complaint, whereas in other cases, he chooses not to open an investigation, for instance because he would not be able to help the complainant achieve a better outcome.

In a large proportion of complaint cases, the Ombudsman helps the citizen by providing guidance or by forwarding the complaint to the relevant authority, for instance in order that the authority will be able to consider the complaint or give the citizen more details of the grounds for a decision which it has made in the case.

In a number of cases, the Ombudsman discontinues his investigation because the authority chooses to reopen the case, for instance after being asked for a statement on the matter by the Ombudsman.

In some complaint cases, the Ombudsman carries out a full investigation, which, among other things, involves obtaining statements from the authority and the complainant. The investigation may result in the Ombudsman choosing to criticise the authority and, for instance, recommend that it make a new decision on the matter.

What were the complaints about?

Children

The Ombudsman's Children's Division considers complaints concerning children and young people. The complaints are lodged particularly by parents or by other relatives or caregivers. Many complaints are about support measures for children and young people. The Ombudsman also receives a number of complaints about family law matters or relating to schools.

Social benefits and services

Complaints concerning social benefits and services account for a large proportion of the complaints received by the Ombudsman. The majority of these complaints involve municipalities, Udbetaling Danmark (an authority responsible for a number of public benefits), Labour Market Insurance or the National Social Appeals Board and are about, for instance, occupational injuries, pensions, home help, cash benefit, accompaniment or technical aids.

Access to public records under the Access to Public Administration Files Act, the Environmental Information Act etc.

Complaints under this heading are primarily about refusals by authorities to give access to information or documents and about processing times. A large proportion of the complaints are against the central government.

Institutions for adults

The institutions which these complaints concern include prisons, psychiatric wards and institutions for adults with disabilities. As residents and inmates typically spend 24 hours a day in the institutions, the complaints cover all aspects of life. Examples are contact with relatives and friends, the food available in the institution or feelings of unsafety because of other residents or inmates.

Environment and building

Many complaints under this heading are made by dissatisfied neighbours. Complaints may be about, for instance, loss of privacy due to overlooking from a building, smells from a pig farm or noise from a school. Other complaints are about wind turbines or solar panel installations. The complaints typically concern issues relating to compliance with rules on environmental protection and building and planning legislation.

Taxation

The Ombudsman's Taxation Division handles complaints from both citizens and businesses, including professional representatives of complainants, such as practising lawyers specialised in tax law and accountants. Examples of the subject matter of complaints include tax assessments, debt collection, property assessments and long processing times.

The health sector

Complaints under this heading are made by, among others, citizens who are dissatisfied with treatment they have received in the healthcare system, including the psychiatric healthcare system. Another common theme for complaints is long processing times, for instance in complaint or licensing cases. Over the last two years, the Ombudsman has also received many complaints about the way in which the health authorities have handled the COVID-19 pandemic, typically in relation to vaccines or the COVID pass.

Transport, communication and roads

A substantial proportion of complaints under this heading concern public roads or private communal roads and arise from, for instance, situations involving disputes between neighbours or dissatisfaction with an order by a municipality to maintain or provide access to a private communal road. Other complaints concern, for instance, public digital self-service solutions or media licence fees.

Foreign nationals

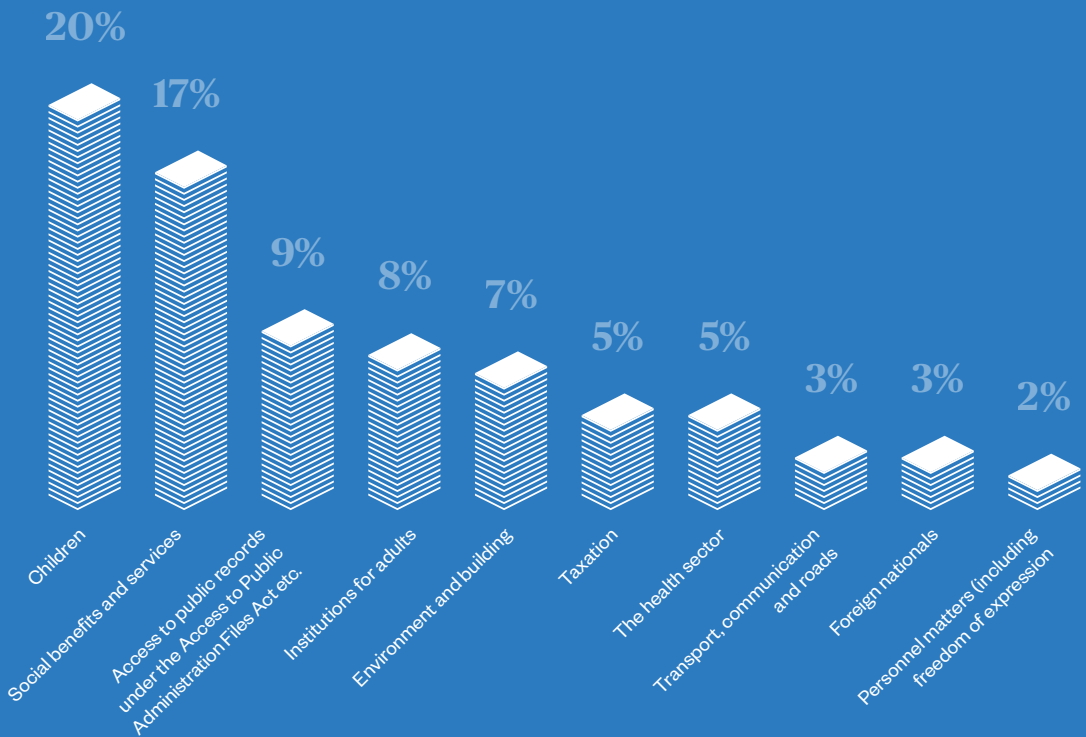
A number of complaints under this heading are about long processing times. In addition, the Ombudsman receives complaints from foreign nationals who are required to reside at a departure centre and complaints about, among other things, refusals of applications for humanitarian residence permits, family reunification and visas.

Personnel matters (including freedom of expression)

The majority of complaints about personnel matters are from public employees who are dissatisfied with a negative reaction from their employer, such as dismissal, a warning or a reprimand. A small proportion of complaints relate to the freedom of expression of public employees. These complaints are made mainly by affected employees or their union.



Complaint cases



Selected subject areas of complaints as percentages of all complaints received by the Ombudsman in 2021

Long processing times in cases on access to public files

COVID-19: The extraordinary situation during the management of COVID-19 has affected the authorities' processing times when journalists, among others, asked for access to public files.

The Ombudsman focused on the processing times with some of the state health authorities first and then on the Prime Minister's Office, among others. Focus on the right of access to files, including for journalists, is significant when the subject has such extensive public interest as the management of the COVID-19 pandemic. However, the Ombudsman has also expressed understanding for the work pressure that the authorities have experienced.

In 2021, the Ombudsman has maintained this focus from 2020, and he has also monitored the Danish National Police's processing times in relation to COVID-19-related access to files cases.

The investigations have shown that the authorities – except the Danish Health Authority – have had considerable challenges with the processing times.

On this basis, the authorities stated that a number of initiatives were implemented, including the adding of new staff resources. The Ministry of Health therefore assumed that the Ministry's department, the national serum institute (Statens Serum Institut, SSI) and the Danish Patient Safety Authority would be able to observe the statutory deadlines by the end of 2021. The Prime Minister's Office hoped that the processing times would be satisfactory in the third quarter of 2021.

However, these expectations turned out not to be fulfilled, and the Ombudsman therefore maintains his focus in 2022.

The Prime Minister's deleted text messages

The mink case: A journalist called the Ombudsman about a case where the journalist had asked the Prime Minister's Office for access to, among other things, the text message correspondence about mink culling from November 2020. The Prime Minister's Office had informed the journalist that the Office had not identified any documents covered by the journalist's request.

In a statement to the Ombudsman in October 2021, the Prime Minister's Office wrote that there had been text message correspondence between the chief of staff of the Prime Minister's Office and a former special adviser in the Ministry of Environment and Food, but that the correspondence had been deleted.

Afterwards, the Prime Minister's Office's deleted texts were subject to great media coverage. Among other things, this led the Ministry of Justice to initiate efforts to fix general guidelines for storing text messages.

The Ombudsman ceased his investigation of the specific access to files case. This was because the issue of recreating the correspondence was part of the Mink Commission's work. The more general issues of deletion and filing etc. were so connected to the Mink Commission's work that the Ombudsman also did not go into these issues.

Many complaints about pandemic management

COVID-19: During 2021, the Ombudsman received about 100 enquiries from citizens or businesses wishing to complain about aspects of the authorities' management of the COVID-19 pandemic or about measures relating to the pandemic in another way.

Many of the complaints came from citizens who were sceptical about or opposed to the vaccines against COVID-19. The complainants typically believed that there was no evidence that the vaccines were safe or had the promised effect. Other complaints came from citizens who questioned the legal authority of the corona passport.

A smaller part of the complaints came from citizens who supported the use of the corona passport and vaccines, but believed that the rollout of both was too slow. Among other things, they complained about the queues for vaccine booking, the decision to stop the use of the Astra-Zeneca vaccine, and that the authorities did not focus sufficiently on the vaccination of children.

➤ **In most cases, the Ombudsman rejected to process the complaints because the citizens had not yet used other complaint options or had not yet received a reply to their enquiries to the authorities.**

In most cases, the Ombudsman rejected to process the complaints because the citizens had not yet used other complaint options or had not yet received a reply to their enquiries from the authorities. In a number of cases – such as cases about the use of vaccines – the Ombudsman further stated that he is unable to make a qualified assessment of issues that require expert medical knowledge.

A few complaints concerned various aspects of the so-called COVID-19 compensation scheme under the Danish Business Authority, including the implementation of the scheme and the processing times. In about half of these cases, the Ombudsman assessed that he could not help the complainant achieve a better result. The remaining cases first needed to be finalised by the Authority.

A restaurant chain complained to the Ombudsman about a provision in the compensation scheme that meant that the business could not receive wage compensation for employees in position categories that were covered by a main labour dispute with a lawfully given notice. The Ombudsman did not initiate further investigation into the matter, since he did not have grounds for disregarding the Danish Business Authority's assessment that there was legal authority to limit wage compensation in relation to businesses that were parties in a main labour dispute.

Complaint from neighbour to solar heating system led to change of practice in the Danish Town and Country Planning Board of Appeal

Complaint deadlines: According to the general principles of administrative law, a complaint deadline is suspended in relation to a party or others with a right to separate notification if such notification has not been received. However, when the Ombudsman processed a complaint from a citizen who believed that she should have been consulted prior to the construction of a solar heating system close to her property, it became evident that the Danish Town and Country Planning Board of Appeal (Planklagenævnet) followed a different practice.

According to the practice of the Board, the complaint deadline in relation to a publicly announced decision would *always* be calculated from the public announcement. The Board thus did not consider if the complainant was a party to the case or had a right to separate notification, and if

so, what effect it would have on the calculation of the complaint deadline.

In the specific case, the Danish Town and Country Planning Board of Appeal therefore rejected the citizen's complaint with a reference to the expiry of the complaint deadline of four weeks, calculated from the publication of the local development plan that allowed for the construction of the solar heating system.

Based on the Ombudsman's letter, the Danish Town and Country Planning Board of Appeal changed its practice and resumed the citizen's case. The Board then considered if the citizen should be regarded as a party to the case concerning the local development plan, and if she had a right to notification under the rules in the Planning Act.

Assessment of visitation rights presupposed expert knowledge

Media coverage: The Ombudsman follows both local and national media, and also in 2021, media coverage of a case has on several occasions given the Ombudsman cause to ask the authorities questions, for instance concerning cases involving vulnerable children.

➤ **The biological parents had very limited visitation with the boy and wanted to see their son more.**

One such case concerned a one-year-old dying boy who was placed with a foster family and admitted to a hospice. The biological parents had very limited visitation with the boy and wanted to see their son more.

On the basis of media coverage of the case, among other things, the Ombudsman contacted the National Social Appeals Board and obtained a copy of the Board's decision in the case.

After looking through the National Social Appeals Board's decision, the Ombudsman decided to take no further steps. The Ombudsman took into account among other things that a decision on visitation with a child placed in care pursuant to Section 71 of the Social Services Act is based on the balancing of a number of different considerations and circumstances which in the case presupposed expert knowledge particularly relating to social work and healthcare.

Accusations on Facebook went too far

Freedom of speech: Public employees' right to express themselves extends widely. On a regular basis, the Ombudsman receives complaints from public employees who have been reprimanded, given a warning or the like for their criticism of their employers. However, their expressions are not always under legal protection.

One example of this is the case about a ferry mate working at a municipal ferry operator, who in March 2020 had been sent home because of concerns that he was infected with COVID-19. The ferry mate felt unlawfully pathologised by both management and colleagues. When it turned out that the municipality had made an error in reporting the ferry mate's sickness absence as a possible case of COVID-19 – resulting in an application for reimbursement of sickness benefit to the ferry mate's home municipality – the ferry mate accused his workplace of having conned the home municipality for reimbursement of sickness benefit in a Facebook post. Meanwhile, the municipality had acknowledged and rectified the error and had also explained the course of events to the ferry mate. On that background, the Facebook post contributed to the municipality's decision of giving the ferry mate a warning and suspending him from duty.

The Ombudsman could not criticise the municipality's assessment that the Facebook post exceeded the boundaries for public employees' freedom of speech. He emphasised that there were no grounds for assuming that the reason for the municipality reporting the situation was that the municipality wished to obtain a reimbursement of sickness benefit, nor that the ferry mate with any reason could have been under the impression that the error was intentional on the municipality's part. Therefore, the accusation that the employer had conned the home municipality for sickness benefit, which was neither documented nor made plausible, was out of line in the Ombudsman's opinion.

➤ **The accusation that the employer had conned the home municipality for sickness benefit was out of line in the Ombudsman's opinion.**

Social authorities should have guided citizen on possibility of applying to health services

Technical aid or treatment tool? A boy with ADHD suffered from a sleep disorder and had therefore benefitted from using a weighted blanket when going to sleep. The boy's parents had applied to the municipality for a weighted blanket. Both the municipality and the National Social Appeals Board refused to grant the weighted blanket pursuant to Section 112 of the Social Services Act on technical aids.

Initially, the authorities' grounds for the refusal were that no attempt had been made to treat the boy with medication. However, this was not in accordance with the applicable guidelines from the Danish Health Authority, which say that other relevant treatment methods must be tested before using medication to treat sleep disorders in children and young people.

