THE DANISH
PARLIAMENTARY
OMBUDSMAN

Annual Report

2015

TO PARLIAMENT

In accordance with section 11(1) and (2) of the Parliamentary Ombudsman Act (consolidating Act no. 349 of 22 March 2013), I am hereby submitting my Annual Report for the year 2015.

Copenhagen, March 2016

JØRGEN STEEN SØRENSEN

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OVERVIEW OF THE YEAR

THE OMBUDSMAN INSTITUTION IN 2015

Jørgen Steen Sørensen
Parliamentary Ombudsman

A blind woman in a wheelchair had her personal assistance service taken away by the municipality. This meant that she suddenly had far less help available to her. And for instance, it became difficult for her to get out of her home and visit her family.

A local newspaper on the island of Funen ran her story. We took up the case, and it turned out that something was amiss. The municipality had taken away her assistance on a wrongful basis. She got it back.

In a year such as 2015, with, among others, the Eritrea case and the refugee advertisement in Lebanese newspapers, there is good reason to mention the blind woman from Funen. Because her case says something about the Ombudsman institution's typical cases.

The typical case does not draw big headlines. It is not about government ministers and high politics. It is about quite ordinary people who have trouble with the authorities. Those constitute the majority of our cases. And that is how it is supposed to be.

We have had more cases than ever before in 2015. In order to give you an insight into their diversity, we have again this year sprinkled brief case summaries throughout this Annual Report. For instance, you can read about an Indian newspaper trying to collect a debt from a citizen in Denmark. We could not help the newspaper with that. But you can also read about a girl who wrote that she did not want to live with her parents and wanted help to move away from home. One of the case officers at the Children's Division phoned the girl and advised her on what she could do. She was also offered help to contact the municipality.

You will find an overall view of what happened in our approximately 5,000 cases on page 108. The division into three main categories is new:

– Investigations
– Other forms of processing and assistance to citizens
– Rejections for formal reasons

The blind woman in the wheelchair belongs to the first category. The girl who received assistance from the Children's Division is in the second category. And the Indian newspaper is in the third category.

Previously, the cases were divided into 'substantively investigated' and 'rejected' cases. This was misleading. For instance, it does not make sense to say that we 'rejected' the girl who wanted to move away from home. But this is how the case would have been registered in the old system because it did not lead to a big, legal 'substantial investigation'. Which the case did not call for at all. The girl just needed help quickly.

In early 2015, we felt the effects of misunderstandings due to an outdated statistics system when a national newspaper concluded on its front page that the majority of children who contact the Children's Division are turned away. The truth is that not a single child is turned away. On the contrary, they are our top priority. But the misunderstanding was basically our own fault. And it prompted the realisation of long thought-of ideas for a statistics system which better explains what we actually do in the individual cases.

The story also provided a good occasion for sharper attention to who does what in the collaboration which makes up the Danish children's ombudsman (the National Council for Children, the NGO Børns Vilkår and the Ombudsman's Children's Division). The National Council for Children is the children's advocate. Børns Vilkår (the Children's Telephone) is the children's primary access point. And the Children's Division attends to the legal rights of children. You may call it a children's ombudsman divided between three institutions. It is actually a system which makes a lot of sense and which we continuously and jointly strive to make even better.

However, it was not the Children's Division that made the biggest splash in the 2015 headlines but the Eritrea case and the case of the refugee advertisement in Lebanese newspapers. I outline some common perspectives in the article 'Limits to ministers' 'political communication".

In quite another sphere, our focus was on schools when we pointed out that also pupils at private schools have a right to be heard before they are, for instance, expelled. This follows from the UN Convention on the Rights of the Child, which, just as other international conventions, has gained more prominence in the Ombudsman institution over the years. Our new Director General, Jonas Bering Liisberg, gives an overview of this development in the article 'The Ombudsman and the international conventions'.

We have also been preoccupied with the primary and upper secondary schools. Can they, for instance, handle the applicable rules when they have to make unpleasant decisions regarding their pupils? Deputy Head of Division Vibeke Lundmark deals with this question in the article 'When schools have to be legal eagles'.

As is well-known, opinions on the new Access to Public Administration Files Act are divided. Our task at the Ombudsman institution is to ensure that the users - not least the media - are granted the access to public files to which they are actually entitled. We continue to exert ourselves in this field. In the article 'Extraction - the complex exercise of the Access to Public Administration Files Act', Head of Division Lisbeth Adserballe and Special Legal Advisor Lise Puggaard explain one of the most complex issues of the Act.

And finally, in the article 'Eyewitness to forced deportations by the police' Director of International Relations Klavs Kinnerup Hede tells you about our supervision of the deportations of foreign nationals. It is the story of an Afghan family who did not wish to return to Kabul. And the story of the Ombudsman's role in a very sensitive area.

Enjoy your read!

CASE NO. 15/02230

A newspaper article said that the police had taken money away from three foreign nationals for payment of fines against their will. It appeared from the article that the foreign nationals had been arrested for illegal trespassing on the grounds of a school. The Ombudsman was puzzled by the story and sent an enquiry to the regional public prosecutor, asking what he might intend to do about the matter.

The regional public prosecutor asked the police for a statement. The police explained that it had been emphasised that the police was not allowed to take money away from prisoners without their acceptance. The regional public prosecutor recommended to the police that the tightened guidelines be written down and made widely known. In addition, the regional public prosecutor asked the police to bring the three foreign nationals' specific fine cases before the court.

In the light of these measures, the Ombudsman closed the investigation.

The Ombudsman's staff follow the newsflow and read a broad selection of Danish newspapers on a daily basis. It happens several times during a year that the Ombudsman raises cases on the basis of coverage in newspapers or other media.

CASE NO. 15/01399

A farmer was dissatisfied because the municipality demanded a fee of 165,000 DKK for a planning permission which, due to a change in the rules, would only cost 7,000 DKK a few months later. The farmer was of the opinion that the municipality should have informed him of the new rules.

The farmer had not been informed that he could appeal to the State Administration within four weeks.

In the Ombudsman's opinion, the State Administration should have the opportunity to consider whether the farmer's deadline for appeal had expired. More than four weeks had passed since the farmer received the municipality's decision, but the deadline for appeal only takes effect when guidance on appeal has been provided. The Ombudsman's processing of the case meant that the State Administration did process the appeal, even though it had been made more than four weeks after the municipality's decision.

Everybody is entitled to complain to the Ombudsman, and the electronic complaint forms on the websites of the Ombudsman and of the Children's Division make it easy to lodge a complaint. In 2015, the Ombudsman received 770 complaints via the complaint form.

CASE NO. 15/05393

For several years, the Ombudsman has been in contact with an Iranian state organisation, the General Inspection Organization (the GIO), which monitors the public administration and aims at fighting corruption, among other things. There have been ongoing talks of beginning a closer cooperation on how a public regulatory body works. This led to the GIO asking the Ombudsman to provide the specialist content for a seminar on how to handle complaints about the public administration.

A member of the Ombudsman's staff was responsible for the seminar which took place in Tehran and lasted two days. About 80 staff members from the GIO participated in the seminar, and they listened with interest and asked a lot of questions. They were particularly keen on information on how it is ensured in Denmark that no one is above control, and the questions concerned, for instance, who investigates complaints about members of Parliament and judges, whether the Ombudsman is independent of Parliament, and whether it is possible to lodge a complaint about the Ombudsman and his staff.

The Ombudsman has an agreement with the Ministry of Foreign Affairs to enter into projects of cooperation with countries that wish to develop and strengthen their democratic institutions. In 2015, the Ombudsman also entered into a special agreement with the Ministry of Foreign Affairs regarding cooperation with China.

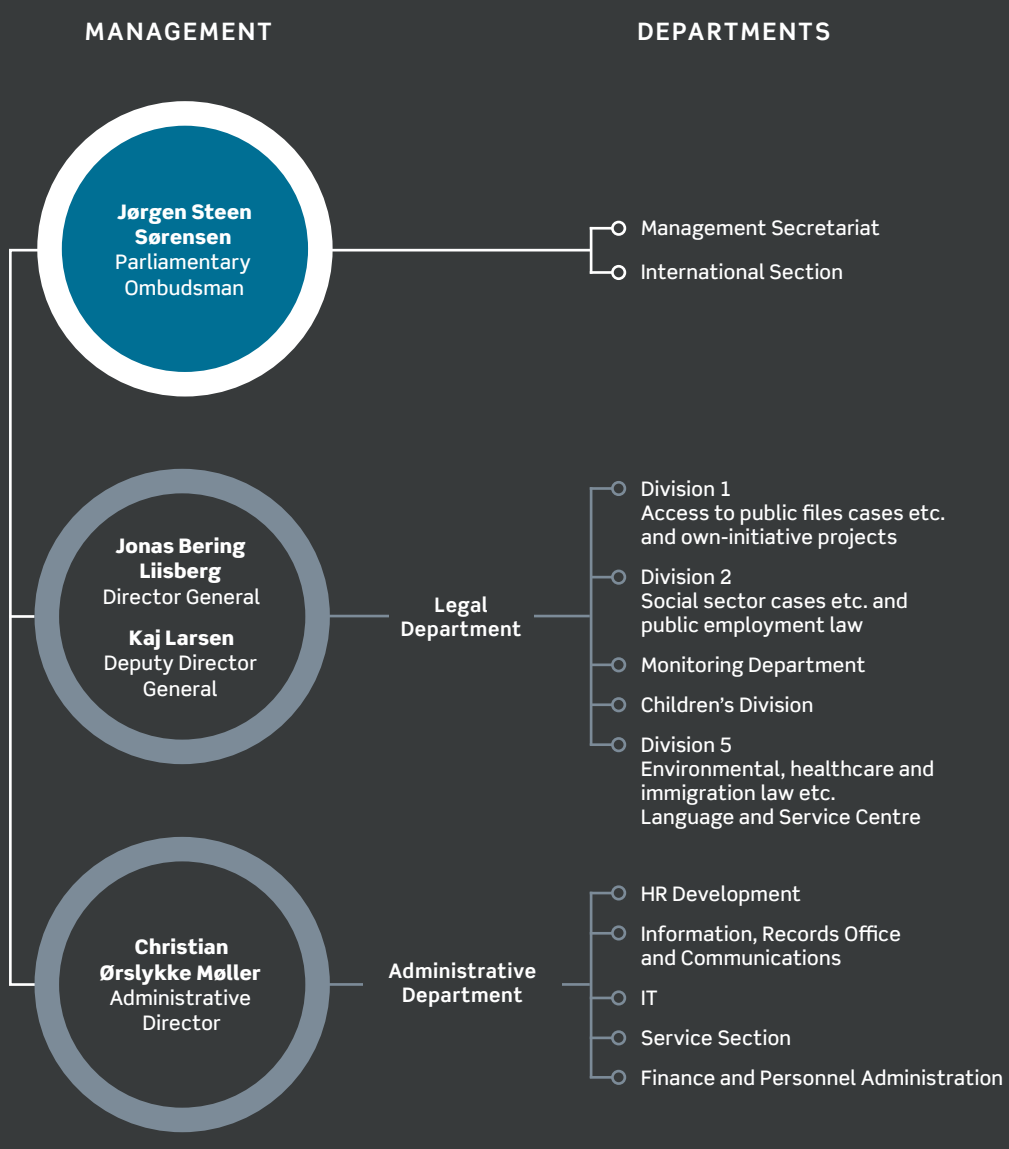
CASES NO. 15/03998 AND 15/04506

A father who had not been awarded custody of his daughter by the State Administration complained to the Ombudsman. He wrote, among other things, that the State Administration had omitted to inform and consult him as a party to the case and that he had been placed in a disadvantageous position compared to the mother in negotiations. The father also complained to the State Administration which refused to reopen the custody case, partly because it was due in court soon.

The Ombudsman also rejected the complaint with reference to the upcoming legal proceedings in the custody matter, as this would provide the father with the opportunity to express his dissatisfaction with the State Administration.

The Ombudsman cannot investigate complaints about judgments and the courts of law – and he therefore refuses to investigate complaints about matters which are expected to be brought before the courts.

ORGANISATION



As at 31 December 2015

MANAGEMENT

Christian Ørslykke Møller
Administrative Director

Jonas Bering Liisberg
Director General

Jørgen Steen Sørensen
Parliamentary Ombudsman

Kaj Larsen
Deputy Director General

As at 31 December 2015

MANAGEMENT SECRETARIAT AND INTERNATIONAL SECTION

Management Secretariat
Jens Møller, Chief Legal Advisor
Jon Andersen, Chief Legal Advisor
Jacob Berner Moe, Special Communications Advisor
Kristine Holst Hedegaard, Management Coordinator
Jannie Svendsen, Executive Secretary

International Section
Klavs Kinnerup Hede, Director of International Relations
Christian Ougaard, Special Legal Advisor

As at 31 December 2015

DIVISION 1
– ACCESS TO PUBLIC FILES CASES ETC. AND OWN-INITIATIVE PROJECTS

Karsten Loiborg, Senior Head of Division
Lisbeth Adserballe, Head of Division
Christina Ladefoged, Deputy Head of Division
Lise Puggaard, Special Legal Advisor
Michael Gasbjerg Thuesen, Special Legal Advisor
Janne Lundin Vadmand, Legal Case Officer
Karina Sanderhoff, Legal Case Officer
Kirsten Broundal, Legal Case Officer
Linette Granau Winther, Legal Case Officer
Pi Lundbøl Stick, Legal Case Officer
Julie Stehr Ishøi, Legal Student Assistant
Lea Bruun, Legal Student Assistant
Professor Jan Pedersen, LLD, External Consultant, Aarhus University

Core responsibilities

- Access to public files cases
- Taxes, duties and recovery thereof etc.
- Market and consumer issues, companies etc.
- Elections, registration of individuals, weapons, passports, permissions to appeal etc.
- Transport, communication, roads, traffic etc.
- Education and research
- Ecclesiastical affairs and culture
- Own-initiative projects
- Special professional tasks

As at 31 December 2015

DIVISION 2
– SOCIAL SECTOR CASES ETC. AND PUBLIC EMPLOYMENT LAW

Kirsten Talevski, Senior Head of Division
Susanne Veiga, Head of Division
Marjanne Kalsbeek, Acting Deputy Head of Division
Elizabeth Bøggild Nielsen, Special Legal Advisor
Ann Thagård Gregersen, Legal Case Officer
Camilla Bang, Legal Case Officer
Christoffer Bruus, Legal Case Officer
Mette Kildegaard Hansen, Legal Case Officer
Pernille Helsted, Legal Case Officer
Peter Kersting, Legal Case Officer
Julie Schultz, Legal Student Assistant
Louise Strøyer Jensen, Legal Student Assistant

Core responsibilities
- Social security and labour market law
- Public employment law

As at 31 December 2015

MONITORING DEPARTMENT

Morten Engberg, Senior Head of Department
Erik Dorph Sørensen, Deputy Head of Department
Stine Marum, Deputy Head of Department
Camilla Schroll, Legal Case Officer
Mai Gori, Legal Case Officer
Marta Warburg, Legal Case Officer
Mette Vestentoft, Legal Case Officer
Morten Bech Lorentzen, Legal Case Officer
Nina Melgaard Ringsted, Legal Case Officer
Ulrik í Hjøllum, Legal Case Officer
Anders J. Andersen, Disability Consultant, MA (Laws)
Jeanette Hansen, Senior Administrative Assistant
Mia Larsen, Legal Student Assistant
Thea Flem Dethlefsen, Legal Student Assistant

The Department is in charge of the Ombudsman's monitoring activities, which include in particular:

- State prisons
- Local prisons
- Halfway houses under the Prison and Probation Service
- Detention facilities for intoxicated persons
- Psychiatric wards
- Social and social-psychiatric accommodation facilities
- Non-discrimination of persons with disabilities
- Forced deportations of foreign nationals

The Department especially processes specific cases involving:

- Sentence enforcement and custody
- Police and criminal cases
- Psychiatry
- Social care institutions

As at 31 December 2015

CHILDREN'S DIVISION

Bente Mundt, Head of Division
Mette Ravn Jacobsen, Deputy Head of Division
Ulla Birgitte Frederiksen, Special Legal Advisor
Irene Rønn Lind, Special Advisor on Children's Issues
Rikke Ilona Ipsen, Special Legal Advisor
Hanne Nørgård, Legal Case Officer
Mai Vestergaard, Legal Case Officer
Christopher Gjerding, Legal Student Assistant

As at 31 December 2015

The Division carries out monitoring visits to public and private institutions for children, such as:

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

The Division especially processes specific cases involving:

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

DIVISION 5
– ENVIRONMENTAL, HEALTHCARE AND IMMIGRATION LAW ETC.
– LANGUAGE AND SERVICE CENTRE

Johannes Martin Fenger, Head of Division
Jørgen Hejstvig-Larsen, Deputy Head of Division
Vibeke Lundmark, Deputy Head of Division
Kristine Holst Hedegaard, Legal Case Officer
Lykke Leth Nielsen, Legal Case Officer
Morten Juul Gjermundbo, Legal Case Officer
Sofie Hedegaard Larsen, Legal Case Officer
Tina Andersen, Legal Case Officer
Cecilie Rahbek, Legal Student Assistant

Core responsibilities
- Environment and planning
- Building and housing
- Energy
- Food and agriculture
- Municipalities and regions etc.
- Health services except psychiatry
- Foreign nationals
- The law of capacity, the law of names, foundations, trusts and the law of succession

Language and Service Centre
Vibeke Lundmark, Deputy Head of Division
Lisbeth Nielsen, Senior Language Officer
Gurli Søndergaard, Senior Language Assistant
Marianne Anora Kramath Jensen, Senior Language Assistant

Core responsibilities
- Translation (English and German)
- Proofreading
- Contact to interpreters
- Production data
- Acknowledgement of complaints
- Replies to communications sent for our information

As at 31 December 2015

ADMINISTRATIVE DEPARTMENT

Core responsibilities
- Annual Report
- Finance and personnel administration
- Contracts and purchases
- HR development
- Organisational development
- Information and communications
- IT
- Service and maintenance
- Records and case management

Christian Ørslykke Møller, Administrative Director

HR Development
Lisbeth Kongshaug, Head of HR and Development

Information, Records Office and Communications
Karen Nedergaard, Head of Information and Communications
Eva Jørgensen, Senior Communications Officer
Julie Gjerrild Jensen, Senior Communications Officer
Anne Mathilde Chavez Svendsen, Senior Records Assistant
Birgit Kehlet-Hansen, Senior Library Assistant
Denise Schärfe, Senior Records Assistant
Harriet Lindegaard Hansen, Senior Records Assistant
Olga Bardenshtein, Senior Records Assistant

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

Service Section
Jeanette Schultz, Head of Service
Lisbet Pedersen, Receptionist
Flemming Wind Lystrup, Service Assistant
Niels Clemmensen, Service Assistant
Annitta Lundahl, Housekeeper
Charlotte Jørgensen, Housekeeper
Kirsten Morell, Housekeeper
Pia Beck, Housekeeper
Suphaporn Nielsen, Housekeeper

Finance and Personnel Administration
Torben Frimer-Larsen, Head of Finance and Personnel
Mette Vestentoft, Legal Case Officer
Jeanette Schultz, Head of Service
Jannie Svendsen, Senior Personnel Officer
Lone Gundersen, Senior Personnel Officer
Neel Bjellekjær, Senior Administrative Assistant

As at 31 December 2015

CASE NO. 14/05441

Scientific articles often have several authors – but if a complaint is filed concerning the contribution of one of the authors, the other authors do not have the status of parties to the case and are therefore not informed of the complaint.

A researcher complained to the Ombudsman about this state of affairs. He had learned indirectly that the Danish Committees on Scientific Dishonesty (DCSD) had received a complaint about the contribution by one of his colleagues in, among others, articles where he himself was listed as first author.

The Ombudsman asked the DCSD to consider whether co-authors ought to have status as parties. The DCSD did not think so – however, the DCSD would in future inform co-authors to articles of complaints about the scientific work produced by others who have contributed to the articles in question.

When the Ombudsman starts processing a case, he investigates, among other things, whether the authorities have observed the relevant rules – for instance the rules in the Public Administration Act that govern the authorities' work.

CASE NO. 15/01084

Following an assessment of the work environment at one of the State Administration's local departments, an interest group urged the Ombudsman to investigate all the authority's child and family cases. The State Administration had been told to improve the mental health work environment, and the interest group was therefore concerned that the quality of the authority's case processing was not satisfactory.

The Ombudsman replied that he did not find grounds for a general investigation. He also wrote that the Ombudsman's main task is to consider specific decisions.

The Ombudsman can carry out general investigations of an authority's case processing – on the basis of a complaint or at his own initiative. This sort of investigation is rarely undertaken, partly because it takes a lot of time away from the ongoing processing of complaints.

CASE NO. 15/01190

When staff from the Ombudsman's Monitoring Department visited a psychiatric ward, a patient told them that she could not get a reply to her request for access to her medical record.

The visiting team raised the question with the ward's management and staff. It turned out that the staff thought they could refuse the patient access on medical grounds. The visiting team informed them that the rules had been changed. Refusing psychiatric patients access to their medical record was no longer allowed unless the record entries pre-dated 2010.

The Ombudsman makes monitoring visits to many different kinds of institutions. The purpose is to inspect the conditions for persons who live at the institution or use it daily. In 2015, the Ombudsman's staff made a total of 49 monitoring visits.

CASE NO. 15/00751

How do you weigh the right to family life against the regard for enforcement of the law? The Department of the Prison and Probation Service allowed the latter to outweigh the former when refusing a request for leave from a long-term prisoner who wanted to participate in an important family event. In its refusal, the Department emphasised, among other things, the very serious crimes for which the man had been sentenced.

The man's lawyer complained to the Ombudsman about the refusal. She wrote, among other things, that the regard for law enforcement, which the Department used as an argument, was abstract and undocumented as long as the man was not allowed leave and thereby the opportunity to show that the Department's objections were not valid.

The Ombudsman replied that he had decided not to investigate the case in further detail. Refusing the man's wish for leave was not contrary to the rules – and nor was there anything else in the Department's case processing which the Ombudsman thought that he would be able to criticise.

Pursuant to section 16(2) of the Ombudsman Act, the Ombudsman can choose to close a case without asking the relevant authority for a statement if the complaint does not provide grounds for criticism or recommendation.

THE OMBUDSMAN AND THE INTERNATIONAL CONVENTIONS

The Danish Ombudsman has in recent years become a special guardian of several international conventions. The new tasks raise, among others, the question of how closely the Ombudsman may question Parliament.

Jonas Bering Liisberg
Director General

Over the course of the last 10 years, Parliament and the Government have through laws and resolutions given the Ombudsman a number of special tasks or 'mandates' to ensure that Denmark fulfils international obligations within the field of human rights.

These special tasks have been added to the institution's portfolio comparatively unnoticed. Two of these tasks are extremely central and extensive. One concerns the prevention of torture and other forms of cruel, inhuman or degrading treatment or punishment under the UN Convention against Torture, and the other is the protection of children's rights under the UN Convention on the Rights of the Child.

In many ways, these tasks are natural extensions of the Ombudsman's classic role as envisaged in the 1953 Constitution; that is, as a regulator, on behalf of Parliament, of the statutory administration and the treatment of the citizens by the executive power.

However, the special tasks also add something to the Ombudsman's work and classic role. The tasks help make the Ombudsman a player and a voice in new international contexts, for instance in relation to the UN committees which monitor that the member countries observe the conventions.

Accordingly, the Ombudsman has in 2015 contributed for the first time, in writing and by personal appearance, to the periodic examination of the Danish Government by the UN Committee against Torture. A similar process is expected to take place in 2016-17 for the Convention on the Rights of the Child.

The national task of ensuring the efficient observance of the conventions is also exceptional in that the assignment from Parliament and the Government presupposes a very close collaboration with other independent Danish organisations and institutions.

In that respect, the Ombudsman is no longer quite as much of a 'lone wolf', for instance in connection with visits to prisons and institutions, but is part of permanent work relationships with organisations such as the Danish Institute for Human Rights, DIGNITY – the Danish Institute Against Torture, and also the Danish National Council for Children and the Danish NGO Børns Vilkår with regard to cases involving children.

THE OMBUDSMAN AND INTERNATIONAL LAW HAVE A LONG HISTORY TOGETHER

Also before the Ombudsman was given these new tasks, international conventions formed part of the grounds of assessment for the Ombudsman's control and monitoring. And they still do, independently of the special tasks.

As a matter of fact, the Parliamentary Ombudsman was probably among the first appeal bodies in Denmark to incorporate international human rights law in the assessment of an administrative act's legality.

As early as 1982, in a case concerning the deportation of a Thai woman staying in Denmark with two under-age children, the Ombudsman pointed out that Article 8 of the European Human Rights Convention, which was not incor-

THE OMBUDSMAN'S SPECIAL INTERNATIONAL TASKS

2007 **Prevention of torture:** The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is from 1984.

In 2002, the State Parties to the Convention against Torture agreed on an additional optional protocol (OPCAT, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). The protocol charges the State Parties with setting up a system of regular visits by independent bodies to places where people are being deprived of their liberty, in order to prevent torture etc. The individual State Parties must establish one or more bodies for the prevention of torture etc.; a so-called national preventive mechanism, NPM.

Denmark ratified OPCAT in 2004, and in 2007 the Parliamentary Ombudsman was designated as Denmark's national preventive mechanism. As presumed by Parliament, the organisation DIGNITY – Danish Institute Against Torture (formerly the Rehabilitation and Research Centre for Victims of Torture) and the Danish Institute for Human Rights contribute actively to the daily work of the national preventive mechanism.

porated in Danish law at the time, should be taken into consideration by the immigration authorities (the Ombudsman's Annual Report for 1982, p. 156, in Danish only).

As far back as the 1970s, the Ombudsman has also included international protocols, including non-binding guidelines, in his monitoring activities with regard to prisons and psychiatric institutions etc.

One example is an inspection visit in 1975 to 'Ebberødgård', an institution under the then National Mental Deficiency Service, where the Ombudsman in his report on the institution's secure wards concluded, among others with reference to a UN declaration on the rights of mentally retarded persons, that 'the clients live under conditions which, based on humanitarian standards and (...) otherwise recognised ideas on the treatment of human beings in institutions, in my opinion must be considered unjustifiable' (the Ombudsman's Annual Report for 1975, p. 571, in Danish only).

In various ways, international rules constitute elements of Danish law and thereby form a natural part of the Ombudsman's activities in the same way as for other law-applying authorities in Denmark, for instance the courts. In this context, EU treaties and EU law are particularly important, as they have direct validity in Denmark, together with the European Human Rights Convention which was incorporated into Danish legislation by law in 1982.

Other international obligations assumed by Denmark but not related to the EU or incorporated by law are also relevant when laying down what is existing Danish law. This applies to, for instance, the Convention against Torture, the

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2010 **Equal treatment of persons with disabilities:** The Ombudsman keeps tabs on the issue of equal treatment of persons with disabilities and addresses any problems when they are within his jurisdiction. Parliament has asked him to do so – most recently when implementing the UN Convention on the Rights of Persons with Disabilities in 2010.

At the same time, Parliament also designated the Danish Institute for Human Rights to promote, protect and monitor the implementation of the Convention. The Danish Institute for Human Rights carries out this task in conjunction with the Danish Disability Council and the Parliamentary Ombudsman.

Convention on the Rights of the Child and the Convention for the Rights of Persons with Disabilities, all of which Denmark has acceded to – therefore all Danish authorities are obligated to contribute to their discharge.

These conventions also entered into the Ombudsman's work before he was given the special tasks. As an example, in a statement from 2009 the Ombudsman made a thorough examination of the Convention on the Rights of the Child and of the Convention for the Rights of Persons with Disabilities in order to determine whether the parents of a 13-year-old boy with infantile autism were entitled to reject a municipality's offer of a place at a particular special needs school (the Ombudsman's Annual Report for 2009, Case No. 2009 18-1).

MUST THE OMBUDSMAN ALSO BE A REGULATORY AUTHORITY FOR THE FOLKETING?

The Ombudsman's new international tasks have in some contexts raised the question whether the Parliamentary Ombudsman from now on must regulate the legislative power and thereby the Ombudsman's own employer, Parliament.

The short answer is no. But the issue is a central one and deserves to be explained in a little more detail.

The Ombudsman's function as a guardian of international conventions in relation to the prevention of torture and the protection of children's rights consists first and foremost in ensuring that the authorities observe the international conventions within the framework of Danish legislation. This is classic ombudsman

THE OMBUDSMAN'S SPECIAL INTERNATIONAL TASKS

2011 **Monitoring deportations of foreign nationals:** Through an amendment in the Danish Aliens Act and as part of the completion of Denmark's obligations under the Schengen Agreement, Parliament and the Government have in 2011 assigned to the Parliamentary Ombudsman a special task of monitoring forced deportations by the Danish police of foreign nationals from non-EU countries.

Among other things, the task has led to a closer cooperation with the EU Ombudsman, other national ombudsmen within the EU with the same task as the Danish Parliamentary Ombudsman, and with the EU border control agency, Frontex.

Please see also the article 'Eyewitness to forced deportations by the police', pages 66-71.

work, involving concrete cases and visits to institutions. The Ombudsman can thereby rest on the authority and legitimacy which the institution has built up over the last 60 years.

The more politico-legal and advisory tasks in relation to the legislative power are handled by other bodies which have been created for that purpose. These are, among others, the Ombudsman's collaborative partners in relation to the UN Convention against Torture (the Danish Institute for Human Rights and DIGNITY – the Danish Institute Against Torture) and the UN Convention for the Rights of the Child (the Danish National Council for Children and the Danish NGO Børns Vilkår together with the Danish Institute for Human Rights). According to established practice, the Ombudsman does not give consultation responses to parliamentary bills, unless the bill concerns the institution's own circumstances. This practice continues.

But what if the Danish Parliament passes a bill which on closer inspection causes problems in relation to the conventions? What will the Ombudsman do then?

It is a fact that the Ombudsman's jurisdiction does not extend to Parliament and its activities. The Ombudsman cannot, for instance, determine whether a bill passed by Parliament is contrary to the Constitution.

But the Ombudsman may – with reference to the Ombudsman Act – inform a minister or Parliament that a law or a legal status is incompatible with Denmark's international obligations and possibly in need of an amendment. This is a rare occurrence. But it has happened.

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2012 **Protection of children's rights:** The UN Convention on the Rights of the Child from 1989 was ratified by Denmark in 1991.

The Convention on the Rights of the Child does not (contrary to the protocol of the Convention against Torture) make express demands for a special independent children's ombudsman. However, the UN Children's Committee has for several years recommended the establishment of such bodies. In 2011, the Committee made a specific recommendation to Denmark that, in addition to the independent, interdisciplinary advocate body, the National Council for Children, a special 'facility' be set up within the existing ombudsman system.