➤ **There was a risk that the boy's parents would fall between two stools in their attempt to get help for the child.**

After the Ombudsman entered the case, the National Social Appeals Board changed its practice in the field on that basis. However, the National Social Appeals Board did maintain the refusal in the case in question on the grounds that the weighted blanket was not a technical aid but a treatment tool – which could perhaps instead be supplied by the health services. The decision on whether the weighted blanket was a technical aid pursuant to the Social Services Act rested on an expert and specialist assessment that the Ombudsman could not set aside. But the Ombudsman did criticise that the municipality and the National Social Appeals Board had not guided the boy's parents on their possibility of applying to the health services when the authorities reached the decision that the weighted blanket could not be granted as a technical aid. The lack of guidance meant that there was a risk that the boy's parents would fall between two stools in their attempt to get help for the child.

When is a case sufficiently elucidated?

The inquisitorial principle: It is the authority's responsibility to ensure that a case is sufficiently elucidated before the authority makes a decision. This also applies when a public employer decides to give an employee a warning or a reprimand.

The Ombudsman had for instance occasion to consider the authorities' elucidation in a case where a university professor had complained about a reprimand.

The professor had had nude pictures on his PC, which two IT employees took offense at, after they had seen the pictures when providing support on the PC. The Ombudsman had no comments to the fact that the professor had been instructed to avoid similar situations in the future. But, as the university had also criticised his behaviour in that specific incident, the university should have gathered more information on the pictures in question or instead have taken the professor's explanation into account. On that background, the Ombudsman recommended that the university look at the case again and withdraw the reprimand.

Complaints from neighbours

Right to complain: Also in 2021, the Ombudsman received many complaints from neighbours and others who felt inconvenienced by for instance the construction of a new, large building, odour problems from a pig farm or noise problems from a business enterprise.

Many are surprised to find that, as neighbours, they do not always have a right to complain. The cases also showed that the rules on the right to complain are not always that simple.

In a case about environmental approval for expansion of a pig farm, a number of neighbours, together with other citizens in the area, had formed a nature and environmental protection association that complained about the environmental approval. The rules of complaint, as set out in the Act on Livestock Husbandry and Use of Fertilisers, relating to nature and environmental

protection associations' right to complain include a special rule about such associations being entitled to complain if they have asked the municipality to notify them of any decisions in the field. However, the association did not meet this condition. Therefore, the Ombudsman could not criticise that the Danish Environment and Food Board of Appeal had rejected the association's complaint.

According to the Ombudsman, the fact that some of the association's members had such significant and individual interest in the outcome of the case that they would have been entitled to complain if they had submitted a complaint in their own name also was not enough to mean that the complaint should have been considered. This is because the association's complaint appeared to have been submitted on behalf of the association and not on behalf of certain individual members.

Freedom of speech carried the most weight

Public debate: 'Bone idle' and 'sluggish and lazy'. These are among the words that a high school student used about her fellow students in a debate piece brought in a daily paper. The student criticised the high schools' – according to her – inadequate reaction to some students' bad work ethics. She mentioned one example of group work from her own class, where, in her opinion, a classmate did not contribute anything. The classmate was not named, but still recognisable for others with a connection to the school.

➤ **The Ombudsman did not believe that the debate piece in itself offered the high school sufficient grounds for reacting with a written warning.**

The high school reacted by giving the student behind the debate piece a written warning for having violated the school's study rules and code of conduct concerning respect for fellow students. The National Agency for Education and Quality agreed with the high school's decision. However, the Ombudsman did not believe that the debate piece in itself offered the high school sufficient grounds for reacting with a written warning when the remarks were made as part of a public debate about a topic of broad general interest such as the educational sector. 'Here we find ourselves in the core area of freedom of speech', he stated in a news item about the case.

The Ombudsman's hidden help

Smooth solution to the case: The Ombudsman's initial questions to an authority about a complaint can in themselves lead to the authority choosing to reopen the case. Sometimes, the authority then decides fully or partly in favour of the citizen – simply by the authority reviewing the case again. Other times, the result remains the same but the authority gives the citizen new or more detailed grounds for the decision.

If the citizen is satisfied with the new result – or has gained a better understanding of the reasons why the decision turned out as it did – the case may end there. The Ombudsman has helped achieve a rapid and smooth result in the case.

In a concrete case, a man had complained to a property valuation commission in a case concerning compulsory acquisition. The man had sent the complaint as a registered, physical letter. Despite this, the letter did not arrive until after the deadline for complaint had expired.

The Ministry of Transport refused to let the complaint be processed by the property valuation commission. The man complained to the Ombudsman who pointed out to the Ministry that an error in the postal handling facility can be reason to allow a complaint. The Ministry of Transport subsequently reversed the decision.

In another case, a journalist requested access to a number of documents on considerations regarding a repeal of a provision in the Epidemic Disease Act. The Ministry of Health refused the request with reference to the ministerial advice

and assistance rule. On the same occasion, the Ministry assessed that the documents did not contain any information subject to extraction duty.

This puzzled the Ombudsman when he received a complaint from the journalist. With reference to the Ombudsman's Case No. 2021-4 regarding the extraction duty of authorities, he asked the Ministry whether the documents did not contain any information subject to extraction duty. The Ministry of Health then reopened the case.

In a case regarding a number of requests for access to a much debated university report, Aarhus University did not reply to the requests for access until after the University had finished its own review of the report and published the results.

➤ **Sometimes, the authority then decides fully or partly in favour of the citizen – simply by the authority reviewing the case again.**

A complaint was lodged with the Ombudsman who, among other things, asked the supervisory agency for the University a number of questions about the time sequence in the case. The supervisory agency resumed its supervision case, and the Ombudsman closed his investigation. In the spring of 2021, the supervisory agency criticised the University's case processing.



Own- initiative investiga- tions

What: Opening investigations on his own initiative is a high priority for the Ombudsman.

The Ombudsman may open the following types of investigation on his own initiative:

- investigations of specific cases
- general investigations of an authority's processing of cases

The Ombudsman mainly opens own-initiative investigations of themes and within areas with one or more of the following characteristics:

- There is an aspect of fundamental public importance.
- Serious or significant errors may have been made.
- They concern matters which raise special issues in relation to citizens' legal rights or are otherwise of great significance to citizens.

Why: A main objective is to identify recurring errors made by authorities. This can have a great impact on authorities' case processing, thus helping a large number of citizens at the same time.

The focus is not only on errors that the authority may already have made – but also on preventing errors being made in the first place.

In addition, the Ombudsman opens investigations on his own initiative of specific cases of a more one-off nature.

From where: Specific complaint cases or monitoring visits may give rise to suspicion of recurring errors etc. and be the launch pad for an own-initiative investigation. Media coverage of a case may also cause the Ombudsman to open an investigation on his own initiative. The Ombudsman monitors both local and national media.

Further, external parties – such as professional committees for practising lawyers or accountants or interest groups – can be useful sources of knowledge about recurring errors etc.

In addition, the Ombudsman chooses some general themes each year for the activities of the Ombudsman's Monitoring Department, Children's Division and Taxation Division.

How: Own-initiative investigations have the common denominator that the focus is usually expanded beyond specific problems to a more general level, with emphasis on any general and recurring errors or problems and on how the authorities involved can handle and rectify errors and problems.

In some own-initiative investigations, the Ombudsman reviews a number of specific cases from an authority. In others, the Ombudsman asks an authority for a statement about, for instance, its administration, interpretation of the law, practice or processing times in a specific area.

The Ombudsman is working on an ongoing basis on a variety of own-initiative investigations where he considers, based on, for instance, specific complaint cases, legislative changes or media coverage, whether there is a basis for further investigation of a matter.

In some cases, the Ombudsman's own investigation leads to the conclusion that there is no cause to contact the authorities involved, and the case is closed without a full Ombudsman investigation. The Ombudsman may also decide to close a case without a full investigation after contacting the authorities.

Legislation now guarantees pupils' right to be heard in private and continuation schools

The UN Convention on the Rights of the Child:

From 1 January 2021, legislation ensures that pupils in private and continuation schools etc. must be heard before a decision on expulsion is made. This is the result of several enquiries from the Ombudsman to the (now) Ministry of Children and Education in which the Ombudsman has recommended that the Ministry consider introducing legislation in the field.

Initially, the Ministry implemented a major guidance and information campaign towards private and continuation schools, but this did not solve the problem of expulsion of pupils from private

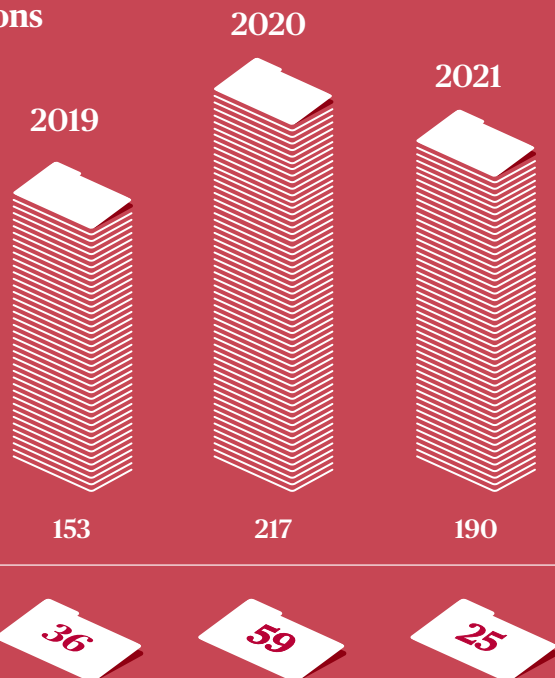
independent primary and secondary schools without prior hearing. Following renewed enquiry from the Ombudsman, the Ministry then instituted legislation in the field.

The purpose of the rules is to ensure compliance with Article 12 of the Convention on the Rights of the Child regarding the child's right to be heard. With these rules, the Ombudsman is now able to employ his usual options for reaction, such as issuing criticism, when he considers complaints about expulsion of pupils from private independent primary and secondary schools without prior hearing.



Own-initiative investigations

Total investigations concluded



– of which concluded with criticism or formal or informal recommendations

Waiting time at the Agency of Family Law

Visitation cases: In the spring of 2021, an investigation, which the Ombudsman had initiated after receiving a number of complaints, showed that the Agency of Family Law on average took more than 12 weeks to process cases regarding supervised visitation according to a judgment and cases regarding temporary visitation. According to the rules, these cases must be processed 'as quickly as possible'.

This caused the Ombudsman to criticise the processing times in those two types of cases. And he also asked the Agency of Family Law for a new status for the processing times at the start of 2022.

Later in the year, the Ombudsman criticised that the Agency of Family Law in a concrete case had waited five months to obtain consent from a father for an expert report, which was required before visitation could be determined between the father and his children.

It also emerged in connection with the case that there were in parts of the country generally very long waiting times for the preparation of child welfare assessments and expert reports. The waiting time in Greater Copenhagen was around eight months. The waiting time was not because of the Agency of Family Law but primarily because of a lack of external psychologists to take on such tasks. The Agency had implemented a number of initiatives to bring down the waiting time and hire more psychologists, among other things a recruitment campaign. In mid-2022, the Ombudsman will ask the Agency for a status on any reduction of the waiting time.

In 2021, the Ombudsman's Children's Division has investigated more than 200 cases concerning the Agency of Family Law. The majority of the cases concerned case processing and processing times.

Complaint guidance must be precise and aimed at the specific decision

Requirements for complaint guidance: If a citizen is entitled to complain about a written decision where the decision has not been favourable to the citizen in every particular, this must be stated in connection with the decision.

In an investigation of the complaint guidance of the Danish Debt Collection Agency in decisions on withholding pay, the Ombudsman pointed out the importance of the citizen receiving guidance on the possibility of complaint and that the guidance on complaint is correct. The guidance must be precise and aimed at the specific decision. It must indicate the complaint body and must not be worded in such a way that the citizen may be uncertain as to the deadline for lodging the complaint.

The Ombudsman did not consider the Danish Debt Collection Agency's guidance on complaint to be sufficiently precise or aimed at the specific decision, as guidance was generally given on two different complaint systems, applying to different kinds of debt. Based on the decisions, it could not be determined whether citizens were to use one or the other of the two complaint options or perhaps both, which had different deadlines for complaint and where the complaint bodies were not the same.

The Danish Debt Collection Agency stated during the investigation that the digital system would be changed so as to ensure a systems-related division of the guidance on complaint, which has subsequently happened.

There may be a duty to hear parties again

Sanctions against private independent

schools: Two complaint cases gave the Ombudsman cause to raise a general case against the National Agency for Education and Quality regarding hearing of parties in cases regarding sanctions against private independent schools.

In one of the cases, the Agency had heard the parties in the case regarding a contemplated decision to cancel a school's subsidy in future, but instead the Agency decided that the school must pay back the subsidy it had already received. Among other things, the Ombudsman stated that the duty to hear the parties again in such a situation must depend on whether the matters that may need to be elucidated coincide with the originally announced description of the case's theme and the reaction now considered by the Agency. In other words, it is significant if the school perhaps might make other objections regarding the facts of the case if it becomes aware that the Agency is now considering another sanction. The Ombudsman could not concur with the Agency's opinion that the principle of 'the greater including the lesser' in general can justify why the Agency does not carry out an additional hearing of parties

in those cases where the Agency has originally announced that it is considering making a decision to cancel future subsidies, but after having carried out the hearing of parties will seek to have already granted subsidies repaid.

In the other case, a decision had been made on repayment and cancellation of subsidies. After about a month, the Agency made a new decision that the school was no longer covered by the rules of the Act on Private, Independent Schools regarding private and independent primary and secondary schools – this time without hearing the school as a party in the case. It was the Agency's assessment that parties must be heard (again) if the Agency, on the basis of new information, resumes its supervision of the school and considers making a new decision with an additional sanction. This does not apply, however, if the Agency in the first decision has informed the school that the supervision will continue and has expressly pointed out to the school what the supervision includes and what sanctions the Agency may use (the subject matter of the supervision). This assessment did not give the Ombudsman cause for general comments.

The police's handling of persons who are intoxicated and unconscious

Prevention of self-harm: The Parliamentary Ombudsman is informed of all deaths, suicides and self-harming actions of a more serious nature among inmates in the Danish Prison and Probation Service's institutions and persons in police custody.

Among other things, the Ombudsman investigates if the preventive measures in each case have been adequate, if swift and appropriate action has been taken, and if the person in

question subsequently has been monitored sufficiently and has received sufficient treatment.

Informing the Ombudsman of these cases may also lead to the Ombudsman opening general cases against the authorities. In 2021, the Ombudsman has opened three general cases about the police's handling of persons who are suspected of intending self-harm or otherwise in danger of being seriously hurt whilst in police custody.