The recommendation led to the establishment of the Ombudsman's Children's Division in 2012 which, together with the Danish National Council for Children and the Danish NGO Børns Vilkår, constitutes a children's ombudsman in Denmark. As a national human rights institution, the Danish Institute for Human Rights also plays an important role in monitoring compliance with the Convention in Denmark.

An older example is a case from 1995 on the Employment Office's alleged participation in racial discrimination in violation of international conventions, including the UN Convention on the Elimination of All Forms of Racial Discrimination. In this instance, the Ombudsman stated, among other things, that 'there were grounds for considering' whether the international obligations which Denmark had undertaken to eliminate racial discrimination by private employers ought to be fulfilled through legislation if the labour market organisations no longer had full control of the situation (the Ombudsman's Annual Report for 1995, p. 46 in the Danish edition and p. 19 in the English edition). The recommendation was a contributing factor in the establishment of a bill prohibiting discriminatory treatment on the labour market.

A HEAVIER AND MORE POWERFUL TOOL BOX

When the Ombudsman was assigned the task of establishing the Children's Division in 2012, it was emphasised with particular clarity in the Ombudsman Act that the Ombudsman must inform Parliament and the relevant government minister if a law does not live up to the Convention on the Rights of the Child (section 12(2) of the Ombudsman Act).

On the face of it, this provision might leave the reader with the impression that the Ombudsman must henceforth supervise and review the legislative work of Parliament and the Government from the proposal stage onwards when it comes to children's rights. And carry out abstract reviews of the compatibility of the legislation with the Convention on the Rights of the Child following the passing of the bill in question.

This is not the case. It is mentioned in the explanatory notes to the proposal that the National Council for Children and the Institute for Human Rights are already acting as consultation partners on legislative proposals. The Ombudsman's task is to act as regulator of the public administration and private institutions etc. that work directly with children. The aim of the provision is to accentuate that if in the course of his work the Ombudsman encounters areas where existing Danish legislation does not match the Convention on the Rights of the Child, he is expected to tap Parliament and the Government on the shoulder.

This happened in a case from 2015 which raised the question of whether or not children in private schools were also entitled to be heard as parties before being expelled or removed.

The Ombudsman raised the question with the Ministry of Education after receiving a number of complaints from parents. In this context, he stressed his special duty to point out legislative deficiencies in relation to Denmark's international obligations according to the UN Convention on the Rights of the Child.

In the Ombudsman's assessment, the gap in the legislation was problematic in relation to Article 12 of the Convention on the Rights of the Child regarding a child's right to be heard and involved in all matters affecting the child. He emphasised that it was the Ministry's responsibility to ensure that private schools would in future comply with the Convention, through legislation if necessary.

In the Ministry's assessment, a guidance and information drive towards the schools would at first be sufficient to ensure the child's right to be heard. The Ombudsman took note of this assessment and stated at the same time that he would pay special attention to the problem to see if it will in fact be resolved in practice (the Ombudsman's Annual Report for 2015, Case No. 2015-53).

For decades, international law has been part of the Ombudsman's legal tool box. The special duties in regard to selected conventions and practice codes have provided the Ombudsman with new partners and roles, both at home and abroad, and have made the tool box for his daily work both heavier and more powerful.

CASE NO. 15/00329

When a single woman offered shelter to an old friend, her financial situation suffered. In the National Social Appeals Board's assessment, the woman and the friend were living in a relationship similar to marriage in which they both contributed to the joint housekeeping and had the same advantages as cohabitees. The National Social Appeals Board therefore reduced the woman's pension, among other things. She also had to repay part of the benefits she had received since the friend moved in.

The woman herself said that she had only given shelter to her friend who was ill and homeless. There were no advantages for her in having him stay – on the contrary, the arrangement involved both inconvenience and cost.

Among other things, the Ombudsman asked the National Social Appeals Board what advantages the Board thought the woman gained by having the friend stay with her. The Board reopened the case and reached the conclusion that the woman gained no advantages from giving shelter to the friend and was still to be considered as single.

The Ombudsman's questions can be a first step towards a final statement expressing criticism. Sometimes, however, an authority chooses to reopen the case on the basis of the Ombudsman's questions. When this happens, the Ombudsman does not write an actual statement.

CASE NO. 15/01276

A young girl wrote in a complaint form on the Children's Division's website that she was unhappy living with her parents. She argued with them all the time, and they did not listen to her. 'They only listen to themselves', wrote the girl who wanted help to move away from home.

A case officer from the Children's Division phoned the girl, as she had requested. The case officer said to the girl that the Ombudsman cannot investigate complaints about parents but is very willing to help provide contact with the municipality where the girl might get help to move away from home. However, the case officer also suggested to the girl that she call the Children's Telephone and ask for support to solve the conflict with her parents. That suggestion was well received by the girl.

Together with the National Council for Children and the Danish children's NGO Børns Vilkår (which runs the Children's Telephone), the Children's Division constitute the overall 'children's ombudsman'. Each body has its own individual strong point. The Children's Telephone has been appointed the primary access point for children and young people.

CASE NO. 15/02323

A citizen felt deprived of control and unfairly stigmatised as a slow payer when Udbetaling Danmark (the authority responsible for a number of public benefits) decided to pay his housing benefits to the housing association where he lived instead of into his own account. Therefore, he complained to the Ombudsman. But since the provisions within this field authorised Udbetaling Danmark to act in accordance with this new practice, the Ombudsman found that he did not have any grounds for investigating the matter.

In 2015, 59 cases were rejected because the Ombudsman's jurisdiction does not extend to Parliament – including laws and provisions passed by Parliament.

CASE NO. 15/01278

The Danish Transport Authority (now the Danish Transport and Construction Agency) fined a citizen because he had missed the deadline for either having his vehicle inspected or deregistered. But the citizen had not received the original inspection notice and was not aware that the vehicle was up for inspection until he received the reminder from the Danish Transport Authority.

In reply to the citizen's appeal of the fine, the Authority wrote that the inspection notice had been sent to the citizen's digital mailbox (e-Boks) and that notice letters sent by digital post are considered received by the recipient at the time when the letter is available to the recipient. Moreover, the citizen himself is responsible for reading his digital post.

The citizen complained to the Ombudsman who asked the Danish Transport Authority to explain to the citizen the steps the Authority had taken to determine that the inspection notice had actually been sent to his digital mailbox. It turned out that the inspection notice had not been sent to the citizen's digital mailbox, but to the mailbox belonging to the previous owner of the vehicle. The fine was therefore cancelled by the Authority.

In 2015, approx. 14,000 letters were sent from the Ombudsman's office – digitally and by postal delivery.

WHEN SCHOOLS HAVE TO BE LEGAL EAGLES

A number of cases show that primary and lower secondary schools do not abide by basic provisions within administrative law when they make far-reaching decisions concerning children. This means that the children lose certain important procedural safeguards. In January 2016, the Ombudsman contacted the Ministry for Children, Education and Gender Equality to find out how the Ministry intends to solve the problem.

Vibeke Lundmark
Deputy Head of Division

It is daily fare in primary and lower secondary schools that pupils are reprimanded or sent out of the classroom. Sometimes, a pupil also has to go and see the school headmaster in his or her office, or a teacher has to contact parents and inform them of an unfortunate episode.

But what if a pupil sets the classroom curtains on fire, steals a bike from a classmate, or cannot be accommodated in the school at all? Then the school has to take more drastic measures because here, we are beyond the point where reprimanding or sending a pupil out of the classroom makes sense. In such cases, more serious intervention is often necessary. The seriousness may entail the need, in legal terminology, to make a *decision within the meaning of the law* in relation to the pupil. Such a decision releases a number of procedural safeguards for both the pupil and the parents. This is when the situation gets harder for the school to handle.

Fortunately, it is rare for pupils to commit such grave offences at school. However, it does happen, and in 2015, the Ombudsman concluded several such cases. For instance, one school transferred a pupil to a different school in the municipality, another school temporarily excluded a pupil from schooling, and a third school decided to establish one-on-one schooling for a pupil. All these measures were a consequence of the pupils' behaviour.

A common denominator for these cases was that the schools had not abided by the basic provisions of the Public Administration Act. From these cases – and from previous Ombudsman cases – a picture thereby emerges that it is difficult for primary and lower secondary schools to abide by the provisions within administrative law in the rare instances where they make decisions about pupils. In these situations, the children (and their parents) lose certain important procedural safeguards.

10-YEAR-OLD BOY EXCLUDED AFTER ATTACK

For a couple of months, a municipal special needs school had had difficulties dealing with a 10-year-old boy. He had behaved aggressively on several occasions, and he had a completely different perception from his classmates and teachers of what had been going on after he had acted under emotional stress. One day, the boy attacked one of his teachers who had to go to the emergency room afterwards. Therefore, the school decided that the boy was to be temporarily excluded from school. The boy's mother chose to take him out of the school until he could attend another school.

The Ombudsman wrote to the school that the decision to exclude the boy from school was so far-reaching that it constituted a decision within the meaning of the Public Administration Act. And the Ombudsman pointed to several issues in regard to the decision:

The boy's mother had not been consulted, and no written documentation of the attack on the teacher existed other than the school's description in its reports to the Ombudsman. The boy's mother had only been informed verbally of her son's exclusion from school.

In spite of the errors made, the Ombudsman found no grounds for criticising the school's assessment that it had been necessary to exclude the boy from school.

BOY IN 9TH GRADE TRANSFERRED TO ANOTHER SCHOOL

In a different case (the Ombudsman's Annual Report, Case No. 2015-19), a boy in the 9th grade had grossly harassed a girl in the 8th grade. The boy had also been involved in previous incidents at the school. The school therefore decided to transfer the boy to another school.

The school made a decision within the meaning of the Public Administration Act by unilaterally and finally determining that the boy was to continue his schooling at a different school.

This meant that the school, for instance, ought to have consulted the boy's legal guardian prior to the decision. The school ought also to have given adequate grounds for the decision, and it should have referred to the rules of law on which the decision was based. There ought to have been made a written record of the telephone conversation in which the boy's legal guardian was informed about the school transfer. In the Ombudsman's opinion, it would also have been most correct to deliver the decision in written form.

The Ombudsman criticised the errors which the school had made in the process but not the actual decision to transfer the boy to another school.

PUNCHING A TEACHER LED TO ONE-ON-ONE SCHOOLING

In a third case, a boy in preschool found the transition from kindergarten to school and after-school care facility difficult. The boy was 'overly challenged in the school environment' and was involved in several incidents where he reacted violently. At one time, he punched a teacher in the stomach, and this made the school headmaster monitor the boy's schooling. Afterwards, the school decided that the boy would receive individual tuition (one-on-one schooling) until there was an opening at a special needs school.

The Ombudsman found the decision to be of such a far-reaching nature that it was a decision within the meaning of the Public Administration Act. And therefore, the school ought to have consulted the parties first and then given the reasons for its decision. The Ombudsman also stated that the school should have been more careful to record in writing conversations and meetings about the boy (the duty to take notes pursuant to the Access to Public Administration Files Act).

As in the other two cases, the Ombudsman could not criticise the results of the case.

In continuation of the three cases, one might ask if the schools' errors were not simply unimportant details, especially since the Ombudsman could not criticise the decisions? The short answer is no: Although there were no grounds for criticising the actual decision in the three specific cases, generally speaking the basic provisions within administrative law enable authorities to make correct and lawful decisions. Besides, a proper process also ensures that the citizens understand to a larger extent the contents of and the background for decisions – even if the decisions go against them.

THE ART OF DETERMINING WHEN YOU ARE MAKING A DECISION WITHIN THE MEANING OF THE PUBLIC ADMINISTRATION ACT

In the three cases, the schools most likely did not realise that – by implementing rather far-reaching measures – they had made decisions within the meaning of the Public Administration Act. There are probably several reasons for this.

An obvious explanation could be that most schools rarely make actual decisions. While this is routine work for a case worker in the social services department, it is an exception for a school headmaster.

Indubitably, another explanation is that a closer demarcation of that which in legal terms constitutes decision-making and that which is 'just' de facto administrative law activity can prove difficult. The Public Administration Act does not define what is to be understood by a decision. Then again, from the Act's legislative history it can be deduced that the decisions that are made during the course of an ordinary school day are *not* decisions within the meaning of the Act. Consequently, when a school decides that running in the corridors is not allowed and that a pupil can be sent out of the classroom these are not decisions within the meaning of the Act. Similarly, the formation of classes is not regarded as a decision within the meaning of the Act.

On the other hand, the decision of which school a child will attend lies within the meaning of the Act. To exclude a pupil from school – even for just a few days – is a decision within the meaning of the Act as well. This also goes for the decision to implement one-on-one schooling for a pupil.

In other words, it is important that schools realise when they are about to make a decision within the meaning of the Public Administration Act and when the decision is 'just' part of de facto administrative law activity. The examples here show that far-reaching decisions often lie within the meaning of the Act.

LONG LIST OF DEMANDS ON SCHOOLS

When a school makes a decision – that is, a decision of a serious nature – this means that there are a number of requirements in the Public Administration Act which must be met, as mentioned earlier. Among other things, the parents or the legal guardian must be consulted before a decision is made, and it is necessary to give grounds for the decision. In addition to this, the Access to Public Administration Files Act stipulates the duty to take notes, meaning the duty to write down what has happened in the case. Those two rules are supplemented by various non-statutory basic legal principles and legal maxims. Besides, the schools must of course also comply with and understand other legislation correctly, including the Primary and Lower Secondary Education Act with appurtenant regulations.

This is a challenge for the schools, which generally do not have any legal expertise to consult.

It would take us too far to give an account of all the demands the schools have to comply with in cases involving a decision, but at least we can establish that it would have made a difference in the three cases above if the schools had:

1. Recorded in writing (documented) the course of events which set off the case (the duty to take notes).
2. Sent the notes to the pupil's parents or legal guardian and asked for their comments (consultation).
3. Subsequently sent the decision in writing with an explanation of the decision made (the grounds) to the parents or the legal guardian.

DIALOGUE WITH THE MINISTRY

It is a key demand for the administration that it abides by basic provisions within public administrative law. Therefore, the Ombudsman has previously contacted the (then) Ministry for Children and Education to point out that the cases he had processed left the impression that there might be a need to strengthen school headmasters' knowledge of administrative law. However, the outcome of the case was that the Ombudsman took no further action in the matter, partly because the Ministry had in 2012 made a leaflet, 'Code of conduct in the primary and lower secondary schools' ('God orden i folkeskolen'), in order to get around the problems that may arise when misbehaviour is being handled in the primary and lower secondary schools. In the beginning of 2013, the Ombudsman wrote to the Ministry that he would keep an eye on whether future cases also indicated a lack of knowledge of administrative law among school headmasters who had to deal with serious misbehaviour.

The 2015 cases show that the problem has not been solved, and the Ombudsman has now contacted the Ministry for Children, Education and Gender Equality in order to engage in a dialogue with the Ministry on what it will take to protect the legal rights of individual children.

THE CHANNEL OF COMPLAINT FOR PUPILS

If a school headmaster makes a decision regarding a pupil – for instance a decision to implement one-on-one schooling or exclusion from school for a period of time – there are no ordinary channels of complaint. This is stipulated in section 45(2) of the Education Act and has been in force since 1 August 2009.

Therefore, the pupil may apply directly to the Parliamentary Ombudsman.

Until 1 August 2009, it was possible for pupils to appeal decisions to the municipal council within four weeks.

However, a school headmaster is accountable to the municipal council when carrying out his or her duties. The municipal council can process complaints about the school headmaster's (or the employees') behaviour, including complaints that the school headmaster has made a decision that is inconsistent with the rules determined by the municipal council.