One of the cases concerned the police's guidelines on the deprivation of liberty of intoxicated persons who are unconscious. The investigation showed that the police as a clear starting point call an ambulance in situations where an intoxicated person is unconscious. However, there may be instances where the police, based on their professional judgement, decide not to wait for an ambulance but take the person to the hospital themselves.

The Ombudsman had no comments to this procedure. Among other things, he emphasised that police only as an exception take intoxicated and unconscious persons to the hospital, and that police staff are specially trained to handle situations in cooperation with the emergency response services when a citizen is not contactable.

Necessary to find the reasons for high reassessment percentage

Valuation of used motor vehicles: Every year, the Danish Motor Vehicle Agency assesses the value of thousands of used motor vehicles in order to calculate the vehicle's registration fee. An extensive Ombudsman investigation concerning imported used motor vehicles showed, however, that the Motor Vehicle Agency's value assessment in many instances are changed by the local motor vehicle complaints boards in case of appeal. There is consequently a high reassessment percentage in the complaints body.

The Ombudsman pointed to two things as being potential contributing factors in the high reassessment percentage. These were partly a difference in the two bodies' determination of the facts in the case, partly a different approach to the use of standardised deductions and additional tax. There could also be other causes, however. In the Ombudsman's opinion, the involved authorities must try to identify these other causes so that the Motor Vehicle Agency's value assessments would harmonise more with the motor vehicle complaints boards' practice. This was crucial for legal protection, including for the parties in the many cases where an appeal was not submitted to the motor vehicle complaints boards.

The authorities have launched a number of initiatives as a consequence of the Ombudsman's investigation. For instance, a practice orientation committee – a so-called learning loop – has been established to ensure a permanent and structured dialogue between the two bodies. Working groups have also been established for the purpose of looking into selected subjects. All this is in order to help promote a greater mutual understanding across the bodies and to create a better basis for the Motor Vehicle Agency to relate and adapt to the motor vehicle complaints boards' practice for value assessment.

➤ **This was crucial for legal protection, including for the parties in the many cases where an appeal was not submitted to the motor vehicle complaints boards.**

Digitised case processing

Legal rights: These days, a great deal of public authorities' case processing is digitised. This has many benefits but it also carries the risk that a number of citizens may be exposed to identical errors if an IT system fails or has not been designed properly. The Ombudsman has seen several cases with IT systems not working properly – to the detriment or disadvantage of the citizens.

On that background, in 2021 and the years to come, the Ombudsman has a general focus on the digitisation of the public sector.

The Ombudsman's Taxation Division has made the tax authorities' digitisation a special theme. The Taxation Division has initiated multiple major investigations of whether some of the tax administration's existing IT systems give citizens the legal rights implied in administrative law. But the Taxation Division is also going to look at the development of IT systems within the tax administration in order to investigate how the tax authorities take administrative law into account in the development stage. In this way, the Ombudsman can perhaps, in collaboration with the authorities, also be involved in the prevention of errors – instead of just reacting to complaints about fully designed systems.

As part of the digitisation theme, the Taxation Division has in 2021 concluded a case about citizens' option of using a representative when they have a case pending with the tax authorities.

It is a clear principal rule that you are entitled to be represented by someone else when you as a citizen or business have a case with the public authorities. However, the Taxation Division's investigation showed that in five of the Danish Customs and Tax Administration's decision-making systems it was not sufficiently possible to be represented by a lawyer, for instance.

In the Ombudsman's opinion, this was a very regrettable error found in some of the Danish Customs and Tax Administration's older IT systems. The Danish Tax Agency stated in the course of the case that the Danish Customs and Tax Administration was going to make a plan for the necessary updating of the IT systems.

➤ **The Ombudsman has seen several cases with IT systems not working properly - to the detriment or disadvantage of the citizens.**

Another case about digital case processing concerned the municipalities' new IT system regarding sickness benefits, KSD. Media reports said that KSD had a number of errors, which resulted in citizens receiving wrong or delayed payments. The system also generated incorrect refusals, and letters were sent, which citizens did not understand.



Based on the media coverage, the Ombudsman made enquiries to three municipalities that in particular had expressed criticism about the KSD system. It turned out that the Ministry of Employment had initiated a process in order to rectify KSD, and the Ombudsman therefore assessed that his continuing his investigation was unlikely to speed up the rectification of the system's defects. However, the Ombudsman asked to be kept informed about the work on improving the IT system.

Up to the opening of the Danish Energy Agency's building fund in April 2021, the Agency had set up a digital waiting room for applicants who logged in to the digital application portal before the fund opened. This meant that the applicants using the waiting room – together with those logging in to the portal up to 15 seconds after it officially opened – created a group so large that others did not get the possibility of being considered for grants.

The Danish Energy Agency had not in advance sent out information about the digital waiting room but had, however, explained that there would be a queuing system from 10 am on the application portal on the day of the portal's opening.

The Danish Energy Agency and the Ministry of Climate, Energy and Utilities recognised that the information effort prior to the application round could have been better and stated that the Danish Energy Agency in future will be giving information about the digital waiting room.

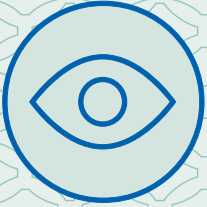
The Agriculture & Food Council contacted the Ombudsman because there were problems with the Agricultural Agency's IT systems, especially regarding payment of organic area subsidies and subsidies for cultivation of grasslands and nature areas.

Specifically, the problems centred on the IT-based application systems being slow or not working. Furthermore, the applicants had to manage their cases in several case systems resulting in a poor chance of getting an overall view of their case.

The Ministry of Food, Agriculture and Fisheries of Denmark acknowledged to the Ombudsman that there were problems due to some major IT updates, which actually had the purpose of guaranteeing the agriculture industry more efficient case processing, but which also had resulted in delays in case processing as well as in payment of subsidies.

The Ministry stated that the Agricultural Agency had worked out a plan for fixing the IT problems and would focus on solving them in the time ahead. Hereafter, the Ombudsman concluded the case.

Article: 2021 at the Ombudsman Office, page 4



Monitoring activities

Where: The Ombudsman carries out monitoring visits to places where there is a special need to ensure that the authorities treat citizens with dignity and consideration and in accordance with their rights – because they are deprived of their liberty or otherwise in a vulnerable position.

Monitoring visits are made to a number of public and private institutions, such as:

- Prison and Probation Service Institutions
- psychiatric wards
- social residential facilities
- residential institutions for children and young people.

In addition, the Ombudsman monitors:

- forced deportations of foreign nationals
- forced deportations arranged by other EU member states at the request of the European Border and Coast Guard Agency, Frontex.

Finally, the Ombudsman monitors the physical accessibility of public buildings, such as educational establishments or health institutions, for persons with disabilities.

Why: The Ombudsman's monitoring obligations follow from the Ombudsman Act and from the rules governing the following special responsibilities that the Ombudsman has been assigned:

- The Ombudsman carries out monitoring visits in accordance with Section 18 of the Ombudsman Act, especially to institutions where citizens are deprived of their liberty.
- The Ombudsman has been designated 'National Preventive Mechanism' (NPM) under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). 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.
- The Ombudsman has been appointed to monitor forced deportations.
- The Ombudsman monitors developments regarding equal treatment of persons with disabilities at the request of Parliament.

How: A monitoring visit to an institution is normally a physical visit by a monitoring team, who speak with users, staff and management and look at the physical environment. In 2021, however, the majority of monitoring visits were carried out as digital meetings due to COVID-19.

The monitoring of a forced deportation involves, among other things, a member of the Ombudsman's staff participating in the whole or part of the deportation.

The Ombudsman may make recommendations to the visited institutions and to the responsible authorities. Issues arising from the visits may also be discussed with the responsible authorities, or they may be the subject of own-initiative investigations or be dealt with in thematic reports.

Who: Monitoring visits are carried out by the Ombudsman's Monitoring Department, except for visits to institutions for children, which are carried out by the Children's Division. External collaborative partners or consultants participate in a large proportion of visits. Depending on the type of monitoring visit, the Ombudsman collaborates with:

- medical doctors from DIGNITY – Danish Institute Against Torture
- human rights experts from the Danish Institute for Human Rights (IMR)
- wheelchair users from the Danish Association of the Physically Disabled
- consultants from the Danish Association of the Blind.


Where did we go in 2021?



Monitoring visits – adults




9 Prison and Probation Service institutions, including 6 in Greenland

 5 physical visits

 4 virtual visits




10 psychiatric wards

 7 physical visits


 3 virtual visits



14 police authorities in Greenland, including 10 detention facilities

 10 physical visits

 2 virtual visits

 1 partial phone visit and 1 phone visit

Read about the individual monitoring visits at en.ombudsmanden.dk/visits_adults
en.ombudsmanden.dk/visits_children



Monitoring visits – children



1 open residential institution



1 physical visit



8 secure residential institutions, including 2 with special secure units



2 physical visits



6 virtual visits

Themes

Theme in 2021 – adults

Force and non-statutory interventions in the psychiatric sector

In 2021, the Ombudsman's focus was on force pursuant to the Danish Mental Health Act and non-statutory measures and interventions in the psychiatric sector.

The Mental Health Act includes a number of provisions regarding the use of force against patients who are hospitalised in a psychiatric ward. This can consist of for instance forced immobilisation, compulsory medication and manual restraint.

In addition to the above, non-statutory measures and interventions towards patients can be implemented. This can be for instance 'shielding in own room' where a patient gives consent to remain in his or her own room for a period.

The Ombudsman visited selected units in ten psychiatric wards in total. Three of the visits were conducted virtually due to COVID-19. In addition, one planned visit was cancelled due to COVID-19.

Focus areas

During the thematic visits in 2021, the visiting teams focused particularly on the following questions:

- Do the psychiatric wards work on preventing and reducing the use of force?
- Do the psychiatric wards work on ensuring that the conditions for using force are observed?
- Is there documentation that the conditions for using force have been observed?
- Is there the necessary legal basis for non-statutory measures and interventions?
- How is consent for non-statutory measures and interventions obtained and documented?

Examples of recommendations

In connection with the visits, a number of recommendations were given on subjects within the theme of the year – for instance, the Ombudsman recommended that the wards' management ensure

- focus on preventing and reducing the use of force
- focus on precise and adequate documentation in records on forced immobilisation
- that house rules and practice were reviewed and adjusted so that restrictive measures are not instituted without the patient's consent or required legal basis
- that consent for non-statutory restrictive measures is obtained and documented in accordance with applicable rules and practice.

Read about themes at
en.ombudsmanden.dk/themes

Follow-up

The visits have given the Ombudsman cause to raise an own-initiative case against the Ministry of Health regarding the use of private guards.

A thematic report will be published in 2022 that summarises the main conclusions of the thematic visits. In addition, the thematic report will contain the Ombudsman's general recommendations based on the monitoring visits.

Theme in 2021 – children**Children and young people in secure residential institutions**

The Ombudsman's thematic visits in 2021 were aimed at children and young people in secure residential institutions.

As part of the theme, the Ombudsman visited all eight secure residential institutions in Denmark, of which two also had high secure units. At the same time, the Ombudsman visited the institutions' in-house schools.

Six of the eight visits were carried out as virtual visits due to COVID-19.

Focus areas

During the thematic visits in 2021, the monitoring teams focused particularly on

- use of physical force
- solitary confinement
- house rules, body searching, search of living spaces, and drug testing
- education in in-house schools

Examples of recommendations

In connection with the visits, a number of recommendations were made on matters related to the year's theme. For instance, the Ombudsman recommended that the institutions

- observe deadlines for recording and reporting use of force etc.
- ensure that parents are informed of their rights in relation to the use of force and other interventions
- ensure that staff know who can decide to place a child or young person in solitary confinement
- observe the rules on teaching the full range of subjects and class hours and on exemption from lessons in subjects and sitting tests and examinations
- ensure that children and young people are offered to be screened in order to uncover any need for psychiatric examination
- increase their attention on identifying young people at risk of developing withdrawal symptoms and ensure treatment.

A thematic report will be published in 2022 that summarises the main conclusions of the thematic visits. In addition, the thematic report will contain the Ombudsman's general recommendations based on the monitoring visits.

Ensuring legal authority for interventions in the psychiatric sector

Legislative amendment: On 21 December 2021, Parliament adopted to amend the Mental Health Act based on an Ombudsman investigation, among other things. One of the purposes of the amendment is to ensure a more clear legal basis for certain interventions in the psychiatric sector.

➤ **The Ombudsman's investigation led to the Ministry of Health and Senior Citizens agreeing that there could be a need for a more clear legal basis.**

In connection with monitoring visits to closed psychiatric wards, which the Parliamentary Ombudsman carried out in 2019 and 2020, the Ombudsman became aware of a recurring problem, which gave occasion for an own-initiative investigation. Many of the wards had house rules containing rules about interventions towards the patients, where it could be doubtful whether the necessary legal authority existed.

The Ombudsman's investigation led to the Ministry of Health and Senior Citizens agreeing that there could be a need for a more clear legal basis. On this background, the Ministry stated that it would work towards the legislative amendment that has now been adopted.

Residents in social residential facilities were kept under surveillance

Legal authority: In the course of several monitoring visits in 2020 – where the Ombudsman had a special focus on conditions for convicted persons with intellectual and developmental disabilities – the visiting team became aware that some social residential facilities were or had been surveilling residents placed in the facility according to a sentence in order to ensure that the residents stayed within the confines of the facility. This gave rise to an own-initiative investigation on the authority to generally surveil convicted residents in social residential facilities.

The Ombudsman agreed with the Ministry of Social Affairs and Senior Citizens that there is no legal authority for a social residential facility – in order to prevent escape – to generally surveil residents in living areas at the sole disposal of the individual resident by gaining access to the resident's housing unit without consent or to demand that the resident makes it possible for staff to look into the housing unit from the outside.

Cots and locking systems at residential institutions

Right of self-determination: It affects children and young people considerably when institutions where they live establish physical settings that restrict the possibility of free movement. During monitoring visits, the Ombudsman therefore checks if the use of force and other interventions in children and young people's right to self-determination are legal and proportional.

At a visit to an open residential institution for children and young people with physical or mental disabilities, the Ombudsman became aware of two matters of a physical nature that involved restriction of free movement:

- Some of the children slept in cots (beds with high sides or locking systems), which prevented them from leaving the beds on their own.
- Some of the outer doors had a locking system with a double handle and a delayed opening mechanism, which made it difficult for some children to open the doors.

The Ombudsman asked the Ministry of Social Affairs and Senior Citizens to determine if there was legal authority to use such beds and locking systems and, if so, to what extent.

➤ **The locking systems on the outer doors were also not regulated in the Adult Responsibility Act or the Social Services Act.**

The Ministry replied that the Adult Responsibility Act and the Social Services Act do not specifically regulate the use of cots. But it was the Ministry's assessment that cots with high sides could be used to protect infants and young children against harming themselves by falling out of bed. The use for this group of children was thus justified.

If, on the other hand, the beds were used for older children, it was, as a principal rule, not justified. However, subject to a specific assessment, there may be exceptions in relation to children and young people with physical or mental disabilities.

The locking systems on the outer doors were also not regulated in the Adult Responsibility Act or the Social Services Act. The Ministry stated that at a residential institution with younger children a locking system could be used to ensure that the children do not inadvertently walk into streets or parking areas, thus bringing themselves in danger. However, this presupposes that the children can open other outer doors, for instance to a garden.

If the locking system also prevented older children from going out freely, it would be an intervention in the form of use of force, thus requiring separate legal authority.

The municipality (and the residential institution) agreed with the Ministry's reply. The Ombudsman found that the authorities' statement was convincing and did not take the matter any further.

Children's legal position should be clearer

The Adult Responsibility Act: When staff in accommodation facilities and residential institutions use force towards children and young people, it must be done within the scope set out in legislation. Often – but not always – the rules of the Adult Responsibility Act apply. Based on a number of monitoring visits, the Ombudsman opened a case against the Ministry of Social Affairs and Senior Citizens in order to clarify the scope of the Adult Responsibility Act in accommodation facilities and residential institutions as well as in-house schools.

➤ **There are different protocols for use of force towards children and young people, depending on where they live and go to school. This makes great demands on staff.**

On the basis of the case, the Ombudsman found that there are different protocols for use of force etc. towards children and young people, depending on where they live and go to school. This makes great demands on staff who, in addition to knowing the rules, must also know specifically where each child or young person lives or is placed,

The Ombudsman therefore stated that he assumed that the Ministry would include the issues in the Ministry's work with clarifying the legal position in this area.





Monitoring visits to investigate accessibility for persons with disabilities

Monitoring visits in 2021

The Ombudsman has decided to focus on accessibility in healthcare centres. The Ombudsman therefore announced monitoring

visits to two healthcare centres in the middle of December 2021. However, the visits had to be postponed to 2022 due to the development of the COVID-19 pandemic.



Monitoring of forced deportations

Participation in forced deportations

The Ombudsman monitors forced deportations, for instance by overseeing some of the deportations that are carried out during the year. In 2021, the Ombudsman participated in five forced deportations carried out by the Danish authorities. The Ombudsman did not register any forced-return monitors to participate in Frontex operations in 2021.

Based on the participation in the national forced deportations, the Ombudsman expressed criticism in one of the five cases. In the case, the Danish Return Agency had disclosed confidential information to the local authorities when handing over the foreign national. The Danish Return Agency regretted the mistake. The Ombudsman noted that the Danish Return Agency also initiated several measures to ensure that similar mistakes would not take place in future.

Among other things, the Danish Return Agency would draw up a separate set of escort guidelines describing the rules of the duty of secrecy.

The remaining four forced deportations did not give rise to comments.

Annual review

In addition to participation in forced deportations, the Ombudsman's monitoring of forced deportations is also carried out through an annual written review of some of the deportation cases that were finalised the year before.

In 2021, the Ombudsman reviewed 15 of the authorities' finalised deportation cases from 2020 – six cases where force was used and nine without the use of force. None of the cases gave rise to comments.

Read more at
en.ombudsmanden.dk/equal_treatment_of_persons_with_disabilities

Read more at
en.ombudsmanden.dk/forced_deportations



Articles





16-day monitoring visit in Greenland



Camilla Schroll
Legal Case Officer

Franz Amdi Hansen
Legal Case Officer

How are conditions for people deprived of their liberty by the police or the Prison and Probation Service in Greenland?

Are the people deprived of their liberty in Greenland being treated properly by the staff, and how do they treat each other? Do the convicted have access to work and education? And can the arrested people in detention facilities get help if they need it?

These were some of the things that the Ombudsman investigated during a 16-day monitoring visit to Greenland.

The main impression was that the police and the Prison and Probation Service in Greenland basically treat people in their custody with consideration and dignity, although the Ombudsman gave the authorities recommendations for change in some areas.

No strain on capacity

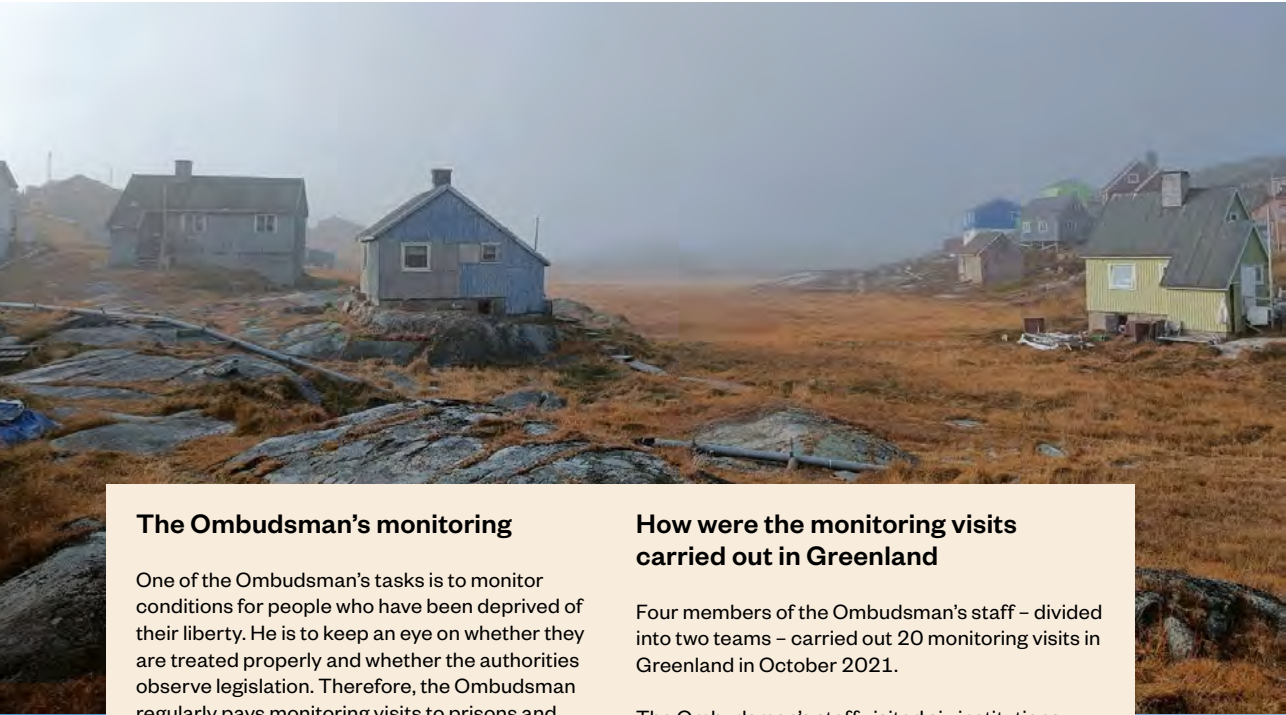
The six institutions in Greenland – which correspond to prisons – are located with great distance between them on the Greenlandic coast. Five of the institutions are open, and they are small – each houses between nine and 21 inmates. The five open institutions are located in the towns Tasiilaq, Qaqortoq, Sisimiut, Aasiaat and Ilulissat. The institutions are a natural part of the townscape – they look like the towns'

other houses with wooden facades. They are located in the towns – in some cases in the outskirts – and are not surrounded by fences or walls.

A little outside Nuuk – located by itself – is the newest and only Greenlandic institution with closed wards that are surrounded by fences, a ring wall and alarms. The institution also has open wards outside the ring wall. In addition, as the only one in Greenland, the institution has separate wards for women. The institution opened in 2019, and it houses 76 inmates in total – as many as the open institutions house collectively.

Each visit to the institutions lasted one day, where the visiting team saw the institution's premises and spoke with management, staff and inmates.

Among the inmates were both men and women. Most had been sentenced to placement in an institution (corresponding to a prison sentence), some had been sentenced to custody (indefinite institution placement), and others were detained (remanded in custody) in the institutions.



The Ombudsman's monitoring

One of the Ombudsman's tasks is to monitor conditions for people who have been deprived of their liberty. He is to keep an eye on whether they are treated properly and whether the authorities observe legislation. Therefore, the Ombudsman regularly pays monitoring visits to prisons and detention facilities, among other things.

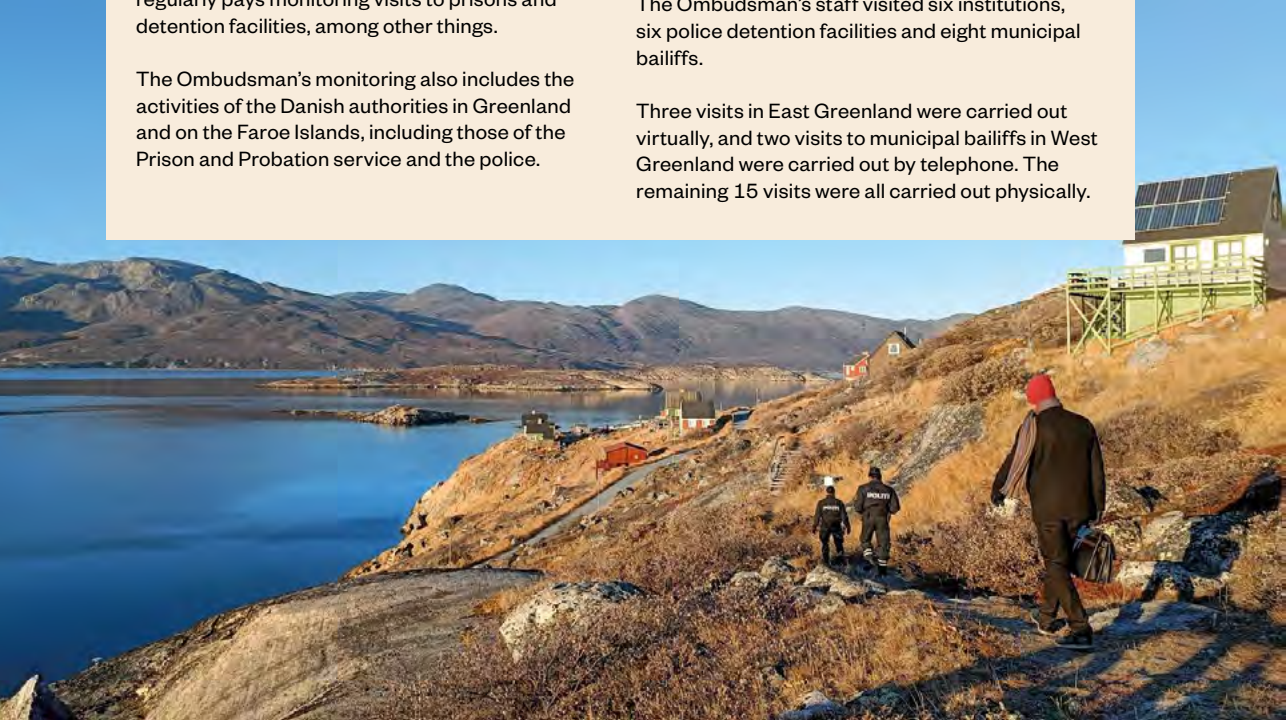
The Ombudsman's monitoring also includes the activities of the Danish authorities in Greenland and on the Faroe Islands, including those of the Prison and Probation service and the police.

How were the monitoring visits carried out in Greenland

Four members of the Ombudsman's staff – divided into two teams – carried out 20 monitoring visits in Greenland in October 2021.

The Ombudsman's staff visited six institutions, six police detention facilities and eight municipal bailiffs.

Three visits in East Greenland were carried out virtually, and two visits to municipal bailiffs in West Greenland were carried out by telephone. The remaining 15 visits were all carried out physically.



Practically all institutions housed fewer inmates than possible, and there were no staff shortages. So – contrary to Denmark – there was no strain on the capacity of the institutions.

Still part of the local communities

As in Denmark, inmates have a right to and a duty of occupation, for instance through work or education. But in Greenland, inmates in open institutions must to the extent possible be occupied outside the institution. The idea is that the inmates should not be cut off from society, but instead continue, to the widest extent possible, to be part of the local communities so that they can function in those communities when released.

It was evident from the monitoring visits that the inmates attended to their work outside the institutions on a daily basis. This could be on a trawler, in a fish factory, at a cemetery, in a supermarket, at an auto mechanic's or at the construction of a new airport in the town Ilulissat.

This openness in relation to the surrounding community does not apply to the same extent for inmates in the closed wards in the institution in Nuuk – nor for inmates in the open wards that have not yet been given permission for leave.

In addition, the occupation outside the institutions depends on local conditions. Not all towns offer the same opportunities for work. Nor do all towns have educational institutions and teachers, and only the institution in Nuuk employs a teacher for the inmates in the institution. The small units in the small communities that are far apart therefore result in limitations.

Relations

There are few instances of use of force in the Greenlandic institutions. Staff and inmates stated during the visits that this is due to good dialogue, mutual respect and trust as well as relatively close relations between staff and inmates.

The occurrence of violence and threats between the inmates is also low, according to the stated, and the general impression is that – to the extent that violence and threats do occur between inmates – there are no severe episodes and assaults. The Prison and Probation Service stated that there is no organised gang crime in Greenland. This means that there are also no retaliations, violence or threats in the institutions that are gang-related.

However, the visiting teams found that, in a few institutions, there was harassment and bullying among the inmates – that strong inmates harassed and in some cases ganged up on weaker inmates. The power balance was determined by, for instance, what type of crime the inmate was convicted of or where he came from. Some inmates were thus bullied because they were convicted of sexual offences while others were harassed because they came from East Greenland. This led individual inmates to isolate from association with other inmates in order to protect themselves. In one of the institutions, however, this was not possible, because the inmates had keys to each other's rooms and could let themselves in.

Recommendations to the Prison and Probation Service in Greenland

The visits led to a number of recommendations to the management of the Prison and Probation Service in Greenland to for instance

- ensure that staff in the institutions are instructed in how to prevent and become aware of harmful effects of isolation
- ensure that the institutions have increased attention on documentation of the basis for placement in observation and solitary confinement cells and the need for maintenance thereof
- review the institutions' house rules in order to ensure that they are in accordance with the applicable rules
- ensure that the house rules are made easily available for the inmates
- implement a fixed procedure for screening whether inmates are at risk of suicide.

Municipal bailiffs maintain peace and order

The municipal bailiffs are civilians without police training who assist the police in settlements where there is no police station. They handle many different tasks, such as collecting fines and helping maintain peace and order.