CASE NO. 15/01601

When a citizen crashed with her disability vehicle, a side-view mirror and a side window had to be repaired. The citizen was of the opinion that the municipality should cover the expenses since she could not otherwise drive the vehicle lawfully. But the municipality was not prepared to take on the financial responsibility. The Social Services Act stipulated that 'necessary additional costs for the daily conduct of life' should be covered. However, the municipality wrote to the citizen that repairs of the citizen's vehicle were not considered ordinary operating expenses in relation to being a vehicle owner: The expenditures were merely due to the citizen's car accident – which had nothing to do with her disability.

The National Social Appeals Board agreed with the municipality. In the Ombudsman's assessment, he would not be able to reach a more advantageous result for the citizen, and therefore he decided that he would not take further steps in the case..

According to section 16(1) of the Ombudsman Act, the Ombudsman determines whether a complaint offers sufficient grounds for investigation.

CASE NO. 15/03366

When a citizen received a prize and a five-figured amount, he immediately donated the money to two associations. Nevertheless, he was taxed on the amount.

The citizen appealed to the Danish Customs and Tax Administration (SKAT). While he was waiting for the Customs and Tax Administration's decision, he received a demand for repayment of housing benefits from Udbetaling Danmark (the authority responsible for a number of public benefits) which had been informed that he had received extra earnings.

The citizen asked the Ombudsman to assist him in achieving a postponement of the repayment. Since the citizen had to appeal to the National Social Appeals Board through Udbetaling Danmark first, the Ombudsman could only help the citizen by passing on his complaint to the authorities as an appeal. But fortunately for the citizen, the appeal to the National Social Appeals Board had a suspensory effect – which meant that Udbetaling Danmark could not demand repayment of the housing benefits until the National Social Appeals Board had made a decision.

Pursuant to section 14 of the Ombudsman Act, the Ombudsman cannot process a complaint until other channels of appeal have been exhausted. In 2015, the Ombudsman passed on 1,200 complaints to authorities on those grounds.

CASE NO. 15/01615

It was a case of sheer disqualification of authorities, thought a citizen: He had noticed that the same person had handled the case with the police and with the public prosecutor's office when the citizen lodged a complaint about the police. The coincidence was due to the case officer's job change.

However, the Ombudsman found that the authority was not disqualified, and the case officer was also not personally disqualified in the case – as she would have been if she had processed the case in both instances. But the case officer had only been in charge of minor case proceedings, both with the police and with the public prosecutor's office. The actual processing of the case had been undertaken by the Independent Police Complaints Authority, and later on by the public prosecutor's office. The public prosecutor had made a decision regarding the case prior to the case officer's employment.

When the Ombudsman has to declare himself disqualified to act in a case, Parliament's Legal Affairs Committee appoints a so-called ad hoc Ombudsman to process the case on behalf of the Ombudsman. This happened five times in 2015.

CASE NO. 15/00315

Breast cancer, severe depression and burnout syndrome were not sufficient grounds for granting a 59-year-old woman disability pension. Based on the medical information, the municipality and the National Social Appeals Board assessed that it could not be ruled out that the woman was able to improve her working capacity. Therefore, the woman should attend a rehabilitation programme for a period of two years so that her working ability prospects could be assessed.

The woman did not wish to undergo a work ability test. She wrote to the Ombudsman that her medicine had no effect and that both her physician and her psychologist disagreed with the authorities' assessment. She also wrote that the uncertainty as to whether she would receive the desired disability pension had worsened her mental health.

In the Ombudsman's opinion, it seemed unlikely that he could help the woman. The Ombudsman did not have the expertise to decide on the assessments and deliberations behind the decision regarding the woman's possibility of receiving disability pension.

The Ombudsman has no medical expertise available, and therefore he is normally unable to take a position on a medical assessment – but can merely investigate whether the authorities have taken the assessment into account when they made their decision.

LIMITS TO MINISTERS' 'POLITICAL COMMUNICATION'

Ministers are not only politicians but also heads of administration, which imposes limits on their 'political communication'. The Eritrea case and the case of the refugee advertisement in Lebanese newspapers illustrate this issue.

Jørgen Steen Sørensen
Parliamentary Ombudsman

About 5,000 cases pass through the Ombudsman institution each year. Some of them will always stand out for their significant and fundamental aspects. And we know that some of them will attract our special attention.

In 2015, the Eritrea case and the case of the refugee advertisements in Lebanese newspapers belonged in the latter category.

The two cases had important common denominators: They concerned the subject of immigration. In the public mind, they were connected with the responsible ministers personally. And they concerned the limits to what is often called ministers' 'political communication'.

I would like to say a few words about the last question: What is ministers' 'political communication'? Why is it important? And where are the legal boundaries?

LEGAL BOUNDARIES FOR MINISTERS

Communication is an important part of the workday of Danish ministers. Issues, great and small, arise, and our 24/7 society demands answers. What does the minister think? Why has the minister not done something about it? What will the minister do now?

Can a minister make any kind of statement which is convenient in a given situation?

The answer is of course no. For instance, a minister must not mislead Parliament. Make defamatory statements. Or divulge confidential information contrary to his or her duty of confidentiality. The law is unambiguously clear on these points.

But other or more general limits to a minister's 'right to make statements' also apply.

This is because a Government minister is the head of an administrative authority (the relevant ministry). A minister is therefore subject to the – partly unwritten – rules which apply to administrative authorities. A minister must, for instance, respect the general principles of objective administration. A minister must not interfere in issues which according to statute are placed under independent authorities. And a minister must not in advance make such a strong statement about a case within his or her field of competence that it incurs disqualification.

At the same time, a minister is more than a head of administration. For instance, a minister is also a member of Government, and in this capacity he or she formulates political visions for the Government. Usually, a minister is also a prominent member of a political party and may have important tasks within the party. And, finally, a minister is of course also 'himself or herself', a private person.

So a minister has several 'hats' and will often be wearing all of them in the course of a day. In the morning, the minister may participate in a Government meeting. In the afternoon, the minister will be making administrative decisions within the meaning of the law. In the evening, the minister will be discussing internal party issues in his constituency. And in whatever time is left, the minister will, hopefully, also have time to be a private person.

These different hats come with some very different legal boundaries. It is therefore important to know which hat you are wearing at any given time. Not least when you have to decide how far you can go in your statements.

THE ERITREA CASE – POLITICAL INTERFERENCE IN THE PROCESSING OF ASYLUM CASES?

The influx of Eritrean asylum seekers rose during the course of 2014. The Immigration Service initiated a so-called fact-finding mission to Eritrea. The mission resulted in a report which formed the basis for a decision to tighten the asylum practice, but the tightening was quickly abandoned.

A number of serious allegations were raised against the immigration authorities. One question was whether the then Minister of Justice had illegitimately interfered in the case. For instance, was it in actual fact the minister who had

ordered the Immigration Service to send the mission to Eritrea with instructions to find basis for tightening the practice in the individual asylum cases?

After my investigation of the matter, I had no grounds for assuming that this was the case. But I stated that the Minister of Justice at the time (and the Ministry of Justice) was partly responsible for the suspicion having arisen in the first place. In a TV interview, for instance, the minister had said that, 'I am going to hit the brakes now and will see to it that the Immigration Service goes to Eritrea to investigate whether we can send these people back'.

The minister may in the situation have felt a need to show political initiative. But when the minister commented on what the authorities should do in consequence of a specific influx of asylum seekers, she was wearing her head of administration hat. In this situation, a minister cannot show so much political initiative that it compromises the role division between minister and asylum authorities – a role division which exists precisely so that political interference in the processing of asylum cases is avoided.

The authorities agreed with my main points of view and took note of my comments, but were at the same time preoccupied with the fact that I had not in my statement outlined any new demands for what they called 'ministers' political communication'.

THE REFUGEE ADVERTISEMENT – GUIDANCE OF CITIZENS OR 'COMMUNICATION OF POLITICAL INITIATIVES'?

A somewhat different illustration of the issue is the case regarding the immigration authorities' so-called refugee advertisement in Lebanese newspapers.

COURSE OF EVENTS IN THE ERITREA CASE

August 2014: It becomes known that the Immigration Service will be sending staff on a fact-finding mission to Eritrea because of a strong increase in the number of Eritrean asylum seekers.

November 2014: The Immigration Service publishes a report on conditions in Eritrea. It is the Immigration Service's assessment that the conditions do not in themselves constitute persecution or give Eritrean asylum seekers a right to protection.

November 2014: Questions regarding the authorities' handling of the case are raised in the media, including questions regarding illegitimate political interference in the processing of asylum cases. A named source withdraws from the report, and two members of the Immigration Service staff criticise the report in public. The Immigration Service changes its general position on the right of asylum again so that Eritrean asylum seekers are as a general rule still to be granted asylum.

December 2014: It emerges that the Immigration Service has given the two staff members a caution according to employment law.

15 September 2015: The Ombudsman makes a statement in the case. After having reviewed 7,000 pages of case files, he finds no 'significant breaches of law'. He does, however, point out that the authorities have exposed themselves to the suspicion of 'foul play'. The Ombudsman recommends that the authorities learn from the experience.

23 November 2015: The Ombudsman closes the case after the authorities have stated that they concur with his main points and have taken note of his comments.

In September 2015, the Ministry of Immigration, Integration and Housing and the Immigration Service placed an advertisement in Lebanese newspapers. The advertisement contained a number of brief particulars on restrictive parts of the Danish asylum system, among other things on the postponed right to family reunification and fast repatriation of rejected asylum seekers. The purpose was to correct false information in the refugee community.

COURSE OF EVENTS IN THE ADVERTISEMENT CASE

7 September 2015: The Ministry of Immigration, Integration and Housing and the Immigration Service place a brief advertisement in four Lebanese newspapers regarding parts of the Danish asylum system. The authorities also publish the advertisement in, among other places, social media in the Lebanon and at asylum centres in Denmark.

18 September 2015: The Ombudsman takes up the case. He chooses to focus on the newspaper advertisement, which is the basis of the information drive.

2 and 23 October 2015: The Ministry gives a statement in reply to the Ombudsman's request for comments.

10 December 2015: The Ombudsman publishes his statement with the criticism that the advertisement did not give 'a true and fair view'.

10 December 2015: The Minister and the Ministry release a press statement in which they declare that they disagree with the Ombudsman.

17 December 2015: The Ministry gives additional comments to the Ombudsman's statement. The Ministry states, among other things, that target groups and precision in communication will be kept in mind in future information drives.

18 December 2015: The Ombudsman declares himself satisfied with the outcome of the case.

I stated that the advertisement must be judged according to the rules and principles that apply to public authorities' guidance of citizens on their legal status, and that the conditions for Syrian refugees had to influence the judgment to a significant degree. I concluded that the advertisement did not give a true and fair view. The Ministry assessed the advertisement differently but has subsequently made a statement which should imply that the problem will at any rate not repeat itself.

This case was also haunted by the issue of 'political communication'. To me, the Ministry used expressions such as 'communication of political initiatives' about the advertisement and referred to the rules that apply to ministers' replies to questions from Parliament according to the Ministry of Finance's so-called Codex VII. However, as Ombudsman I had to judge the advertisement on its own grounds, meaning as official dissemination of information.

A TECHNICAL FORMULA FOR A SOCIETAL PRINCIPLE

The Eritrea case and the advertisement case illustrate each in its own way the problematic issue of ministers' political communication and its scope. Ministers need to be able to participate in political communication, probably more today than ever before. It is important to understand and recognise this. But their role and responsibility as heads of administration set boundaries for what they can communicate. They need to know which hat they are wearing.

The whole problem of different hats and legal scope may perhaps seem a bit like legal quibbling. It is not, however. Because here as well, jurisprudence is just using a technical formula for a basic societal principle. In this instance, it is the principle that the exercise of authority must be legitimate and proceed with respect for existing legislation and good administrative behaviour. Also when ministers are involved, and the issue has become political.

A CONCEPT APT TO CONFUSE

'Political communication' is today a commonly used expression. And in informal talks in parliamentary circles I sometimes encounter the viewpoint that ministers' room to manoeuvre in this field should not be too narrowly confined. This is an entirely natural viewpoint. Neither the Ombudsman nor others should of course make ministers' navigation in the waters of communication more difficult than supervision of existing legal principles etc. necessitates.

But it is important that words do not acquire their own magic. Political communication is not a legal concept, and it may sometimes confuse more than it clarifies. A minister has different functions with different legal scope. This scope is fundamental to our administration. And it does not shift, no matter what expressions you use.

We at the Ombudsman institution will always do our best to understand and respect the reality that ministers and ministries live in. On the other hand, the Eritrea case and the advertisement case may hopefully be used by the Civil Service as an illustration of some fundamental principles which provide the framework for the ministers' working day. Also their 'political communication'.

CASE NO. 15/01922

An eight-year-old girl needed rehabilitation therapy after suffering from meningitis. The hospital prepared an intensive, specialised rehabilitation plan which was to be executed by staff with neuropsychological expertise.

However, the municipality, which was supposed to pay for the rehabilitation, assessed that an offer of physiotherapy was sufficient and refused to cover the rehabilitation expenses. A lawyer complained to the Ombudsman on behalf of the girl's parents.

The provision within this field stipulated that the municipality was not allowed to disregard the physicians' assessment in relation to the need for rehabilitation. Consequently, the Ombudsman forwarded the complaint to the municipality so that the municipality could explain to the girl's parents how the offer of physiotherapy could be comparable to the specialised therapeutic option recommended by the hospital. The municipality looked into the case again and decided to withdraw its refusal.

Sometimes, the Ombudsman can assist in a case merely by asking the authority the 'right' questions.

CASE NO. 15/02690

'I'm just a child, and it's not fair that I'm not getting my money', a 17-year-old girl wrote to the Ombudsman. The girl was entitled to a children's supplementary pension of approx. 16,000 DKK annually from her adoptive father. However, although the girl had informed the authorities that she no longer had any contact with her biological mother, the Agency of Governmental Administration paid the first rate into the mother's Easy Account (in Danish NemKonto, a bank account for receiving payments from the public sector. All citizens in Denmark are required to have a NemKonto). The mother, who was mentally ill, spent the money straightaway.

The girl appealed to the Agency for Modernisation, Ministry of Finance, and the Agency replied that the money had been paid into the Easy Account connected to the girl's social security number. The girl should have pointed out on her own initiative that her social security number was to be connected to another account. The Easy Account rules said so.

The Ombudsman did not find that the authorities had made errors in the case, but he directed the attention of the State Administration and the Danish Agency for Digitisation to the problem.

In 2015, the Ombudsman received about 50 complaints from children and young people under 18 years of age.

CASE NO. 15/03239

A citizen complained via the citizen complaint form at www.ombudsmanden.dk that she was unable to obtain a refund of her money from the Danish State Railways (DSB) for a multitrip ticket. As contact information, the citizen had merely stated her initial letter, a very common surname, an imprecise address and a mobile phone number. When one of the Ombudsman's staff members called her, she stated her – also very common – given name, but no address or civil registration number. Instead, she requested that the Ombudsman wrote to her e-mail address.

The Ombudsman wrote to the citizen that he was unable to process a complaint unless he could determine with certainty who had lodged it. Since he could not do so in this case, the case was closed.

The Ombudsman Act stipulates that a complaint must include the name of the complainant.

CASE NO. 15/02558

The Ministry of Justice wrote three times to a citizen who had requested access to public files pursuant to the Access to Public Administration Files Act that the Ministry expected to answer within three weeks. It appeared from the third letter that a processing error had occurred when the Ministry scanned the material for the citizen – consequently, the Ministry now had to do the work from scratch again.

When three weeks had passed after this message, the citizen had still not received a reply from the Ministry. He complained to the Ombudsman who asked the Ministry for a statement about the prolonged processing time. But since it turned out that the Ministry had sent its decision to the citizen at the same time, the Ombudsman discontinued his investigation and wrote to the citizen that an investigation would not be of any help to him at the present time. The Ombudsman also wrote that in general, he paid special attention to the authorities' processing times regarding requests for access to public files, and that he was currently processing another case about the Ministry's case processing time.

It is a prerequisite of the Danish Access to Public Administration Files Act that the authorities work quickly when journalists and other citizens request access to public files. Therefore, the Ombudsman has tightened the demands for his own processing time in complaints about access to public files.


FISKERIKONTROLL

EXTRACTION – THE COMPLEX EXERCISE OF THE ACCESS TO PUBLIC ADMINISTRATION FILES ACT

Many people understand the extraction duty to be the duty to give access to solely factual information in documents that may otherwise be confidential. However, the authorities have a duty to give access to more than just the facts.

Lisbeth Adserballe
Head of Division

Lise Puggard
Special Legal Advisor

It is not easy to understand the provisions for access to public files. Even among professionals, the Access to Public Administration Files Act is considered complex. But one area which is especially troublesome is extraction. That is the exercise of assessing whether a document, which can otherwise be kept confidential, contains information about the factual grounds for a case, etc. Normally, the authorities are obliged to extract and give access to such information. In practice, it is mostly done by the authorities blocking out with a marker pen the information which is not to be extracted.

Extraction means that the authorities extract certain data from a document and give access to that information even if the document is basically confidential. In practice, this is mostly done by the authorities blocking out with a marker pen the information which is not to be extracted.

At the Ombudsman institution, we often find that the authorities struggle to extract information correctly. Still, not only the authorities find it difficult. Extracting causes much fundamental deliberation and debate at the Ombudsman institution as well.

That was the situation with the previous Access to Public Administration Files Act, and it still is. However, it is fair to say that the problem has grown because the actual extraction exercise now has to be applied to more types of documents; not least documents that fall within the new regulation on ministerial advice and assistance in section 24 of the Access to Public Administration Files Act.

A LOOK AT THE PROVISIONS

It is section 28(1), first sentence, of the Access to Public Administration Files Act that establishes the authorities' obligation to give access to information about the factual grounds for a case. Also if the document is basically confidential.

In our experience, many authorities and probably also many journalists and citizens understand the extraction duty according to section 28(1), first sentence, to mean that access to sheer facts must be given, end of story. This is certainly understandable, but the 'factual grounds' have a broader meaning.

If there were merely the duty to find and give the factual information as such, it would not be that difficult. As an example of factual information, the explanatory notes mention that 'on a motorway, 20,000 cars pass by on a daily basis'. The difficulties arise, because the facts are not always as easy to spot as in the example of the amount of cars on a motorway.

If you take a closer look at the Act and its legislative history, you can see that the concept 'information on the factual grounds for a case' in section 28(1), *first* sentence, has two principal meanings:

Firstly, it means information which obviously is factual, for example the information about the 20,000 cars.

Secondly, it means – in the words of the explanatory notes – 'other information which contributes to supplementing the case's evidential grounds or is otherwise provided in order to provide clarity in regard to the factual grounds of the case [unauthorised translation]'. Thus, it is not sufficient to look at the content of the information – whether it is factual or not. It is also necessary to look at the *function* of the information in the relevant case. Simply stated, this kind of information can be referred to as 'functional facts'. In this case, we are talking about information of a more subjective nature.

In addition to this, the public can under certain circumstances get access to external and internal professional assessments which are tied to the case in question. This appears from section 28(1), *second* sentence, and section 29 of the Access to Public Administration Files Act.

Interestingly enough, however, it is not the latter issues that cause problems in practice – at least not in the cases which are submitted to the Ombudsman institution. In contrast, the 'functional facts' category does.

By this, we do *not* mean 'professional' statements within the meaning of the Act (which must be assessed pursuant to section 28(1), *second* sentence, or section 29 on external and internal professional assessments). On the contrary, we mean all the other kinds of statements that may occur in a case. These may be the authorities' own statements as well as statements which originate from other authorities or from citizens and to which the documents refer.

The explanatory notes do not give many pointers as to how 'functional facts' are identified. And it does not make it any easier that the explanatory notes seem to be meant for cases where the authorities make actual decisions within the meaning of the law. Because it is not in such cases that the difficult extraction issues occur. These issues occur in the general administrative cases – for example about big construction projects or the preparation of political strategies – which are also the kind of cases which the Ombudsman's extraction cases typically concern.

Therefore, some specific cases from the Ombudsman's practice best illustrate what 'functional facts' may be.

THREE EXAMPLES OF 'FUNCTIONAL FACTS'

Case No. 2014-14 in the Ombudsman's Annual Report for 2014 was about a memo sent by the Customs and Tax Administration (SKAT) to the Minister of Taxation. The Customs and Tax Administration's practice on preliminary VAT fixing had proved to be wrong, and therefore the Customs and Tax Administration had changed its practice and planned further initiatives. The memo had been sent to the Minister to give him a basis for assessing possible further initiatives, among other things. The Customs and Tax Administration had exempted the memo from access and did not find that it contained information subject to extraction. No further grounds for this viewpoint were stated. Even though some of the information in the memo were assessments, the Ombudsman concluded that most of the information had to be extracted. The Ombudsman emphasised that the information described the matters which formed the basis for the Customs and Tax Administration's deliberations in the case, hence shedding light on the grounds for the initiatives which the Customs and Tax Administration had decided to implement. Thus, the Ombudsman attached importance to the function of the information in the case.

Another case – the Ombudsman's Annual Report for 2014, Case No. 2014-21 – concerned whether information in the Ministry of Transport's work place evaluation was subject to extraction. The Ministry of Transport had exempted the work place evaluation from access in its entirety. A great deal of the information in the work place evaluation consisted of summaries of employees' estimates of or attitudes towards certain questions. The Ombudsman concluded that the results of the work place evaluation were subject to extraction. He emphasised that even though the results had a subjective quality, they were part of the basis needed to assess which initiatives were necessary for the work environment in the Ministry. Again, the Ombudsman emphasised the character of the information as 'functional facts' in the case.

Finally, we would like to mention a case – the Ombudsman's Annual Report for 2014, Case No. 2014-23 – about a note made by the Ministry of Justice after a telephone conversation with a party secretary. Among other things, the note contained a summary of the party secretary's statements on the subsidy concept in the Political Parties Accounts Act. The Ombudsman was of the opinion that this information was subject to extraction. He stressed that the statements in the note were not 'professional', nor did they concern viewpoints, arguments or assessments 'in regard to a decision in a case' but were part of the basis for the Ministry's guidance of the party secretary. The Ombudsman also found that this result agreed best with the purpose of the extraction provision in section 28(1), first sentence, of the Access to Public Administration Files Act. So in this case, the Ombudsman used that which the explanatory notes state regarding the kinds of statements that are *not* subject to extraction to – conversely – say that the statements in the case at hand *were* subject to extraction.

THE OMBUDSMAN'S POINTS OF REFERENCE

In the light of the specific cases, it is possible to say something about the factors which the Ombudsman includes and emphasises when interpreting and inferring from the legislative basis. Not least, how the Ombudsman concludes that the information falls within the category of 'functional facts'.

The Ombudsman puts – as presumed in the legislative history – emphasis on the **function** that the information has in the case. Even though information does not resemble facts, it can actually function as facts. This means that it is part of the basis for the authorities' position.

Section 28. The right of access to information in documents within the provisions of section 23, section 24(1), section 25 and section 27(i-iv), includes, regardless of these provisions, information about the factual grounds for a case to the extent the information is relevant to the case. The same applies to information on external professional assessments which is found in documents within the provisions of section 23, section 24(1), section 25 and section 27(i-iv).

(2) (1) does not apply to the extent

1) it will necessitate a disproportionate amount of resources
2) the information in question appears from other documents which are released in connection with the access request or
3) the information is publicly available.

Section 29. The right of access to information in documents within the provisions of section 23, section 24(1), section 25 and section 27(i-iii), includes, regardless of these provisions, information about internal professional assessments in their final form to the extent the information is part of a case about proposed legislation or a published case report, action plan or the like. However, this does not apply to information on internal professional assessments which are drawn up for the use of ministerial advice and assistance or for guidance on the presidency of Local Government and of Danish Regions.

(2) Section 28(2) applies accordingly.

(Unauthorised translation)

In that context, and according to the circumstances, the Ombudsman will, among other things, **conclude conversely** from the explanatory notes: if the information differs from the type of information which is defined as not subject to extraction in the explanatory notes, this may indicate that the information *is* subject to extraction.

Finally, the Ombudsman will assess extraction pursuant to the provisions on exemption of, for instance, internal documents and ministerial advice and assistance documents. **The considerations behind these provisions** are basically to secure the working conditions of the Civil Service and the internal and political decision-making process of the authorities. If there is information in, for example, a ministerial advice and assistance document, and these considerations do not apply, it indicates that the information may be subject to extraction.

IS IT POSSIBLE TO MAKE THE COMPLEX EXERCISE EASIER?

As shown, it can be difficult for the authorities to decide which information in, among others, internal documents and ministerial advice and assistance documents is subject to extraction and therefore in general would have to be released. This is especially true in the general administrative cases and particularly in relation to external statements and assessments etc. This is partly because the Act and the legislative history do not contain much guidance in these situations. At the same time, the extraction duty has become even more important with the new Access to Public Administration Files Act, because the extraction exercise is applicable to more types of documents, for instance the ministerial advice and assistance documents.

The explanatory notes to the provisions on external and internal professional assessments in section 28(1), *second* sentence, and section 29 are relatively informative. So they provide rather useful guidance for the authorities on distinguishing between external and internal professional assessments within the meaning of the Act.

Also the explanatory notes to that part of section 28(1), *first* sentence, which deals with strictly factual information are pretty simple to understand.

It could be worthwhile to consider expanding the Ministry of Justice's guidance to the Access to Public Administration Files Act or in any revision of the Act to let the explanatory notes provide the authorities with more help to determine which information – besides the factual information as such – contributes to supplementing the evidential grounds for a case. Meaning the information which falls within the category of 'functional facts'.

CASE NO. 15/03328

A municipally owned vehicle had twice been seen outside a municipal employee's home. The council informed the employee of this and gave ham a warning for his personal use of municipality vehicles.

The employee – who had been off work on the days of his alleged misuse of the municipality vehicles – protested and said that it would have been impossible for him to borrow a vehicle because his colleagues would then have missed it in their daily work. He asked for evidence and wrote that it had to be an act of magic if the municipality's allegation were true. But the municipality maintained its decision on 'the present basis'.

The Ombudsman asked the municipality to clarify for the employee what the municipality had done to check the employee's information that he had not used the vehicle. The Ombudsman also asked if the municipality had made a note of who had seen the municipally owned vehicle outside the employee's home. The municipality then withdrew the warning, as the evidence was insufficient.

When the Ombudsman sends on a complaint to an authority, he can sometimes help the citizen to pinpoint key complaint matters or arguments or to get a detailed explanation for a decision.

CASE NO. 15/03543

'Hereby I kindly remind you of the attached letter', a lawyer wrote to the Ombudsman. The attached letter was a complaint from one of the lawyer's clients, dated three months earlier and addressed to the Ombudsman. But the Ombudsman had never received the complaint. Therefore, a staff member at the Ombudsman institution made a phone call to the lawyer and left a message on the answering machine asking the lawyer to return the call. However, the lawyer never did.

Subsequently, the Ombudsman wrote to the lawyer that since he had not received the original enquiry and since the complaint was now time-barred according to the twelve-month time limit in the Ombudsman Act, the Ombudsman did not intend to take further steps in the matter.

In 2015, the Ombudsman opened approx. 4,800 cases based on the complaints he received.

CASE NO. 15/03581

When in 2011 the owners of a holiday home became suspicious that the adjoining lot was being used for depositing construction waste, they complained to the municipality. At first, the municipality did not find that anything could be done about it.

More and more construction waste was added at the adjoining lot, and in 2014, the municipality inspected the lot once again after repeated complaints from the holiday home owners. Now the municipality took the matter in hand.

The holiday home owners were most dissatisfied with the municipality's case processing, and they complained to the Ombudsman in 2015. However, since the municipality had taken action in the matter and, in addition to that, apologised for the course of events, the Ombudsman found no grounds for investigating the complaint further.

'The municipality' is the authority that Danes are most often in contact with. Sometimes this leads to disagreements. In 2015, the Ombudsman concluded 1,252 cases with a municipality as the primarily responsible authority.

CASE NO. 15/04149

A letter in Russian had to be sent to an external translator before the Ombudsman could reply. The letter was from a Russian woman who complained about the Refugee Board's rejection of her application for asylum.

According to the Aliens Act, the Ombudsman cannot investigate complaints about the Refugee Board. In quite exceptional cases, however, he can choose to investigate a decision by the Refugee Board, but he found no grounds for doing so in this case. Hence, the Ombudsman wrote to the woman that he would not take any further action in the matter. The letter was translated into Russian before it was sent to the woman.

The Ombudsman often receives complaints in other languages than Danish. Please see the Ombudsman's website, www.ombudsmanden.dk, for information in a number of foreign languages about the institution's work.


TOPRO TROJA

EYEWITNESS TO FORCED DEPORTATIONS BY THE POLICE

Since 1 April 2011, the Ombudsman has monitored the police handling of forced deportations of foreign nationals without legal residence who do not wish to leave Denmark voluntarily. The monitoring is assigned to a staff member with the Ombudsman institution. In this article, he reviews the overall situation using a specific forced deportation of an Afghan family as example.

Klavs Kinnerup Hede
Director of International Relations

One early morning in October, six police constables in plain clothes arrived at 'Center Avnstrup', an asylum centre situated in central Zealand, in order to detain an Afghan family. In the first instance, the task was to move the family a little further north to 'Ellebæk', the Prison and Probation Service institution for detained asylum seekers. But after that, the family, who consisted of a father, mother and a 15-year-old son, were to be forcibly deported to Afghanistan.

At 6:10 am, a police constable knocked quietly on the door to the family's room. Shortly after, the father – who had obviously been asleep – opened the door. Two police constables asked for permission to enter the room. They explained that it had been decided to detain and transfer the family to 'Ellebæk' since they were very soon to be deported to Afghanistan. At this point, the atmosphere was calm.

The father and son packed without protest, whereas the mother protested vociferously. She sat on a blanket on the floor where she had been praying when the police constables entered the room. A woman police constable tried to calm her down, but approximately 20 minutes later, the mother began to knock her head hard against the floor. The police constables held the mother in a firm grip, and when she refused to get up, they carried her downstairs to the car.

The mother continued to scream in the car, and the woman police constable held her in a firm grip several times in order to prevent her from knocking her head against the car window. The other police constables arrived 30 minutes later with the father and the son. The family's belongings were now packed in two boxes and two big white sacks. The family left 'Center Avnstrup' together with the police constables shortly after 7 am.

THE OMBUDSMAN'S PRESENCE DURING FORCED DEPORTATIONS

Since 1 April 2011, the Ombudsman has monitored the police's forced deportations. The objective of the monitoring is to ensure that the deportations are carried out with respect for the individual and without unnecessary use of force. There was no separate monitoring before the Ombudsman was assigned the task, and the system is therefore new in Denmark.

Normally, we are present on the day when the foreign national is deported out of the country, but we may also, as in the case mentioned above, observe the detention prior to a forced deportation.