If a crime is committed in a settlement, it may be necessary for the local municipal bailiff to detain the offender until the police arrive. In some settlements, there is no detention facility, and the municipal bailiff must instead use, for instance, the municipality's or the healthcare system's buildings for the deprivation of liberty. However, this is quite rare.

In other settlements, there *is* a detention facility – but after a monitoring visit in Greenland in 2013, the Ombudsman discussed the safety

in those Greenlandic detention facilities that are not permanently staffed by police with the responsible authorities. The Ombudsman's staff had visited a detention facility that did not contain any technical system allowing the detainees to summon the municipal bailiff. This meant that the people placed in the detention facility could only summon help or use the toilet if the municipal bailiff was present. Moreover, a municipal bailiff stated that he always searched the detainees in a way so that they were left in their underwear with only some blankets in addition. This was also the case if they were to spend the night in the detention facility.

The visit in 2013 led to the rules in the area being changed. Now, the municipal bailiffs must keep the detainees under continuous supervision. The municipal bailiffs also received new instructions on body searching.

The case is published in Danish on the Ombudsman's website as Case No. 2017-33.

When the staff from the Ombudsman Office visited eight municipal bailiffs in October 2021, the purpose was to follow up on the issues from 2013, among other things. The Ombudsman's staff therefore asked the municipal bailiffs how they carried out deprivations of liberty. The answers did not give the Ombudsman reason to believe that there were problems with detainees who could not contact the municipal bailiff or who were subject to unnecessarily extensive body searching. Thus, it appears that improvements have been made. In addition to the change of the rules and the new instructions, this may also be because a number of initiatives have been implemented in order to train the municipal bailiffs. However, some municipal bailiffs stated that they had not yet completed the full training course. Therefore, the Ombudsman recommended that the Chief Constable of Greenland ensure this.

Can you hear what I'm saying?

It is not only in the municipal bailiffs' detention facilities that problems can arise in relation to the detainees' possibility to summon help. The police stations in Greenland close at 16:00, except for the station in Nuuk, which is open 24 hours a day. When no police is present at the station, the safety of the detainees is ensured through a calling system and camera surveillance, among other things. The staff from the Ombudsman Office found that these installations did not work everywhere. For instance, there was a calling system where you could hear that the system was activated but not what was said. The Ombudsman recommended that the faults be fixed.

Recommendations to the Chief Constable of Greenland

Based on the visits to the police and municipal bailiffs, the Ombudsman has, among other things, recommended that the Chief Constable of Greenland

- increase focus on the police's self-checking of the physical conditions in the detention facilities, including ensuring that calling systems and video surveillance work
- ensure that the municipal bailiffs receive peer-to-peer training and participate in a training course for municipal bailiffs
- increase focus on teaching employees who have not been trained in Greenland about the Greenlandic rules on detention facility placement
- increase focus on ensuring correct and adequate documentation
- consider if there is a need for rules about more intensive supervision of detainees needing medical attention who are placed in the detention facility before they are seen by a doctor.



**Who helps
convicted persons
with intellectual
and developmental
disabilities to
achieve a life
without crime?**



Franz Amdi Hansen
Legal Case Officer

Morten Engberg
Senior Head of Department

The Ombudsman reviewed the rules on municipalities' crime prevention supervision of convicted persons with intellectual and developmental disabilities. The review showed that the supervisory obligation did not include the persons who are subject to the most extensive restrictions.

'The defendant', it says on the last page of the judgment, 'shall be placed in an institution for persons with substantial mental disabilities so that she may be transferred to a secure unit, subject to decision by the municipality.

No maximum duration for the measure is stipulated.'

This could be a judgment in a case where a defendant with an intellectual and developmental disability has been charged with a criminal offence. Because although the Criminal Code says that persons with mental disabilities cannot in certain circumstances be given a prison sentence, they can instead be sentenced to so-called preventive measures.

Convicted persons with intellectual and developmental disabilities are subject to a complicated set of rules that allows restrictions of basic rights. This is also a group of persons who in many instances have difficulty in understanding how they are entitled to be treated and when they can make a complaint. This is why the

Ombudsman chose conditions for this group of persons as the theme for his monitoring visits to institutions for adults in 2020.

Is it the municipalities' responsibility to help?

In connection with his preparation for the theme, the Ombudsman reviewed, among other things, who has the responsibility for helping the convicted persons to achieve a life without crime. The risk of the convicted persons committing new offences will thus often determine whether a preventive measures sentence is modified or terminated.

The Ombudsman's thematic report 2020 on convicted persons with intellectual and developmental disabilities is available in Danish and English on the Ombudsman's website. The report includes the recommendations that the Ombudsman has given to the 17 social residential facilities for convicted persons with intellectual and developmental disabilities that he visited in 2020, and his recommendations to the responsible ministries.

Briefly on preventive measures sentences

A preventive measures sentence (in Danish, 'foranstaltningsdom') can mean that the convicted person is sentenced to placement in a social residential facility or a secure unit.

The sentence can also stipulate that a municipality can later decide that it is necessary to transfer the convicted person to a secure unit.

A person sentenced to placement in a social residential facility or a secure unit is deprived of his or her liberty. The person must therefore have special permission in order to leave the institution's premises.

Preventive measures sentences can be either with or without **maximum duration**.

- Preventive measures **with** maximum duration can be extended.
- At intervals of a few years, an assessment must be made whether to terminate preventive measures **without** maximum duration.
- The measures must not remain in force for longer or more extensively than necessary.

The review was due to the consideration that if sufficient crime prevention measures are not implemented for convicted persons with intellectual and developmental disabilities, these persons can end up being deprived of their liberty for longer than if targeted measures are put in place in order to prevent new offences being committed.

Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters stipulates that municipalities 'shall, for crime prevention purposes, supervise persons who, under a judgment or order or under terms for dismissal of charges or probation, must be subjected to supervision by social authorities'.

The Ombudsman therefore asked two questions of the, then, Ministry of Social Affairs and the Interior (and subsequently also of the present Ministry of Social Affairs and Senior Citizens) concerning the role of the municipalities.

Do municipalities have an obligation to carry out crime prevention supervision of persons who have been sentenced to placement in an institution?

According to its wording, Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters includes persons sentenced to be subjected to supervision – however, the prosecution service does not normally ask the court to decide that the convicted person shall both be subjected to supervision and be placed in an institution.

This means that, normally, persons sentenced to placement in a social residential facility or a secure unit are not also sentenced to be subjected to supervision. Does this mean that municipalities are not obliged to carry out crime prevention supervision of those convicted persons with intellectual and developmental disabilities? – the Ombudsman asked.

The Ministry replied that the wording of Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters presupposes that the obligation to carry out crime prevention supervision only applies if a sentence or decision has stipulated that a person is to be subjected to supervision by social authorities. By contrast, in the Ministry's opinion there will not be an obligation to carry out crime prevention supervision if it has only been decided that a person is to be placed in an institution.

At the same time, the Ministry pointed out that persons placed in an institution will be subjected to the residential municipality's individually targeted supervision according to the Social Services Act, and that they will also be in contact with the social residential facility staff.

What does the obligation to carry out crime prevention supervision imply?

Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters does not specify what the municipalities' crime prevention supervision implies. However, it did appear from a handbook from the National Board of Social Services on charged and convicted citizens with intellectual and developmental disabilities that Section 16 a can task municipalities with implementing crime prevention measures. The Ombudsman asked the Ministry whether this was how the municipalities' obligation was to be understood.

The Ministry replied that Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters does not – despite what appears from the handbook – impose upon the municipalities an obligation to implement crime prevention measures. However, the Ministry said, based on the provisions in, among others, the Social Services Act, the municipalities could be obligated to

implement socio-educational measures that could also have a crime-preventive effect.

The Ombudsman concluded that he could not disregard the perception of the municipalities' obligations according to Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters that the Ministry of Social Affairs and the Interior and later the Ministry of Social Affairs and Senior Citizens had presented, as it could be included within the wording of the provision.

Overall, this means that the scope of Section 16 a is quite limited:

- It does not include those persons with intellectual and developmental disabilities who have been sentenced to placement in an institution, and thereby only includes those who are subject to the least restrictive measures.
- It does not impose upon the municipalities an obligation to implement crime prevention measures towards persons included in the provision.

But you could ask whether the legislative power had been aware of and considered the suitability of these legal conditions when Section 16 a of the Consolidation Act on Legal Protection and Administration in Social Matters was passed.

The Ombudsman therefore provided information about the case to the Ministry of Social Affairs and Senior Citizens as well as Parliament's Legal Affairs Committee and Social Affairs and Senior Citizens Committee.

The case has been published on the Ombudsman's website as Case No. 2021-23 (in Danish only).

The Ombudsman's monitoring visits

During 2020, as part of the theme for monitoring visits to institutions for adults, the Ombudsman visited 17 social residential facilities housing convicted persons with intellectual and developmental disabilities.

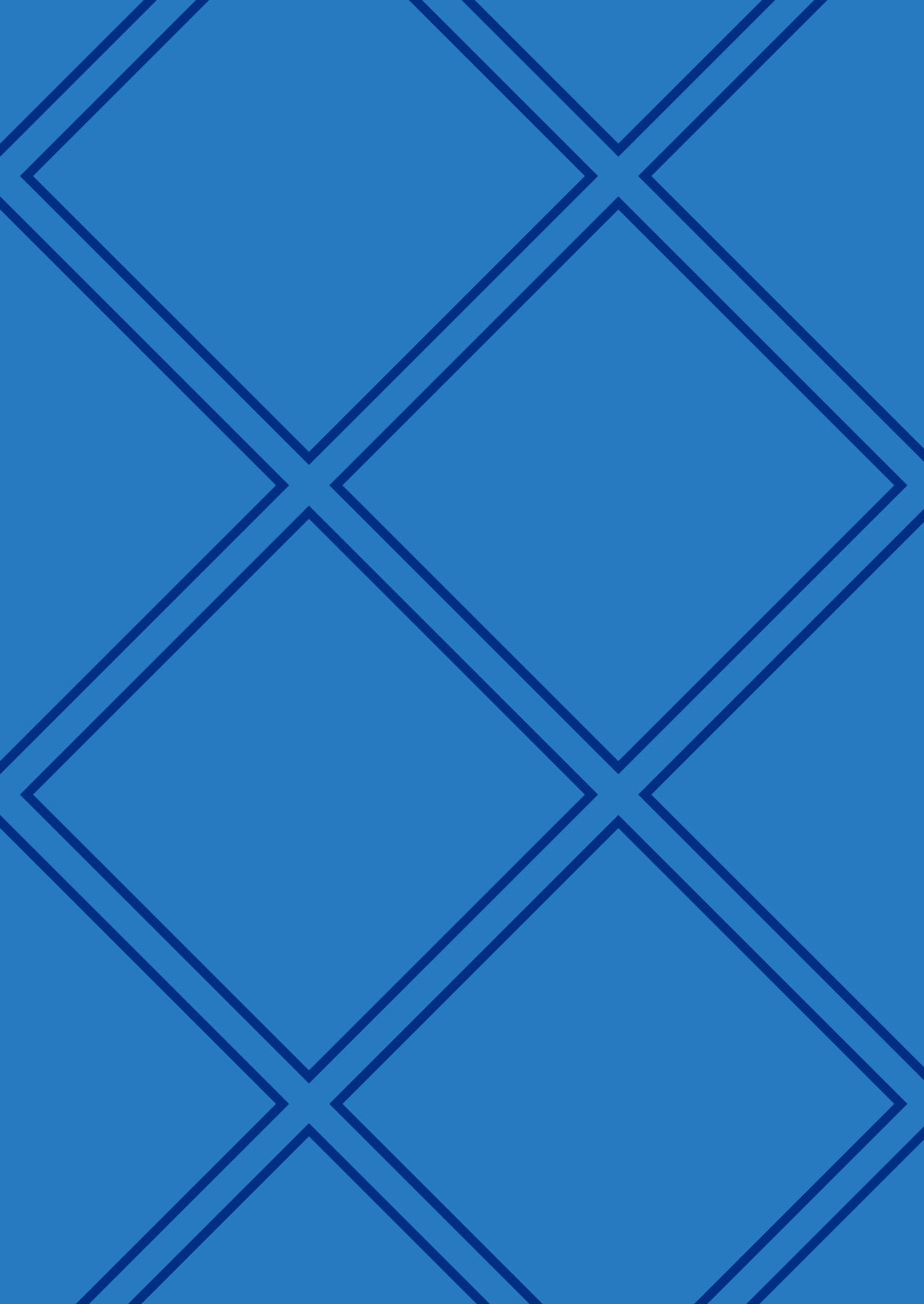
The Ombudsman's monitoring visits were carried out in cooperation with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture. Consequently, the monitoring teams carrying out the visits consisted of staff from both the Ombudsman Office and the two institutes.

The visits showed that many social residential facilities made a considerable socio-educational effort towards the residents, including residents with a preventive measures sentence. The Ombudsman was cautious of assessing this effort in more detail since he and his legal case officers do not have the professional qualifications for making an assessment of socio-educational measures, including whether the measures can have a crime-preventive effect. However, based on information received from the social residential facilities, the Ombudsman considered that the implemented measures could also have a crime-preventive effect – but he noted that in many instances the social residential facilities had not determined the concrete socio-educational targets that needed to be achieved in order to prevent new offences being committed.





**Brief
overview
of the
year**

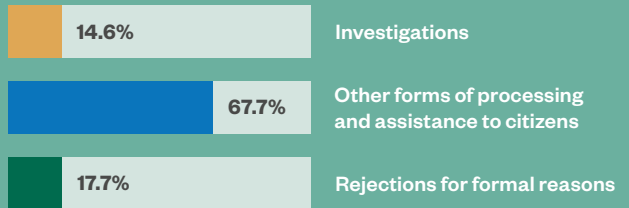


The year in figures

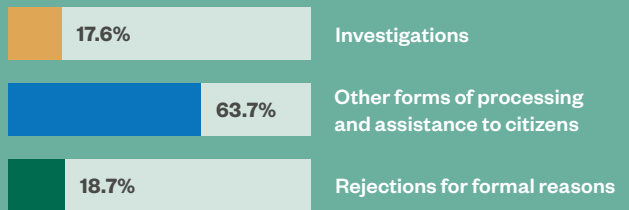
The following pages contain key figures for the cases processed by the Ombudsman in 2021. More information about the Ombudsman's work and the rules governing the Ombudsman's activities can be found on en.ombudsmanden.dk.

Concluded cases¹

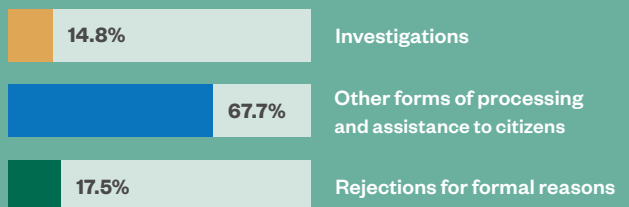
2021
5,587 cases



2020
6,207 cases



2019
5,574 cases



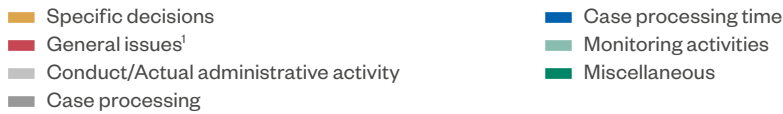
1) Administrative cases are not included. In addition, cases selected for collective review in connection with general own-initiative investigations are not normally included.

What was the outcome of the cases?

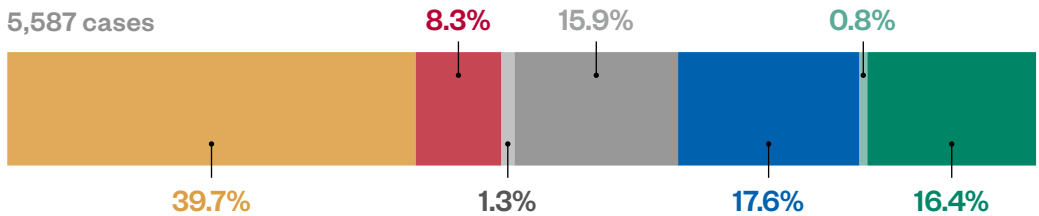
	Concluded cases
1. Investigations	
Full investigations	200
– of which cases with criticism, formal or informal recommendations etc.	78
Shortened investigations ¹	615
Investigations, total	815
2. Other forms of processing and assistance to citizens	
Various forms of intervention in cases where the avenues of having them processed by authorities had not been exhausted	1,958
– of which cases forwarded to authorities	1,036
Cases where the Ombudsman's review did not result in further investigation	1,334
Answers to enquiries, guidance etc.	493
Other forms of processing and assistance to citizens, total	3,785
3. Rejections for formal reasons	
Complaints which were submitted too late to the Ombudsman	112
Cases where the complaint/appeal options to authorities had not been used – and could no longer be used	50
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	200
Cases which concerned matters relating to Parliament, including legislative issues, and were thus outside the Ombudsman's jurisdiction	75
Complaints which related to other matters outside the Ombudsman's jurisdiction, including private legal matters	296
Complaints which were not clarified sufficiently to enable investigation and complaints which were withdrawn	218
Cases in which the Ombudsman declared himself disqualified	0
Anonymous approaches	36
Rejections for formal reasons, total	987
Total (1-3)	5,587

1) Shortened investigations comprise primarily 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 after the Ombudsman asked them for a statement (15 cases in 2021).

What did the cases concern?



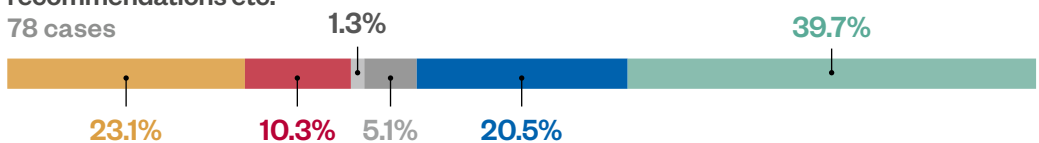
All concluded cases 5,587 cases



Investigations 815 cases



Cases with criticism, formal or informal recommendations etc. 78 cases



1) The category 'General issues' comprises, for instance, the overall conditions in an institution or the question whether an 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 2021 - by authority etc.

Authority etc. with prime responsibility	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. Ministries and authorities etc. under them¹					
Ministry of Employment	0	12	61	11	84
Ministry of Children and Education	1	7	28	0	36
Ministry of Industry, Business and Financial Affairs	1	47	103	19	170
Ministry of Finance	0	0	12	0	12
Ministry of Defence	2	11	14	3	30
Ministry of the Interior and Housing	0	3	10	2	15
Ministry of Justice	11	173	421	50	655
Ministry of Ecclesiastical Affairs	0	4	33	3	40
Ministry of Climate, Energy and Utilities	1	6	21	1	29
Ministry of Culture	0	4	31	3	38
Ministry of Environment	0	5	31	3	39
Ministry of Food, Agriculture and Fisheries	0	3	22	2	27
Ministry of Taxation	8	50	181	32	271
Ministry of Social Affairs and Senior Citizens	8	241	454	127	830
Prime Minister's Office	1	7	27	1	36
Ministry of Health	3	17	202	15	237
Ministry of Transport	2	23	58	4	87
Ministry of Higher Education and Science	1	12	64	8	85
Ministry of Foreign Affairs	0	3	24	2	29
Ministry of Immigration and Integration	4	22	135	16	177
Total	43	650	1,932	302	2,927

1) The cases 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 2021 - by authority etc.

Authority etc. with prime responsibility	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.					
Municipalities	5	69	1,185	141	1,400
Regions	19	10	64	11	104
Joint municipal or regional enterprises	0	0	4	1	5
Special municipal or regional entities	0	0	1	0	1
Total	24	79	1,254	153	1,510
C. Other authorities etc. within the Ombudsman's jurisdiction²					
Other authorities etc. within the Ombudsman's jurisdiction	11	8	134	9	162
Total	11	8	134	9	162
D. Authorities etc. within the Ombudsman's jurisdiction, total					
Central authorities etc., total (A)	43	650	1,932	302	2,927
Municipal and regional authorities etc., total (B)	24	79	1,254	153	1,510
Other authorities etc. within the Ombudsman's jurisdiction, total (C)	11	8	134	9	162
Total	78	737	3,320	464	4,599
E. Institutions etc. outside the Ombudsman's jurisdiction					
Courts etc., cf. section 7(2) of the Ombudsman Act	0	0	0	100	100
Dispute tribunals, cf. section 7(3) of the Ombudsman Act	0	0	0	13	13
Other institutions, associations, enterprises and persons outside the Ombudsman's jurisdiction	0	0	9	353	362
Total	0	0	9	466	475
F. Cases not relating to specific institutions etc.					
	0	0	456	57	513
Grand total (A-F total)	78	737	3,785	987	5,587

2) The figures comprise private institutions etc. 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. In 2021, the Ombudsman decided in pursuance of section 7(4) of the Ombudsman Act that his jurisdiction was to extend to KOMBIT A/S to the extent to which the company is subject to the provisions of the Access to Public Administration Files Act.

Processing times



Complaint cases and



own-initiative investigations

Investigations

– of which cases about access to public records¹

12 months

Result: 96%
(Target: 90%)

6 months

Result: 87%
(Target: 70%)



40 days

Result: 91%
(Target: 90%)

20 days

Result: 63%
(Target: 45%)



Average processing time

3.6
months

18
working days²

- 1) Complaint cases about access to public records under the Access to Public Administration Files Act, the Environmental Information Act, the Administration of Justice Act etc., with the exception of cases about the right of a party to a case to obtain access to documents of the case.
- 2) Processing times for cases about access to public records are stated in working days – as in the Access to Public Administration Files Act. The number of working days is calculated from the date on which the Ombudsman has received replies from the citizen and the authorities and the case is thus ready for final processing (the 'maturity date').



Monitoring cases³

Other forms of processing and assistance to citizens and rejections for formal reasons

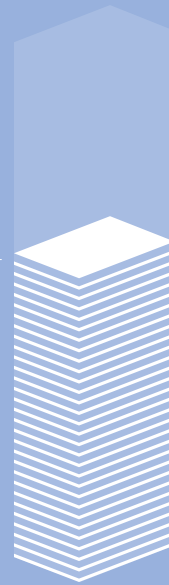
6 months

Result: 98%
(Target: 98%)



3 months

Result: 90%
(Target: 90%)



6 months

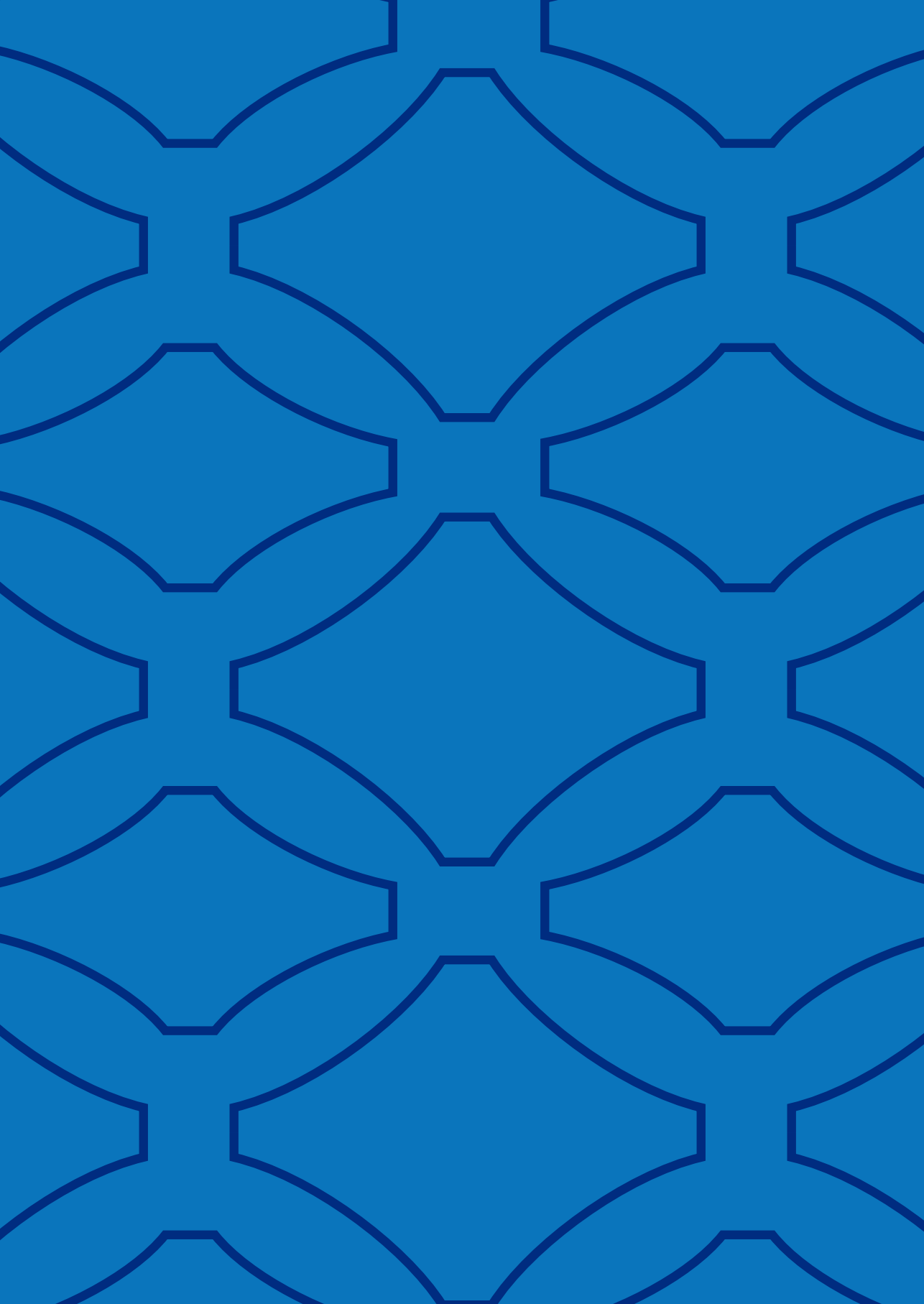
Result: 63%
(Target: 80%)




3) Concluded cases concerning monitoring visits made to institutions etc. for children and for adults, monitoring visits to investigate physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals by the Danish authorities. The processing time for a monitoring case is calculated from the date of the monitoring visit or the deportation.

Other facts

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 2021. The Inatsisartut (the Parliament of Greenland) asked the Ombudsman to act as ad hoc ombudsman for the Ombudsman for Inatsisartut in one case.



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Statement of revenue and expenditure 2021

The Ombudsman's ordinary activities

	DKK
Revenue	
Revenue	22,000
Total revenue	22,000
Expenditure	
Wages and salaries, pension costs	73,854,000
Rent	5,675,000
Staff and organisation, including staff welfare	640,000
Continuing training/education	650,000
Books and library	87,000
Specialist databases	1,724,000
Newspapers and journals	230,000
Communication	592,000
Computer systems – operations and development	3,022,000
Computer hardware	133,000
Telephony and internet	596,000
Premises – repairs and maintenance	724,000
Furniture, fixtures and fittings	212,000
Cleaning, laundry and refuse collection	235,000
Heating and electricity	548,000
Premises – other expenditure	177,000
Travel	445,000
Entertainment and meals	40,000
Contribution to financial support scheme for trainees	413,000
Stationery and office supplies	243,000
Other goods and services	681,000
Total expenditure	90,920,000
Total expenditure (net)	90,898,000
Government appropriation	93,300,000
Result for the year	2,402,000