We select the forced deportations we wish to monitor from the police's lists. It is significant to us whether the deportation involves vulnerable groups, whether families are deported, and whether there is an increased risk that forcible measures will have to be used, which we know from experience is often the case with deportations to Afghanistan. In addition to this, we always make an effort to be present during forced deportations where the police use specially chartered planes – chartered by the Danish police on their own or together with other countries.

We are only allowed to observe and do not have any authority to intervene in the deportation proceedings. In practice, we stay discreetly in the background. We try to be present in situations where the police take forcible measures into use. During the above-mentioned detention, the Ombudsman's staff member stayed with the mother all the time.

The Ombudsman focuses on various aspects when assessing whether the deportation is effected with respect for the individual and without unnecessary use of force. In addition to forcible measures, the Ombudsman also focusses on the unity of the family. It happens that individual family members go underground in an attempt to prevent the deportation. According to police guidelines, families must generally be deported collectively. However, in exceptional cases the police may carry out deportations of families without all family members being present. In these cases, the Ombudsman assesses, among other things, whether the police have informed the family prior to the deportation of the risk that the family may be separated. The Ombudsman also assesses whether the police have actively tried to find the family members who have disappeared, and whether the police have made an actual decision that it is justifiable to carry out the deportation of the family members present.

The family in the above-mentioned case was not detained prior to the deportation because the police had grounds for suspecting that some of the family members

would go underground. However, the entire family had previously gone into hiding from the authorities and still refused to leave Denmark – the police therefore decided to detain the family prior to the day of deportation.

THE DEPARTURE FROM 'ELLEBÆK'

Two weeks after the family had been picked up at 'Center Avnstrup', three staff members from 'Ellebæk' were ready to hand over the family to the police. The father and son seemed nervous, but they did not resist. The police constables explained that they had to search them in order to make sure that they did not carry any dangerous items.

Simultaneously, two women police constables picked up the mother in the cell where she had been detained. They searched her, and she did not resist. The mother also did not protest about having to wear an adult diaper. The police constables explained that the diaper was necessary since she had been drinking soapy water the same morning to avoid being deported.

Adult diapers in connection with forced deportations are not mentioned in the international or national guidelines on forced deportations. The Ombudsman has expressed the opinion that the use of an adult diaper implies a considerable risk of violating the individual's dignity. In this case, the Ombudsman assessed that the adult diaper was necessary and justifiable in these specific circumstances because the woman had been drinking soapy water.

PROTESTS AT COPENHAGEN AIRPORT

At 1:30 pm, the police drove the Afghan family directly to the plane's parking stand at Copenhagen Airport in a police car. The family members got out of the car, but when they reached the steps to the plane, they refused to board. At the same time, they began shouting in English that they would be killed in Afghanistan. The police constables tried unsuccessfully to calm the family members down. After a few minutes, the police fixated their wrists. The

DEPORTATIONS

In Denmark, the police attend to foreign nationals' departure if they do not leave the country voluntarily.

Forced deportations can be effected as 'supervised departure' or 'escorted departure'.

- In cases of supervised departure, the police supervise the departure from Denmark, for example the boarding of a plane at Copenhagen Airport.
- In cases of escorted departure, the police accompany the foreign national out of Denmark and to his or her home country or a third country where he or she is entitled to stay.

Usually, escorted departure takes place with a scheduled flight, but the police sometimes use specially chartered planes which they charter alone or together with other countries. Joint flights can also be organised by the EU border agency, Frontex.

Monitoring
Pursuant to section 30 a of the Aliens Act, the Ombudsman monitors forced deportations. The objective of the monitoring is to supervise that the Danish National Police acts with respect for the individual and without any unnecessary use of force.

Between April 2011 and December 2015, members of the Ombudsman's staff have monitored 59 forced deportation.

- 13 deportations were monitored departures.
- 46 deportations were escorted departures.

During the above period, the Ombudsman's staff members have screened 2,178 cases and reviewed in detail 215 cases.

son's wrists were fixated with plastic strips, and the parents' wrists were fixated with fabric strips which were tied to a belt (restraint belt).

The family were seated in the back seats of the empty plane. The captain – who is always the highest authority on board – came to assess the situation. Despite the family's loud appeals, he let them stay on the plane.

A few minutes later, the other passengers boarded the plane, and the family members now addressed their appeals to them until the plane left the gate 20 minutes later. Hereafter, only the father shouted. He shouted in English that he would bomb the plane.

When the plane was airborne, the entire family sat in silence. The police constable in charge of the deportation talked to the father whereupon the police constables removed the strips from the family members' wrists.

FORCIBLE MEASURES

The police can use forcible measures during deportations – e.g. a firm grip/manual force, plastic strips, handcuffs, protection helmet and restraint belt. Experience from the monitoring indicates that the most frequently used forcible measures are restraint belt, a firm grip/manual force and plastic strips. Handcuffs are rarely used.

The Police Act stipulates that forcible measures must be 'necessary and safe', and 'solely by means and to an extent that are in proportion to the interest they aim to protect'. Moreover, the police must use force as gently as the circumstances permit and in such a way that any harm is reduced to a minimum. It also follows from internal police guidelines on deportations that force during deportations must always be used in such a way that the disturbance of the surroundings is kept at a minimum.

CRITICISM OF INSUFFICIENT DOCUMENTATION

Between April 2011 and December 2015, the Ombudsman received information about 79 deportations where the police had to make use of forcible measures. We monitored the forcible measures in 25 cases. The police did not violate the Police Act's rules on forcible measures in any of the 25 cases. Moreover, the forcible measures were in compliance with police guidelines.

Based on information provided by the police concerning the remaining cases, it is the Ombudsman's opinion that the use of forcible measures in 47 cases complied with the rules about forcible measures in the Police Act. However, in 25 cases it was impossible for the Ombudsman to assess whether the rules of the Police Act were observed, because there was insufficient documentation of force in these specific cases.

Since the Ombudsman began to monitor forced deportations, he has several times criticised the police for not having sufficiently documented the use of forcible measures during deportations.

In 2014, the police published – on the Ombudsman's recommendation – the first summary of the use of forcible measures in connection with deportations.

As regards the case mentioned above, the Ombudsman assessed that the forcible measures taken by the police complied with the rules of the Police Act. Both retaining the mother and leading her when she was picked up at 'Center Avnstrup', as well as the fixation, restraint and leading of the family members at Copenhagen Airport, were considered necessary and justifiable. In addition to this, the forcible measures were only used briefly, since the police constables continuously assessed whether the measures were adequate under the circumstances.

IN FRANKFURT: COMING TO TERMS WITH THE SITUATION

In Frankfurt, the family and the police were received by German police who requested that they stay in an area with restaurants and shops. The police constables were told to contact the German police immediately should any problems arise.

Together with the family, the police constables found a place where they could buy food. When the mother asked for it, she was allowed to take off the diaper. The family now seemed resigned to the situation, and the father borrowed a police constable's mobile phone to make some calls.

The following morning, the plane landed at the airport in Kabul. Prior to the landing, the father received confirmation that the family would be offered a place where they could stay the first few days. The police constable in charge of the deportation also told them that the Danish Embassy would be able to assist them the first few days.

The family and the police constables were met by three employees from the Afghan authorities and two employees from the Danish Embassy. The reception was friendly. The Afghan authorities checked the family's papers, and the family was given permission to enter Afghanistan. The police constables and the Ombudsman's representative travelled back on the same plane on which they had just arrived.

The Ombudsman did not have any critical remarks on how the police had handled the forced deportation of the family to Afghanistan. And this is usually the conclusion. Since the monitoring began five years ago, it has been the Ombudsman's assessment that the police generally handle the deportations with respect for the individual and without any unnecessary use of force.

However, as mentioned above, the Ombudsman has expressed criticism a number of times regarding police documentation in deportation cases. The Ombudsman will continue to monitor the police work in order to improve this aspect.

THE OMBUDSMAN'S MONITORING ACTIVITIES

- Adults
- Children

THE OMBUDSMAN'S MONITORING VISITS

Where

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

Why

The purpose of the Ombudsman's monitoring visits is to help ensure that daytime-users of and residents at institutions are treated in a dignified, respectful manner and in compliance with their rights.

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

The Ombudsman has a special responsibility to protect the rights of children in accordance with, among other things, the UN Convention on the Rights of the Child.

How

During the monitoring visits, the Ombudsman often makes recommendations to the institutions. The recommendations are typically aimed at improving conditions for users of the institutions, including adjustment of the conditions in order to comply with the rules. They can also, for example, be aimed at preventing degrading treatment.

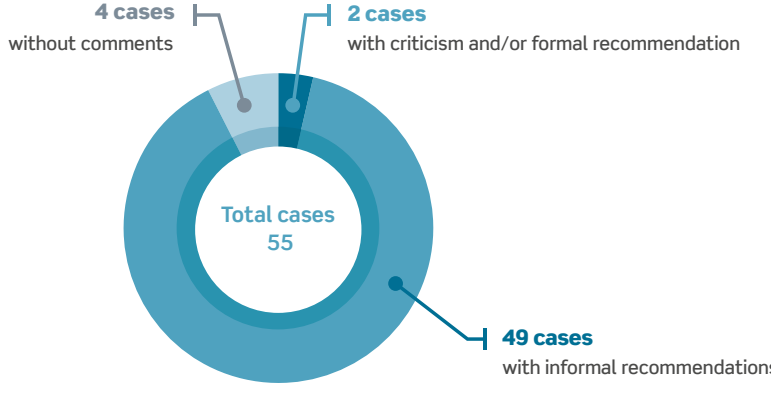
Monitoring visits may also give the Ombudsman cause to investigate general problems.

Who

The Monitoring Department also carries out monitoring visits to institutions for adults, whereas the Ombudsman's Children's Division carries out monitoring visits to institutions for children. The Ombudsman's special advisor on children's issues participates in monitoring visits to institutions for children.

DIGNITY – Danish Institute Against Torture and the Danish Institute for Human Rights participate in some of the visits.

MONITORING CASES CONCLUDED IN 2015



In regard to institutions for adults, the Ombudsman also concluded:

7 monitoring-related cases taken up by the Ombudsman on his own initiative. No cases resulted in criticism.

14 cases about suicide attempts, deaths etc. at the Danish Prison and Probation Service institutions. Criticism was expressed in 1 case.

In regard to institutions for children, the Ombudsman also concluded:

10 monitoring-related cases taken up by the Ombudsman on his own initiative. Criticism was expressed in 5 cases.

International activities

In 2015, two meetings were held with representatives from the other Nordic national preventive mechanisms, and five meetings were held with representatives from other foreign ombudsman institutions with discussion and exchange of experiences about the OPCAT work.

The Ombudsman also held meetings about the OPCAT work with representatives from the UN Committee against Torture (CAT) and the UN Subcommittee on Prevention of Torture etc. (SPT).

MONITORING ACTIVITIES – ADULTS

MONITORING VISITS, ADULTS

No.	Date	Institution	DIGNITY participated	Danish Institute for Human Rights participated (IMR)	
1	16 January	The local prison in Elsinore	✓		
2	19-20 January	Århus University Hospital, forensic psychiatric ward in Risskov	✓	✓	
3	26 January	The local prison in Hobro			
4	27 January	The local prison in Århus		✓	
5	18-19 February	'Anstalten ved Hersted-vester'	✓		
6	5 March	The local prison in Køge			
7	18 March	The local prison in Esbjerg	✓		
8	19 March	The local prison in Kolding	✓		
9	19 March	The local prison in Aalborg			
10	20 March	The local prison in Frederikshavn			

1) Number of inmates, residents and patients etc. who had talks with the visiting teams.

2) Number of relatives, guardians, social security guardians and patient advisors who had talks with the visiting teams.

	Talks with users[1]	Talks with relatives and others[2]	Type of institution and target group
	7	0	Local prison, especially for remand prisoners during investigation of their case
	23	6	Four bed units for forensic psychiatric patients
	4	0	Local prison, especially for remand prisoners during investigation of their case
	4	0	Local prison, especially for remand prisoners during investigation of their case
	41	0	Closed prison for inmates who need psychological or psychiatric treatment
	4	0	Local prison, especially for remand prisoners during investigation of their case
	4	0	Local prison, especially for remand prisoners during investigation of their case
	6	0	Local prison, especially for remand prisoners during investigation of their case
	5	0	Local prison, especially for remand prisoners during investigation of their case
	5	0	Local prison, especially for remand prisoners during investigation of their case

Continued next page

MONITORING VISITS, ADULTS

No.	Date	Institution	DIGNITY participated	Danish Institute for Human Rights participated (IMR)	
11	25 March	'Damsgaarden' in Gilleleje		✓	
12	9 April	Udviklingscentret 'De 2 Gårde' in Børkop			
13	10 April	'Birkekrattet' in Esbjerg			
14	28 April	'Atterbakken' in Tappernøje	✓	✓	
15	29 April	'CAS 2' in Copenhagen	✓	✓	
16	18 May	'Psykiatrisk Center Glostrup'[5]	✓		
17	19-20 May	'Sødisbakke' in Mariager			
18	3-4 June	'Landsbyen Sølund' in Skanderborg			
19	8 June	'Psykiatrien Vest' in Holbæk			

3) At a number of monitoring visits throughout the year in relation to customised projects for individuals, the users' level of function made talks impossible.

4) See page 85 about this year's theme with regard to the so-called customised projects for individuals.

5) The visit was carried out under the direction of Henrik Bloch Andersen, High Court Judge, as ad hoc Ombudsman, because the Ombudsman declared himself disqualified.