Public service pensions

	DKK
Revenue	2,542,000
Expenditure	2,482,000
Result for the year	60,000

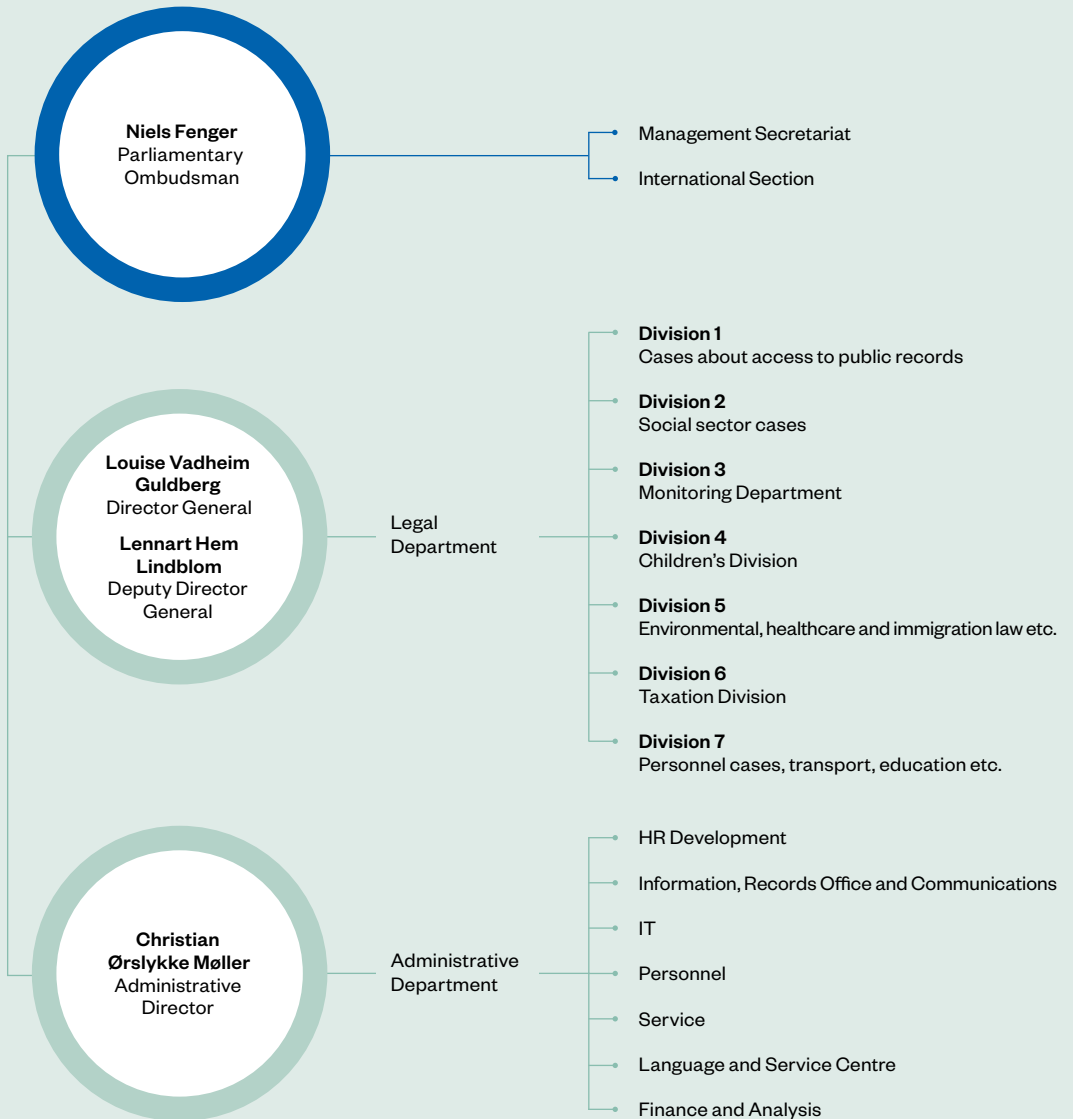
Collaboration agreements with Ministry of Foreign Affairs

	DKK
Revenue	291,000
Expenditure	291,000
Result for the year	0

Note: Due to rounding, some totals may not correspond with the sum of the separate figures.

Organisation

As at 31 December 2021







Employees and core responsibilities as at 31 December 2021

Management

Niels Fenger, Parliamentary Ombudsman
 Louise Vadheim Guldberg, Director General
 Lennart Hem Lindblom, Deputy Director General
 Christian Ørslykke Møller, Administrative Director

Management Secretariat

Martin Østergaard-Nielsen, Communications Advisor
 Mai Gori, Management Coordinator
 Jannie Svendsen, Executive Secretary

International Section

Klavs Kinnerup Hede, Director of International Relations
 Camilla Schroll, Legal Case Officer

Division 1

Cases about access to public records

Kirsten Talevski, Senior Head of Division
 Pernille Bjørnholk, Deputy Head of Division
 Stephan Andreas Damgaard, Deputy Head of Division
 Jakob Liebetrau, Legal Case Officer
 Mai Gori, Legal Case Officer
 Martin Dyhl-Polk, Legal Case Officer
 Maria Thostrup Jakobsen, Legal Student Assistant

Key subject areas of cases handled

- Cases about access to public records
 - The Access to Public Administration Files Act
 - The Environmental Information Act
 - The Radio and Television Broadcasting Act
 - Selected cases involving the Administration of Justice Act
 - Selected cases about press handling etc.

Division 2

Sociale sector cases

Karsten Loiborg, Senior Head of Division
 Christina Ladefoged, Deputy Head of Division
 Marte Volckmar Kaasa, Deputy Head of Division
 Bente Mundt, Senior Consultant
 Kirsten Broundal, Legal Case Officer
 Rikke Malkov-Hansen, Legal Case Officer
 Tove Nørkær Nielsen, Legal Case Officer
 Barbara Eyðfinsdóttir Saxov, Legal Student Assistant
 Esther Schyberg, Legal Student Assistant

Key subject areas of cases handled

- Social security and labour market law

Division 3

Monitoring Department

Morten Engberg, Senior Head of Department
 Adam Abdel Khalik, Deputy Head of Department
 Bo Ruby Nilsson, Deputy Head of Department
 Jørgen Hejstvig-Larsen, Deputy Head of Department
 Nina Melgaard Ringsted, Special Legal Advisor
 Ulla Birgitte Frederiksen, Special Legal Advisor
 Franz Amdi Hansen, Legal Case Officer
 Lina Funda Phillips, Legal Case Officer
 Sabine Heestertermans Svendsen, Legal Case Officer
 Signe Brehm Jensen, Legal Case Officer
 Jeanette Hansen, Senior Administrative Officer
 Johan Klingberg Müller, Legal Student Assistant

The Monitoring Department is in charge of the Ombudsman's monitoring activities in relation to adults, which involve 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 Monitoring Department especially handles specific cases involving:

- Sentence enforcement and custody
- Psychiatric healthcare and conditions for psychiatric patients
- Social institutions

Division 4

Children's Division

Susanne Veiga, Senior Head of Division
 Kristine Holst Hedegaard, Deputy Head of Division
 Lise Bitsch, Deputy Head of Division
 Irene Rønn Lind, Special Advisor on Children's Issues
 Mette Ravn Jacobsen, Special Legal Advisor
 Lene Levin Rybtke, Legal Case Officer
 Marie Helqvist, Legal Case Officer
 Marie Nyborg Kvist, Legal Case Officer
 Pernille Helsted, Legal Case Officer
 Peter Kersting, Legal Case Officer
 Emil Würtz Maassen, Legal Student Assistant
 Laura Høygaard Faldt, Legal Student Assistant
 Sarah Videbech, Legal Student Assistant

The Children's Division carries out monitoring visits to public and private institutions etc. for children, such as:

- Residential institutions and private accommodation facilities for children placed in residential care
- Foster families
- Asylum centres
- Hospital wards and psychiatric wards for children

The Children's Division especially handles specific cases involving:

- Support measures for children and young people
- Social services for children
- Family law matters
- 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.

Jacob Christian Gaardhøje, Senior Head of Division
 Ann Thagård Gregersen, Deputy Head of Division
 Stine Marum, Deputy Head of Division
 Elizabeth Bøggild Monrad, Special Legal Advisor
 Helle Sidenius, Special Legal Advisor
 Janne Lundin Vadmand, Special Legal Advisor
 Hanne Nørgård, Legal Case Officer
 Mai Vestergaard, Legal Case Officer
 Morten Bech Lorentzen, Legal Case Officer
 Nanna Flindt, Legal Case Officer
 Yasaman Mesri, Legal Case Officer
 Nikita Risager Øbakke, Legal Student Assistant

Key subject areas of cases handled

- 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 and the law of succession
- The Guide for Authorities on the Ombudsman's website

Division 6

Taxation Division

Lisbeth Adserballe, Senior Head of Division
 Anne Djurhuus, Deputy Head of Division
 Lise Puggaard, Senior Consultant
 Linette Granau Winther, Special Legal Advisor
 Sofie Hedegaard Larsen, Special Legal Advisor
 Christine Hagelund Petersen, Legal Case Officer
 Lucienne Josephine Lokjær Bak, Legal Case Officer
 Marjanne Kalsbeek, Legal Case Officer
 Marta Warburg Schmidt, Legal Case Officer
 Mette Kildegaard Hansen, Legal Case Officer
 Professor Jan Pedersen, LLD, External Consultant

Key subject areas of cases handled

- Direct taxes
- Indirect taxes, including value-added tax, etc.
- Levying and collection of taxes
- Cases within certain other fields, including industrial injury cases

Division 7

Personnel cases, transport, education etc.

Johannes Martin Fenger, Senior Head of Division
 Camilla Bang, Deputy Head of Division
 Vibeke Lundmark, Deputy Head of Division
 Michael Gasbjerg Thuesen, Senior Consultant
 Anna Helene Stamhus Thommesen, Legal Case Officer
 Laura Magid, Legal Case Officer
 Sarah Skafte-Vaabengaard, Legal Case Officer
 Stine Harkov Hansen, Legal Case Officer
 Karen Lindehammer, Legal Student Assistant

Key subject areas of cases handled

- Public employment law
- Transport, communication, roads, traffic etc.
- Education and research
- Prosecution Service and criminal cases etc.
- Passports, weapons etc.
- Elections, registration of individuals etc.
- Ecclesiastical affairs and culture
- Trade and industry etc.

Administrative Department

Core responsibilities

- Personnel
- Finance and analysis
- HR development
- Organisational development
- Information and communications
- Proofreading and other linguistic services
- IT
- Service and maintenance
- Records office

Christian Ørslykke Møller, Administrative Director

HR Development

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

Information, Records Office and Communications

Karen Nedergaard, Head of Information, Records Office and Communications
 Anna Skov Foug, Librarian
 Julie Gjerrild Jensen, Senior Communications Officer
 Eva Jørgensen, Senior Communications Officer
 Harriet Lindegaard Hansen, Senior Records Officer
 Charlotte Charboe Andersen, Senior Records Assistant
 Denise Schärfe, Senior Records Assistant
 Julie Roland, Senior Records Assistant
 Stina Valentin, Senior Records Assistant

IT

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

Personnel

Mette Vestentoft, Special Legal Advisor
 Lone Gundersen, Senior Personnel Officer
 Neel Aggestrup, Senior Personnel Officer
 Stine Holst Gamain-Nørgaard, Senior Personnel Officer

Service

Jeanette Schultz, Head of Service
 Elisabeth Olsen, Receptionist
 Flemming Wind Lystrup, Service Assistant
 Niels Clemmensen, Service Assistant
 Annitta Lundahl, Housekeeper
 Charlotte Jørgensen, Housekeeper
 David Jensen, Housekeeper
 Katarzyna Sztukowska-Thomsen, Housekeeper
 Kirsten Morell, Housekeeper
 Suphaporn Nielsen, Housekeeper

Language and Service Centre

Vibeke Lundmark, Senior Consultant
 Lisbeth Nielsen, Senior Language Officer
 Marianne Anora Kramath Jensen, Senior Language Officer
 Sara Krogsgaard-Hjorth, Senior Language Officer

Finance and Analysis

Camilla Nexø Klitgaard, Head of Finance and Analysis
 Jeanette Schultz, Head of Service
 Mathias Brix, Finance and Analysis Student Assistant



Appendix

**General information
about the Danish
Parliamentary
Ombudsman and
about monitoring
visits under the
OPCAT mandate**

1

General information about the Danish Parliamentary Ombudsman

The task of the Parliamentary Ombudsman

The Danish Parliamentary Ombudsman was established in 1955 following a constitutional amendment in 1953. The general background to introducing a Parliamentary Ombudsman was a wish to improve the protection of citizens' legal rights vis-à-vis public authorities.

The primary task of the Parliamentary Ombudsman is to help ensure that administrative authorities act in accordance with the law and good administrative practice, thus protecting citizens' rights vis-à-vis the authorities. An additional function of the Ombudsman is to support and promote good administrative culture within the public administration.

The Parliamentary Ombudsman is not the National Human Rights Institution of Denmark. The Danish Institute for Human Rights carries out this mandate.

Relationship to Parliament and jurisdiction

The Parliamentary Ombudsman is governed by the Ombudsman Act.

The Parliamentary Ombudsman is organisationally linked to the Danish Parliament. After each general election and whenever a vacancy occurs, Parliament elects an Ombudsman. Further, Parliament may dismiss the Ombudsman if the person holding the office no longer enjoys

its confidence. However, the Ombudsman Act stipulates that the Ombudsman is independent of Parliament in the discharge of his functions.

Under the Ombudsman Act, the jurisdiction of the Parliamentary Ombudsman extends to all parts of the public administration: the state, the regions, the municipalities and other public bodies.

Parliament – including its committees, the individual members of Parliament, the Administration of Parliament and other institutions under Parliament – is outside the Ombudsman's jurisdiction. Thus, the Ombudsman is generally precluded from considering complaints regarding the isolated effects of a statutory provision or its compliance with the Constitution and international law. However, if any deficiencies in existing statutes or administrative regulations come to the Ombudsman's attention in specific cases, the Ombudsman must notify Parliament and the responsible minister. Further, the Ombudsman Act states that the Ombudsman must monitor that existing statutes and administrative regulations are consistent with, in particular, Denmark's international obligations to ensure the rights of children, including the UN Convention on the Rights of the Child.

Courts of justice are outside the Ombudsman's jurisdiction, and the same applies to court-like bodies and tribunals that make decisions on disputes between private parties. Subject to a few exceptions, the Ombudsman cannot consider complaints about private establishments either.

The Danish Parliamentary Ombudsman is located in Copenhagen and has no branch offices. The Faroe Islands and Greenland both

have their own ombudsman, with jurisdiction in relation to issues falling under the remit of the home rule administration in the case of the Faroe Islands and the self-government administration in Greenland's case. Issues relating to the Faroe Islands and Greenland which fall under the remit of central administrative authorities of the Realm of Denmark are within the jurisdiction of the Danish Parliamentary Ombudsman.

Working methods

The Ombudsman investigates complaints, opens investigations on his own initiative and carries out monitoring visits. Investigating complaints from citizens is a core function of the Ombudsman.

Complaint cases

In general, anybody can complain to the Ombudsman, also if they are not a party to a case. Complaining to the Ombudsman is free. A complainant cannot be anonymous.

The Ombudsman considers complaints about all parts of the public administration and in a limited number of situations also about private institutions, an example being complaints about conditions for children in private institutions.

The Ombudsman does not consider complaints about courts, nor about court-like bodies or tribunals which make decisions on disputes between private parties.

The Ombudsman's task is to ensure that the authorities have observed the applicable rules. For this reason, the Ombudsman cannot consider cases before the authorities; he can consider a complaint only if the case has been considered by the relevant authority – and by any appeals bodies.

There is a deadline of one year for complaints to the Ombudsman.

When the Ombudsman receives a complaint, he first determines whether it offers sufficient cause for investigation. In some cases, the Ombudsman is unable to consider a complaint, whereas in other cases, he chooses not to open an investigation, for instance because he would not be able to help the complainant achieve a better outcome.

In a large proportion of complaint cases, the Ombudsman helps the citizen by providing guidance or by forwarding the complaint to the relevant authority, for instance in order that the authority will be able to consider the complaint or give the citizen more details of the grounds for a decision which it has made in the case.