	Talks with users[1]	Talks with relatives and others[2]	Type of institution and target group
	0[3]	2	Customised project[4] for one individual in a private accommodation and day-care facility for adults with autism spectrum disorders, mental handicap and related disruptive behaviour disorder
	3	2	Customised projects for five individuals in a municipal accommodation facility for citizens with a mental handicap combined with, for example, psychiatric or social problems
	1	2	Customised project for one individual in a municipal accommodation facility for mentally handicapped persons requiring staff coverage day and night
	1	2	Customised project for one individual in a private socio-educational accommodation facility for vulnerable adults
	0[3]	1	Customised projects for three individuals in a municipal accommodation facility for mentally handicapped persons requiring predictability, structure etc.
	7	2	Three bed units for patients with a disorder relating to forensic psychiatry
	3	5	Customised projects for 25 individuals in a regional accommodation facility for adults with considerable and permanently diminished mental functional capacity
	4	8	Customised projects for eighteen individuals in a municipal accommodation and activity facility for adults with considerable and permanently diminished mental and physical functional capacity
	3	1	Two bed units primarily for general psychiatric patients

Continued next page

MONITORING VISITS, ADULTS

No.	Date	Institution	DIGNITY participated	Danish Institute for Human Rights participated (IMR)	
20	8 June	'Regionspsykiatrien Viborg-Skive' in Viborg			
21	9 June	The local prison in Nykøbing Mors			
22	17 June	'Solkrogen' in Klim			
23	18 June	'Skovbrynet' in Brønderslev			
24	30 June	'Pension Skejby' in Århus			
25	1 July	Psychiatric ward in Vejle			
26	27 August	'Ørum Bo- og Aktivitets-center'			
27	28 August	'Hyldgården' in Holstebro			
28	28 August	'Institutionen Ellebæk' in Birkerød (**unannounced** visit)	✓	✓	
29	2 September	'Stokholtbuen' in Herlev		✓	

	Talks with users[1]	Talks with relatives and others[2]	Type of institution and target group
	7	10	Two regional bed units for patients with a disorder relating to forensic psychiatry
	2	0	Local prison, especially for remand prisoners during investigation of their case
	0[3]	1	Customised projects for three individuals in a municipal accommodation facility for adults with considerably diminished physical or mental capacity combined with disruptive behaviour disorder
	2	3	Customised projects for six individuals in municipal accommodation facility for mentally handicapped adults with special needs – often with violent or self-harming behaviour
	3	0	Prison and Probation Service institution for persons serving a sentence (typically in a social re-entry phase), remand prisoners serving alternatively and persons with no criminal record
	2	1	Two bed units for general psychiatric patients and patients with a disorder relating to forensic psychiatry
	0[3]	5	Customised projects for three individuals in municipal accommodation and activity facility for adults with special needs
	0[3]	3	Customised projects for three individuals in municipal accommodation facility for adults with permanently diminished physical and mental functional capacity
	13	0	Closed Prison and Probation Service institution for asylum seekers who are deprived of their liberty in accordance with the rules laid down in the Aliens Act
	1	1	Customised projects for six individuals in municipal accommodation and activity facility especially for adults with autism spectrum disorders

Continued next page

MONITORING VISITS, ADULTS

No.	Date	Institution	DIGNITY participated	Danish Institute for Human Rights participated (IMR)	
30	9-10 September	'Statsfængslet på Kragskovhede' in Jerup	✓	✓	
31	17 September	'Rønnegård' in Gørløse			
32	21 September	'Solvognen' in Højby			
33	23-24 September	The state prison 'Statsfængslet i Ringe'	✓	✓	
34	3 October	The detention facility at 'Station City' in Copenhagen (**unannounced** visit)	✓	✓	
35	3 October	The detention facility at 'Station Bellahøj' in Copenhagen (**unannounced** visit)	✓	✓	
36	7 October	The police short-term holding facility at Copenhagen Airport in Kastrup (**unannounced** visit)	✓		
37	21 October	The state prison 'Statsfængslet Østjylland' in Horsens	✓	✓	
38	22 October	The state prison 'Statsfængslet Midtjylland' in Nr. Snede	✓	✓	
Total	**38** visits		DIGNITY participated in **16** visits	IMR participated in **13** visits	

	Talks with users[1]	Talks with relatives and others[2]	Type of institution and target group
	16	0	Open prison for persons serving a sentence
	2	4	Customised projects for three individuals in a regional accommodation facility for adults with a mental handicap, possibly combined with psychiatric disorders
	1	0	Customised project for one individual in a private residence facility for, among others, young people with considerable difficulties and a need for an individually adapted treatment
	16	0	Closed prison primarily for persons under the age of 24 serving a sentence, including a prison section for women
	0	0	Police detention facility especially for persons who are unable to care for themselves due to drug intoxication and have been encountered by the police in a dangerous situation
	0	0	Police detention facility especially for persons who are unable to care for themselves due to drug intoxication and have been encountered by the police in a dangerous situation
	0	0	Three short-term holding facilities especially used for short detention purposes for persons under arrest awaiting further interrogation
	8	0	Three closed prison sections especially for persons serving a sentence, including a deportation section and a high-security section
	21	0	Closed prison section for persons serving a sentence, including punitive and isolation sections
	219 talks with users	**59** talks with relatives and others	

EXAMPLES OF IMPORTANT REACTIONS IN 2015

Themes

Every year, the Ombudsman selects one or more themes for the Monitoring Department's monitoring visits in collaboration with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture.

Thematic reports are published at www.ombudsmanden.dk.

THEME: Placement in solitary confinement cell

The Ombudsman's key recommendations

- State prisons and local prisons must ensure that inmates are only placed in solitary confinement cell and, if required, only forcibly restrained when deemed necessary.
- During placement, the staff must on a regular basis assess whether there are grounds for maintaining the placement and possibly immobilisation.
- The institutions must increase their focus on documentation in connection with placement in solitary confinement cell, and they must ensure that all reports on placement in solitary confinement cells contain a sufficient description of why it is necessary to use solitary confinement cell and possibly immobilisation.

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THEME: Customised projects for individuals[1]

The Ombudsman's key conclusions

- In general, the conditions and efforts for the target group of the customised projects were good.
- The visits shed light on a number of dilemmas, particularly about the balance between force and care.

Verbal recommendations to the institution's management

Placement in solitary confinement cell: Recommendation was given to many institutions to increase their focus on documentation and follow-up in connection with placement in solitary confinement cell. See the above theme about placement in solitary confinement cell.

Use of force: A number of institutions were recommended to prepare/revise an instruction about the use of force and to systematically review and assess statistical information about the use of force and other measures – including that the institution compares itself with other, similar institutions.

Coercion: A number of institutions were recommended to review and assess statistical information about the use of coercion in the mental health care system – including that the institution compares itself with other, similar institutions.

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1) The term 'customised projects for individuals' is used as a general term for special accommodation facilities for citizens with a behaviour which causes such problems that it cannot be dealt with at, for example, ordinary specialised accommodation facilities.

Violence and intimidation: A number of institutions were recommended to introduce a policy regarding violence and threats among the users and/or to follow the development in the cases involving violence and threats of violence systematically.

Medicine management: Recommendation was given to a number of Prison and Probation Service institutions and social sector institutions to prepare/update instructions about medicine management and/or introduce systematic registration and disposal, including to keep records of possible waste.

Work and leisure time activities: Recommendations regarding opportunities for specific work and leisure time activities were given to a few institutions.

Visiting rooms: Recommendations were given to a few institutions on the design of visiting rooms.

Local guidelines: A number of institutions were recommended to change the local guidelines, including rules of conduct, when the guidelines were either imprecise or not in compliance with current rules.

Discussions with key authorities

Health service in the Prison and Probation Service institutions: During his annual meeting with the Department of the Prison and Probation Service, the Ombudsman followed up on previous discussions about the health service available to the inmates at Prison and Probation Service institutions. After the meeting, the Prison and Probation Service has initiated a major investigation in order to determine how the Prison and Probation Service can organise and support the health service in the best possible way to ensure an equal and efficient conduct of the task. The Ombudsman is following the work.

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Own-initiative cases and requests for statements

Placement in solitary confinement cell: During a monitoring visit to a prison, the Ombudsman received information about a placement in a solitary confinement cell which had lasted approximately 3.5 days. After the visit, the Ombudsman took up a case with the Department of the Prison and Probation Service. The case is pending.

Information about use of force in connection with placement in a solitary confinement cell, which the Ombudsman received during a monitoring visit to another prison, resulted in the Ombudsman taking up a case with the prison. The case is pending.

Alarm/door-opener: Following a monitoring visit to a municipal accommodation facility, the Ombudsman took up a case regarding an alarm/door-opener which was installed for a citizen in a customised project. The case was concluded with criticism.

Use of special harnesses etc.: A monitoring visit to a municipal accommodation facility raised doubt about the facility's authority to use various types of harnesses and other protective measures towards a citizen who participated in a customised project. The Ombudsman took up two cases with the municipality. The cases are pending.

Monitoring visits to persons placed in police holding cells: Following unannounced monitoring visits, the Ombudsman took up a case with the Commissioner about some general questions concerning the monitoring of persons placed in police holding cells and the documentation in connection with placements. The case is pending.

MONITORING ACTIVITIES – CHILDREN

MONITORING VISITS, CHILDREN

No.	Date	Institution	DIGNITY/Danish Institute for Human Rights (IMR) participated	
1	14 January	'Skelbakken' in Karlslunde		
2	4 February	'Marjatta Skolehjemmet' in Tappernøje		
3	11 March	'Børnehusene Middelfart'		
4	9 April	'Pilely Gård' in Tølløse (**unannounced** visit)		
5	15 April	'Børneinstitutionen Posekær' in Aabenraa		
6	16 April	'Børnehuset Lille Kolstrup' in Aabenraa		
7	19 May	'Fogedvænget' in Hedensted	✓	
8	20 May	'Fenrishus' in Århus	✓	

1) At a number of this year's monitoring visits, the level of function of the children and young people made talks impossible.

	Talks with children and young people	Talks with parents and other relatives	Type of institution and target group
	0[1]	2	24-hour residential and respite institution for children and young people aged 0-23 years with permanently diminished psychiatric and/or physical functionality
	11	8	Accommodation facility for mentally handicapped children and young people aged 5-25 years In-house school
	5	3	24-hour residential institution for children with special needs aged 3-20 years with considerable and permanently diminished functionality
	12	0	Day care facility for boys aged 8-17 years with ADHD, among other things. Part of 'Behandlingsskolerne' (the Treatment Schools) In-house school
	0*	1	Residential institution for children and young people aged 0-18 years with a permanent psychiatric and/or physically diminished functionality
	2	4	Day nursery for disabled children aged 0-7 years Respite care institution for disabled children aged 0-18 years
	4	1	24-hour residential and respite care institution for young people aged 14-18 years with pervasive developmental disorders and rare disabilities
	0[1]	2	24-hour residential institution for children and young people with a considerable and permanently diminished physical and mental functionality and for children and young people in the terminal phase. Aged 0-18 years

Continued next page

MONITORING VISITS, CHILDREN

No.	Date	Institution	DIGNITY/ Danish Institute for Human Rights (IMR) participated	
9	8 September	'Specialbørnehjemmene': Fjordhuset' in Nørresundby	✓	
10	9 September	'Specialbørnehjemmene': 'Højbjerghus' in Støvring	✓	
11	6 and 7 October	'3Kløveren': 'Margueritten' in Snekkersten and 'Åbjerggård' in Frederikssund		
Total	**11** visits		DIGNITY participated in **4** visits, IMR did not participate	

	Talks with children and young people	Talks with parents and other relatives	Type of institution and target group
	5	2	24-hour residential institution for children and young people aged 0-18 years with multiple diminished functionalities
	0[1]	2	24-hour residential institution for children at the earliest stage of development and children in the terminal phase. Aged 0-18 years
	5	2	24-hour residential care and respite institution for children and young people aged 0-18 years (21 years) with permanently diminished physical and mental functionality
	44 talks	**27** talks	

EXAMPLES OF IMPORTANT REACTIONS IN 2015

Themes

Every year, the Ombudsman selects a theme in collaboration with the Danish Institute for Human Rights and DIGNITY – Danish Institute Against Torture for the monitoring visits carried out by the Children's Division.

Thematic reports are published at www.ombudsmanden.dk

THEME: Children and young people who are day-time users of and residents at an institution due to considerable and permanently diminished physical and/or mental functionality

The Ombudsman's key conclusions

- In general, the institutions' staff were reflective in relation to the many practical and ethical dilemmas of daily life, and they were caring and development-oriented towards the children and young people.
- The institutions did not have written guidelines as to how the individual institution prevents sexual abuse and which procedure the institution follows when suspecting abuse. The Ombudsman generally recommends that institutions lay down such guidelines.
- The institutions were generally very engaged in and focused on communication with the children and young people and on the different ways in which the children and young people communicated.
- The visits shed light on a number of dilemmas, especially with regard to the balance between force and care.

Verbal recommendations to the institution's management

Medicine: A number of institutions were recommended to store medicine appropriately, for example in locked cupboards, so that the individual child's medicine was adequately separated from the other children's medicine.

Resuscitation and first aid: An institution with very sick children was recommended to consider laying down guidelines on basic resuscitation of children and regular refresher courses on first aid.

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Sexuality: Recommendation was given to the institution to reflect on the children's sexuality and on how the institution prevents abuse. See above under 'Themes'.

Uses of force: Recommendation was given to use forms in relation to children and young people (not adults) when the institution reports use of force. Recommendation was given to many institutions to inform parents and children placed in care about the rules stated in the Consolidated Act on Forcible Measures (in Danish only) including rules about possible channels of complaint. It was also recommended that a child or young person who has been exposed to a forcible measure is given the opportunity to state their version of the episode.

Discussions with key authorities

Forcible removal of children without a legal residence permit: The Ombudsman became aware that there is uncertainty as to whether the Social Services Act applies in cases where, for instance, it is necessary to forcibly remove a child who does not have a legal residence permit in Denmark. The Ombudsman took up the issue during a meeting with the Ministry of Social Affairs and the Interior and the Ministry of Immigration, Integration and Housing. An agreement was made that the Ministry of Social Affairs and the Interior informs the Ombudsman of the Ministry's deliberations about the scope of application of the Social Services Act in relation to foreign nationals.

Own-initiative cases and requests for statements

Action plans: Following monitoring visits, the Ombudsman took up seven cases on his own initiative about the lack of action plans. One case was concluded with criticism, while the other cases are pending.

Deportation of a child placed in care: In connection with a monitoring visit to 'Center Kongelunden', the Ombudsman was informed of a case where a child and his grandmother had been deported to Serbia after being denied asylum in Denmark. During the time prior to the deportation, the child had been in municipal care. The Ombudsman took up the case on his own initiative, and the case was concluded with criticism. The Ombudsman's Annual Report for 2015, Case No. 2015-8.

MONITORING ACTIVITIES THE DISABILITY FIELD

At the request of Parliament, the Parliamentary Ombudsman monitors developments regarding equal treatment of persons with disabilities and in this connection carries out, among other things, monitoring visits regarding physical accessibility for persons with disabilities.

During these monitoring visits, the Ombudsman's staff check the observance of the rules intended to ensure that public buildings are accessible to all. The Ombudsman's monitoring staff bring along measuring equipment to check, for example, whether ramps for wheelchair users have a degree of inclination which is in accordance with building regulations. An Ombudsman employee who is a wheelchair user participates in the monitoring visits.

Furthermore, the Ombudsman collaborates with the Danish Institute for Human Rights and the Danish Disability Council in order to facilitate, protect and monitor the implementation of the UN Convention on the Rights for Persons with Disabilities.

MONITORING VISITS IN 2015

Date	Location	Type of location
27 April	'Professionshøjskolen University College Nordjylland'	Teacher training
14 September	'Skovvangskolen' in Allerød	Primary and lower secondary school with special subject programmes and pre-school classes

OUTCOMES OF THE MONITORING VISITS

The monitoring visit in connection with accessibility inspections at 'Professionshøjskolen University College Nordjylland' resulted in, among other things, a number of recommendations on parking and accessibility conditions, indoor walking areas and a lift. The Ombudsman also gave recommendations with regard to design of toilet facilities for disabled persons, incorporating accessibility in connection with renovation of a number of teaching facilities, and signposting information about the tele-loop system. The Ombudsman remarked that the university's offer of an app to mobile phones guiding all visitors around the campus area, including special information to disabled visitors, was an excellent initiative.

The case concerning the accessibility inspection at 'Skovvangskolen' was still pending when the Annual Report was printed.

More information about the Ombudsman's work on equal treatment of persons with disabilities and the Ombudsman's reports on accessibility inspections can be found at www.ombudsmanden.dk/handicap (in Danish only).

MONITORING ACTIVITIES FORCED DEPORTATIONS

The Ombudsman monitors forced deportations by the Danish National Police of foreign citizens without legal residence in Denmark.

The Ombudsman especially ensures that the deportations are carried out with respect for the individual and without unnecessary use of force. Thus, the Ombudsman assesses whether the police act in accordance with applicable law, including EU law and international human rights conventions, and good administrative practice.

The Ombudsman's monitoring is especially concentrated on a number of focus areas: use of force, unity of the family, vulnerable groups, prior contact and information, the security assessment, aborted deportations and the deportation report.

As can be seen from the table on the following pages, the Ombudsman did not in 2015 express criticism of the police's work in the nine cases which were concluded. The deportations were carried out with respect for the individual and without unnecessary use of force. One case was still pending when the Annual Report was submitted (deportation on 13 October 2015 to Afghanistan).