In a number of cases, the Ombudsman discontinues his investigation because the authority chooses to reopen the case, for instance after being asked for a statement on the matter by the Ombudsman.

In some complaint cases, the Ombudsman carries out a full investigation, which, among other things, involves obtaining statements from the authority and the complainant. The investigation may result in the Ombudsman choosing to criticise the authority and, for instance, recommend that it make a new decision on the matter.

Own-initiative investigations

As mentioned above, investigating complaints from citizens is a core function of the Ombudsman. However, opening investigations on his own initiative is also a high priority for the Ombudsman.

The Ombudsman may open the following types of investigation on his own initiative:

- investigations of specific cases
- general investigations of an authority's processing of cases

An example of a topic for a general investigation could be whether an authority's interpretation and application of specific statutory provisions or its practice in a specific area is correct.

Objectives of own-initiative investigations

One of the main objectives of also giving high priority to own-initiative investigations is to identify recurring errors made by authorities. Investigations of this type can have a great impact on the case processing by authorities, thus helping a large number of citizens at the same time.

In an own-initiative investigation, the focus is not only on errors that the authority may already have made – but also on preventing errors being made in the first place.

In addition, the Ombudsman opens investigations on his own initiative of specific cases of a more one-off nature if he finds cause to look further into a case.

Backgrounds to opening own-initiative investigations

In practice, the Ombudsman mainly opens own-initiative investigations of themes and within areas with one or more of the following characteristics:

- There is an aspect of fundamental public importance.
- Serious or significant errors may have been made.

- They concern matters which raise special issues in relation to citizens' legal rights or are otherwise of great significance to citizens.

Specific complaint cases or monitoring visits may give rise to suspicion of recurring errors etc. and be the launch pad for an own-initiative investigation. When the Ombudsman is investigating a specific case, his focus is therefore, among other things, on problems which characterise not only that particular case.

Media coverage of a case may also cause the Ombudsman to open an investigation on his own initiative. The Ombudsman monitors both local and national media.

Further, external parties – such as professional committees for practising lawyers or accountants or interest groups – can be useful sources of knowledge about recurring errors etc. on the part of authorities.

In addition, the Ombudsman chooses some general themes each year for the activities of the Ombudsman's Monitoring Department, Children's Division and Taxation Division.

What characterises the work on own-initiative investigations?

The Ombudsman's own-initiative investigations comprise a variety of activities with the common denominator that they are not centred on a complaint in a specific case, as the focus is usually expanded beyond specific problems to a more general level, with emphasis on any general and recurring errors or problems.

Further, own-initiative investigations typically have a more forward-looking focus, centring on how the authorities involved can handle and rectify errors and problems.

In some own-initiative investigations, the Ombudsman reviews a number of specific cases from an authority.

In others, the Ombudsman asks an authority for a statement about, for instance, its administration, interpretation of the law, practice or processing times in a specific area.

The Ombudsman is working on an ongoing basis on a variety of own-initiative investigations where he considers, based on, for instance, specific complaint cases, legislative changes or media coverage, whether there is a basis for further investigation of a matter. Thus, the Ombudsman decides on an ongoing basis which issues or areas give cause for investigation and how to prioritise them.

In some cases, the Ombudsman's own investigation leads to the conclusion that there is no cause to contact the authorities involved, and the case can be closed without a full Ombudsman investigation. The Ombudsman may also decide to close a case without a full investigation after contacting the authorities.

Monitoring visits

The Ombudsman carries out monitoring visits to places where there is a special need to ensure that citizens are treated with dignity and consideration and in accordance with their rights – because they are deprived of their liberty or otherwise in a vulnerable position.

Monitoring visits are made to a number of public and private institutions etc., such as:

- Prison and Probation Service institutions
- psychiatric wards
- social residential facilities
- residential institutions for children and young people

In addition, the Ombudsman monitors:

- forced deportations of foreign nationals
- forced deportations arranged by other EU member states at the request of the European Border and Coast Guard Agency, Frontex

Finally, the Ombudsman monitors the physical accessibility of public buildings, such as educational establishments, to persons with disabilities.

The Ombudsman's monitoring obligations follow from the Ombudsman Act and from the rules governing the following special responsibilities which the Ombudsman has been assigned:

- The Ombudsman has been designated 'National Preventive Mechanism' (NPM) under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). 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.
- The Ombudsman monitors developments regarding equal treatment of persons with disabilities at the request of Parliament.
- The Ombudsman has been appointed to monitor forced deportations of foreign nationals.

A monitoring visit to an institution is normally a physical visit by a visiting team, who speak with users, staff and the management and look at the physical environment.

The monitoring of a forced deportation involves, among other things, a member of the Ombudsman's staff participating in the whole or part of the deportation.

Monitoring visits are carried out by the Ombudsman's Monitoring Department, except for visits to institutions etc. for children, which are carried out by the Children's Division.

External collaborative partners or consultants participate in a large proportion of visits. Depending on the type of monitoring visit, the Ombudsman collaborates with:

- medical doctors from DIGNITY – Danish Institute Against Torture
- human rights experts from the Danish Institute for Human Rights (IMR)
- wheelchair users from the Danish Association of the Physically Disabled
- consultants from the Danish Association of the Blind

During monitoring visits, the Ombudsman often makes 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 instance, degrading treatment.

In addition, monitoring visits may cause the Ombudsman to open own-initiative investigations of general problems.

Powers

Tools of investigation

Under the Ombudsman Act, the Ombudsman has a set of tools at his disposal when carrying

out investigations. Firstly, authorities etc. within the Ombudsman's jurisdiction are required to furnish the Ombudsman with such information and to produce such documents etc. as he may demand. Secondly, the Ombudsman may demand written statements from authorities etc. within his jurisdiction. Thirdly, the Ombudsman may inspect authorities etc. within his jurisdiction and must be given access to all their premises.

Assessment and reaction

The Ombudsman's assessment of a case is a legal assessment. In connection with monitoring activities, however, the Ombudsman may also include universal human and humanitarian considerations in his assessment. The Ombudsman only considers the legal aspects of cases and not matters which require other specialist knowledge, such as medical matters. Further, the object of the Ombudsman's investigations is the acts or omissions of public authorities, not the acts or omissions of individual public servants.

Under the Ombudsman Act, the Ombudsman may express criticism, make recommendations and otherwise state his views of a case, typically by criticising a decision or recommending that the authority change or review its decision. The authorities are not legally obliged to comply with the Ombudsman's recommendations, but in practice, they follow his recommendations.

The Ombudsman may recommend that a complainant be granted free legal aid in connection with any matter within his jurisdiction.

If the Ombudsman's investigation of a case reveals that the public administration must be presumed to have committed errors or derelictions of major importance, he must notify Parliament's Legal Affairs Committee and the relevant minister or municipal or regional council.

Organisation

Under the Ombudsman Act, the Ombudsman engages and dismisses his own staff. The Ombudsman currently employs roughly 120 people, about 60 per cent of them law graduates.

The management of the institution consists of the Ombudsman, the Director General, the Deputy Director General and the Administrative Director. A management secretariat and an international section support the management.

The Ombudsman's office consists of two departments, a legal department and an administrative department, which are further divided into a number of divisions and units, respectively.

The Ombudsman's annual budget is approximately EUR 12 million.

2 General information about monitoring visits under the OPCAT mandate

In 2009 the Danish Parliament passed an amendment to the Ombudsman Act enabling the Ombudsman to act as National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). In the same year, the Ombudsman started carrying out the functions of the NPM.

Is the NPM independent?

The functions of the NPM are carried out as an integral part of the Ombudsman's work. The Ombudsman is independent of the executive power and is appointed by the Danish Parliament. The Ombudsman is independent of Parliament in the discharge of his functions.

Does the NPM have the necessary professional expertise?

The members of the Ombudsman's staff primarily have legal expertise. However, the Ombudsman's special advisor on children's issues participates in monitoring visits to institutions etc. for children. The Danish Institute for Human Rights contributes with human rights expertise, and DIGNITY – Danish Institute Against Torture contributes with medical expertise.

Does the NPM have the necessary financial resources?

The costs of exercising the functions of the NPM are financed via the overall Government appropriation for the Ombudsman.

Are monitoring visits carried out on a regular basis?

Approximately 30 monitoring visits to institutions for adults and 10 to 12 visits to institutions etc. for children are carried out per year.

What types of institutions are monitored?

The Ombudsman monitors, among others, the following types of institutions where adults may be deprived of their liberty:

State prisons are run by the Prison and Probation Service and receive convicted persons who are to serve a sentence. State prisons may be closed or open. Closed prisons are characterised by a high degree of security and control, whereas inmates in open prisons may be able to work or take part in training or education outside the prison. However, there are also clear limits to inmates' freedom of action in open prisons.

Local prisons are run by the Prison and Probation Service and receive arrestees, remand prisoners and in certain cases convicted persons

who are to serve a sentence. Local prisons are characterised by a high degree of security and control.

Halfway houses are run by the Prison and Probation Service and are used especially for the rehabilitation of convicted persons who are serving the last part of their sentence. Compared to prisons, halfway houses may have a high degree of freedom.

Immigration detention centres are run by the Prison and Probation Service and receive foreign nationals who are to be detained, as a general rule not for a criminal offence but for reasons relating to the Aliens Act.

Departure centres are run by the Prison and Probation Service and receive rejected asylum seekers, persons sentenced to deportation and persons with tolerated residence status. The residents are not under detention and are therefore free to come and go. As a general rule, however, they are required to reside at the centre, including to spend the nights there.

Asylum centres are run by municipalities and the Danish Red Cross and comprise, among others, reception centres, where asylum seekers stay the first weeks after arrival, and residential centres, where they stay while the authorities are considering their application for asylum.

Police detention facilities are used to detain persons who are unable to take care of themselves, for instance due to intoxication.

Police custody reception areas are used for detentions of very short duration without overnight stays of arrestees.

Psychiatric wards are run by the regions and receive psychiatric patients. Wards may be open (with unlocked outer doors), closed (with locked outer doors) or integrated (with outer doors or doors to certain sections being locked according to patients' needs). There are also forensic psychiatric wards, which receive, among others, patients sentenced to placement or treatment in a psychiatric ward.

Social residential facilities are run by regions, municipalities or private parties and receive persons with impaired cognitive or physical functioning. In addition, they receive persons sentenced to placement in a social residential facility. Outer doors are unlocked, except in secure units.

Care homes are run by municipalities or private parties and receive persons with an extensive need for personal care, healthcare and extra support in their daily lives.

The Ombudsman monitors, among others, the following types of institutions etc. where children and young people may be placed:

Open residential institutions are run by municipalities or regions and receive children and young people belonging to the target group for which the institution has been approved. The target group may be defined in terms of age but may also be defined in terms of needs, diagnoses or disabilities.

Partly closed residential institutions and partly closed units of residential institutions are run by municipalities or regions and receive children and young people with criminal behaviour, substance abuse or other behavioural problems. In these institutions and units, residents may be detained by periodic locking of windows and outer doors.

Secure residential institutions and high secure units of residential institutions are run by municipalities or regions and receive children and young people in order to prevent them harming themselves or others or for observation or treatment. These institutions and units may also receive, among others, young people to be remanded in non-prison custody during investigation of their case or convicted young people who are to serve a sentence. Windows and outer doors may be constantly locked, and placements of short duration in a seclusion room are permitted.

Accommodation facilities are run by private parties, such as foundations or enterprises, and receive children and young people belonging to the target group for which the facility has been approved.

Foster families are either general, reinforced, specialised or network foster families. A foster family may foster children and young people belonging to the target group for which it has been approved. Reinforced foster families may foster children and young people with moderate to high support needs, whereas specialised foster families may foster children and young people with high support needs.

24-hour units of child and adolescent psychiatric wards are run by the regions and receive children and young people for examination or treatment of psychiatric disorders.

Asylum centres for unaccompanied underage asylum seekers are run by municipalities and the Danish Red Cross and are residential centres where unaccompanied underage asylum seekers stay while the authorities are considering their application for asylum.

How are monitoring visits carried out?

A monitoring visit is typically a physical visit. Before or following the visit, the Ombudsman will ask for various information, for instance reports of incidents involving use of force, records of statements taken prior to the sanction of placement in a disciplinary cell being imposed, or information from parents or other relatives. During the visit, the Ombudsman's visiting team will speak with users, staff and the management.

The Ombudsman has designated the following general focus areas for his monitoring visits:

- use of force and other restrictions
- interpersonal relations
- work, education and leisure time
- health-related issues
- user safety
- sector transfers

The prioritisation of the individual focus areas depends on the place visited. During specific monitoring visits, the Ombudsman may also focus on other issues, for instance buildings in a poor state of repair.

In most cases, recommendations are made to the management of the institution already during the monitoring visit.

Following the visit, the visiting team will prepare a memorandum of the visit, and the Ombudsman will subsequently send a concluding letter to the institution and the responsible authorities with his recommendations.

DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights normally take part in preparing, carrying out and following up on the monitoring visits.

Each year, the Ombudsman chooses, together with DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights, one or more themes for the year’s monitoring visits. The majority of the monitoring visits to be carried out during the year will be to institutions where the themes will be relevant. A theme could be, for instance, disciplinary cells or younger children placed in social care.

After the monitoring visits for a given year have been carried out, the Ombudsman prepares a separate report on the year’s work in relation to each of the themes for the Ombudsman’s monitoring visits to institutions for adults and children. The reports summarise and present the most important results in relation to the themes. Results may be general recommendations to the responsible authorities, for instance a recommendation to see that institutions draw up policies on prevention of violence and threats among residents. The reports are also used as a starting point for discussions with key authorities about general problems.

Monitoring visits may cause the Ombudsman to open cases on his own initiative, with, among others, the authorities which have the remit for the relevant areas. This may be the case, for instance, with general problems which affect not only the specific institution visited. An example of such a case opened on the Ombudsman’s own initiative was an investigation of whether it was permitted to initiate various types of measures in relation to psychiatric patients without statutory authority.

Does the Ombudsman submit proposals and observations regarding existing legislation or drafts for legislation?

The Ombudsman monitors that the authorities observe the conventions within the framework of Danish legislation.

The more politico-legal and advisory tasks in relation to the legislature are carried out by other bodies, such as the Ombudsman’s collaborative partners in the discharge of his functions as NPM (i.e. the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture). According to an established practice, the Ombudsman does not submit consultation responses on bills, with the exception of bills affecting matters which relate to the Ombudsman’s office itself.

The Ombudsman may notify the responsible minister and Parliament if a statute or the state of the law in a specific area is not consistent with Denmark’s international obligations and a legislative change may therefore be required.