In 2015, in addition to the above, we selected 48 deportation cases from 2014 for a closer assessment of the case documents. A further assessment of all cases where use of force against the foreign nationals had been registered was undertaken. This had happened in 26 cases. We found that in a number of cases, the documentation was insufficient in several focus areas. Even though the documentation in the cases from 2014 had improved to a considerable extent compared to 2012, there were fewer cases than in 2013 that contained sufficient documentation in a number of focus areas.

In 2015, the Ombudsman participated in two European meetings on forced deportations. In addition to this, forced deportations were selected as a theme for three of the meetings with representatives from foreign ombudsman institutions, which is mentioned on page 75.

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

See also the articles on pages 32-39 and pages 66-71.

FORCED DEPORTATIONS MONITORED IN 2015[1]

Date	Destination	Number of persons	Use of force?	Deportation completed?
20 January	Afghanistan	9	Yes	Yes
9 February	Lebanon	1	No	Yes
2 March	Afghanistan	1	Yes	No
11 March	Nigeria	5	No	Yes
8 April	Kyrgyzstan	3	No	Yes
19 May	Tunisia	1	No	No
14 June	Afghanistan	1	Yes	No
17 August	Lebanon	1	Yes	Yes
13 October	Afghanistan	3	Yes	No
3 November	Afghanistan	1	Yes	No

1) The deportation of foreign nationals who do not depart voluntarily can either be carried out through a *supervised departure*, where the departure from the country is supervised by the police, for example when the foreign national boards a plane, or through an *escorted* departure, where the police escort the foreign national out of the country to the foreign national's home country or a third country where the foreign national is entitled to take up residence. In 2015, all deportations monitored by the Ombudsman were escorted departures.

Comments
Forced deportation by chartered flight of nine foreign nationals aged 19-65 years; eight men and one woman. Force was used towards one foreign national in the form of a restraint belt where hands were tied, and a soft helmet.
Forced deportation by scheduled flight of a weak 80-year-old man.
Forced deportation by scheduled flight of a 20-year-old man. Force was used in the form of grip/manual force and handcuffs.
Forced deportation of five men aged 29-37 years. The forced deportation was partly organised by the EU border control agency, Frontex.
Forced deportation by scheduled flight of a family consisting of a 36-year-old man, a 35-year-old woman and a seven-year-old son.
Forced deportation by scheduled flight of a 31-year-old man. Force was used in the form of restraint belt with tied arms/hands, in addition to limitation of the right leg's mobility.
Forced deportation by scheduled flight of a 29-year-old man. Force was used in the form of a soft helmet and restraint belt with tied arms/hands in addition to limitation of one leg's mobility.
Forced deportation by scheduled flight of a 45-year-old man. Force was used in the form of a restraint belt with tied arms/hands. The forced deportation was only partly monitored by an Ombudsman employee since monitoring was carried out from the time when the police picked up the foreign national until boarding at the airport.
Forced deportation by scheduled flight of a family consisting of a 23-year-old man, a 21-year-old woman and a son aged one. The case was still pending when the Annual Report was submitted.
Forced deportation by scheduled flight of a 20-year-old man. Force was used in the form of grip/manual force.

CASE NO. 15/03253

In two cases, employees in a region had been dismissed without being consulted because the region had not been aware of the fact that the official digital mailbox (e-Boks) could not receive documents exceeding 10 MB. The region had sent consultation letters to the employees but due to a number of massive attachments, the consultation letters had failed to arrive.

The employees' union wrote to the Ombudsman that the dismissal cases ought to be retried because the employees had not been consulted. The union had also brought the cases before a board of dismissal.

The Ombudsman rejected the case, partly because the cases were pending in the labour law system, partly because the Ombudsman does not usually engage in cases which can be processed within the labour law system.

In his case assessment, the Ombudsman includes, among other things, the practice which has been established through the Ombudsman institution's 60 years of service.

CASE NO. 15/04138

During a monitoring visit at an accommodation facility for the mentally handicapped the Ombudsman's staff were surprised to find out that the municipality had given an open-ended permission for an alarm and a door-opener at a resident's home. Legally, the alarm and the door-opener – which were meant to prevent the resident from leaving the facility and exposing herself or others to danger – were measures normally allowed only for a limited period of time.

Therefore, when the case on the monitoring visit was concluded, the Ombudsman opened a case concerning the authority for the open-ended permission and asked the citizen's municipality for a statement. The municipality replied that it had now realised that there was no authority to give an open-ended permission for the alarm and door-opener. The municipality would discuss this with the accommodation facility and possibly make a new decision on the use of the alarm and door-opener. The Ombudsman concluded the case with criticism that, for a period of time, there had been no authority for the measure.

Sometimes, monitoring visits throw light on conditions for individual citizens which the Ombudsman chooses to look into in a separate case.

CASE NO. 15/03395

The Ombudsman received an enquiry from an employee at an Indian newspaper who wanted help to collect a debt from a citizen in Denmark. The Dane had placed a marriage advertisement in the newspaper, but the newspaper had never received payment for the advertisement.

The Ombudsman could not help, as he could neither process a complaint about the private individual who had placed the advertisement nor the bank which the citizen had allegedly used to transfer money to the newspaper.

As a key rule, the Ombudsman cannot investigate complaints about private individuals or businesses. In some cases, he may monitor private institutions.

CASE NO. 15/03450

It made headlines when the new centre-right government decided to shut down the Iraq and Afghanistan Commission. The Commission was appointed by the former, Social Democrat-led government, and its task was to investigate certain questions on Denmark's involvement in the wars in Iraq and Afghanistan.

A citizen complained to the Ombudsman about the shutdown of the Commission. However, the Ombudsman found the matter to be of such a political nature that he ought not to handle the complaint in order to protect the Ombudsman institution's political neutrality.

The Ombudsman often processes cases which encompass both legal and political aspects. He always assesses solely the legal ones. Very rarely, a case may be of such a political nature in overall terms that he abstains from assessing even the legal aspects.


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OVERVIEW OF THE

YEAR 2015

THE YEAR IN FIGURES

The following pages contain key figures related to the cases processed by the Ombudsman in 2015. More information about the Ombudsman's work and the rules governing the Ombudsman's activities can be found on www.ombudsmanden.dk.

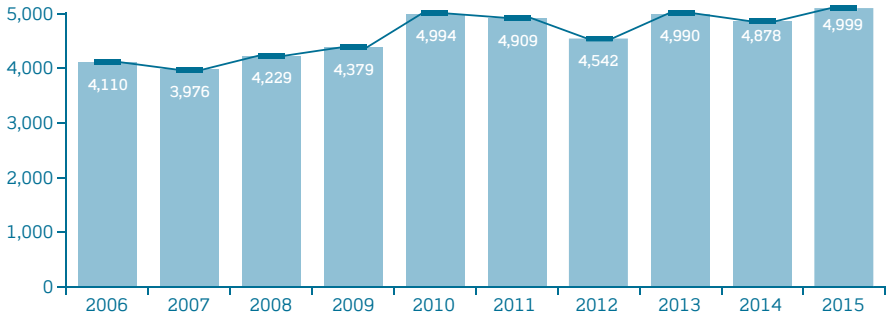
NEW CASES

Cases opened in 2015[1]	
Complaint cases	4,799
Cases opened by the Ombudsman on his own initiative	133
Monitoring cases	57
Deportation cases[2]	10
Total	**4,999**

1) The table does not include administrative cases, for instance cases concerning requests for access to documents of Ombudsman cases, cases connected with international cooperation, general cases concerning the Ombudsman's work and cases reviewed in connection with general investigations opened by the Ombudsman on his own initiative of authorities' processing of cases.

2) Cases opened in relation to the Ombudsman's monitoring of forced deportations of foreign nationals. See www.ombudsmanden.dk/udsendelser for further information (in Danish). In addition, the Ombudsman reviewed 48 specific deportation cases in detail in 2015. These cases are not included in the table. See also pages 66-71 and pages 98-101.

Developments in the number of cases opened

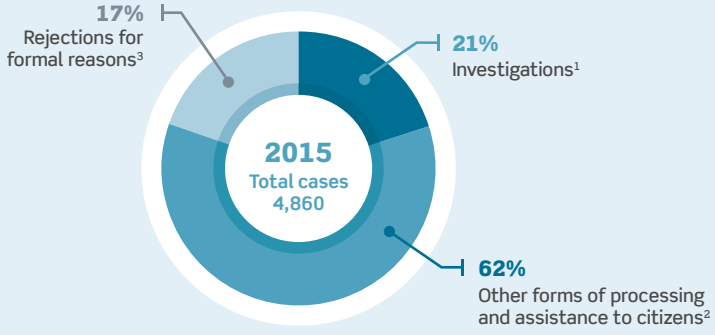


CONCLUDED CASES

The statistics system of the Ombudsman institution was restructured as from 1 January 2015 to reflect the Ombudsman's work better. Therefore, the outcomes of the cases concluded in 2015 are classified differently compared to previous years, namely under the following three major headings:

- Investigations
- Other forms of processing and assistance to citizens
- Rejections for formal reasons

The cases concluded in 2015 were distributed as follows:



1) The overall category 'Investigations' comprises cases in which the Ombudsman made various investigations and assessments, including cases where the Ombudsman carried out an in-depth investigation after obtaining statements from the authorities involved.

2) The category 'Other forms of processing and assistance to citizens' comprises cases processed differently than by way of investigation. For instance, the Ombudsman may have provided guidance to the citizen or forwarded the case to the authorities, for example as a complaint, in order that the citizen would be able to get more detailed information about the grounds for a decision, or with a view to the authorities expediting the processing of the case.

3) Cases are rejected for formal reasons if, for instance, the authority to which a complaint relates is outside the Ombudsman's jurisdiction, if a citizen has exceeded the one-year deadline for lodging a complaint with the Ombudsman or if an appeal option has not been used and can no longer be used. See the table on page 109 for further information.

The background to the decision to restructure our statistics system is described on pages 7-8.

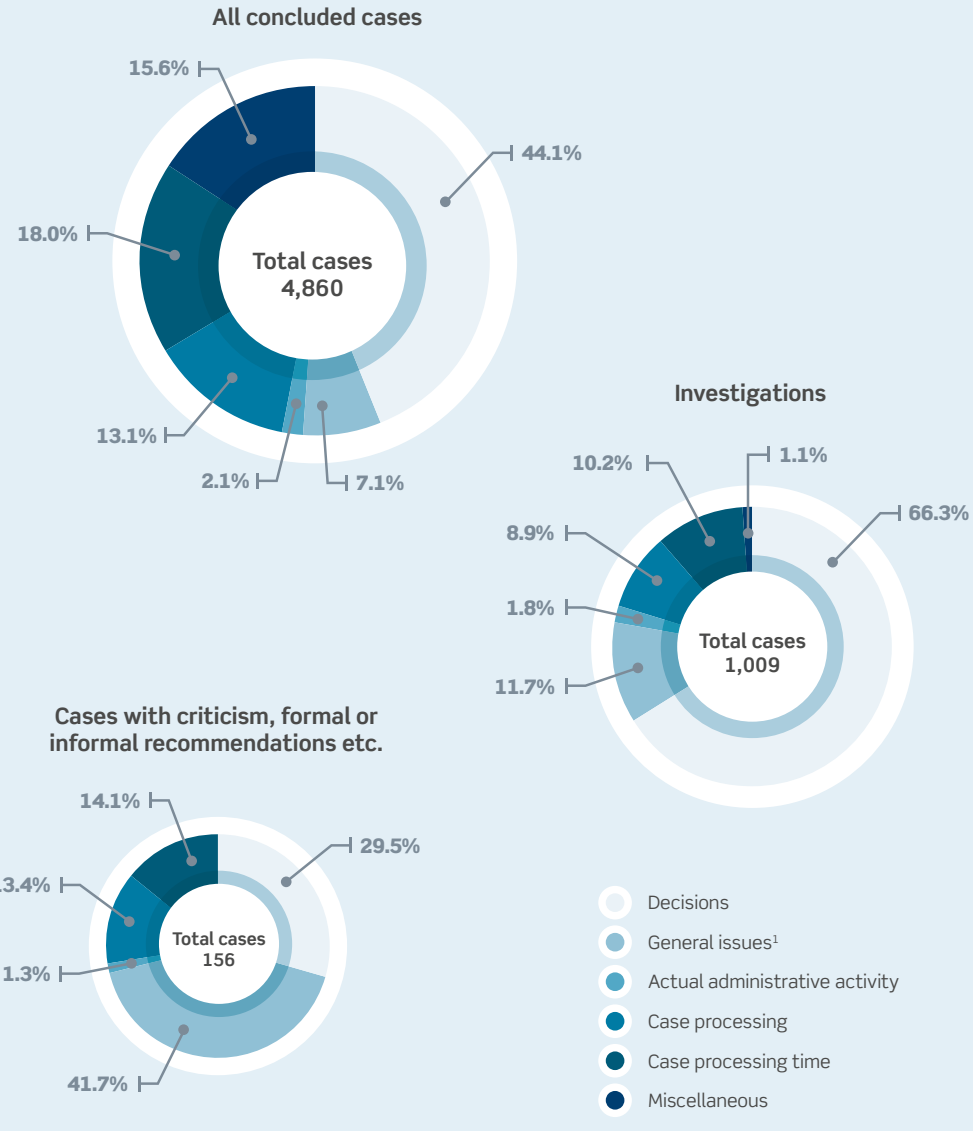
WHAT WAS THE OUTCOME OF THE CASES?

	Total concluded cases
1. Investigations	
1. Full investigations	239
– of which cases with criticism, formal or informal recommendations etc.	156
2. Shortened investigations[1]	770
Investigations, total	**1,009**
2. Other forms of processing and assistance to citizens	
1. Various forms of intervention in cases where the possibilities of processing by authorities had not been exhausted	1,759
– of which cases forwarded to authorities	1,147
2. The Ombudsman's review of the cases did not result in further investigation	762
3. Answers to inquiries, guidance etc.	498
Other forms of processing and assistance to citizens, total	**3,019**
3. Rejections for formal reasons	
1. Complaints which were submitted too late to the Ombudsman	98
2. Cases where the complaint/appeal options to authorities had not been used – and could no longer be used	56
3. Cases which related to courts, judges or matters on which a court had made or could be expected to make a decision – and which were thus outside the Ombudsman's jurisdiction	145
4. Cases which concerned matters relating to Parliament, including legislative issues, and which were thus outside the Ombudsman's jurisdiction	59
5. Complaints which related to other matters outside the Ombudsman's jurisdiction, including private legal matters	183
6. Complaints which were not clarified sufficiently to enable investigation and complaints which were withdrawn	265
7. Cases in which the Ombudsman declared himself disqualified[2]	4
8. Anonymous approaches	22
Rejections for formal reasons, total	**832**
Total (1-3)	**4,860**

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

2) The Ombudsman declared himself disqualified in a further case (see page 119), which for reasons relating to the principles for the Ombudsman institution's registration of cases has not been included in the table.

WHAT DID THE CASES CONCERN?



1) The category 'General issues' comprises, for instance, the overall conditions in specific institutions and issues or themes relevant to several institutions. In monitoring cases, the main topic is normally 'General issues'.

WHICH AUTHORITIES ETC. WERE INVOLVED?

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
A. Central authorities (within the Ombudsman's jurisdiction)					
a. Ministry of Employment					
The Department	2	3	7	1	13
Council of Appeal on Health and Safety at Work	0	0	2	0	2
ATP (Danish Labour Market Supplementary Pension Scheme)	0	0	1	1	2
National Board of Industrial Injuries	0	3	32	4	39
Danish Working Environment Authority	0	2	2	0	4
ATP Appeals Board	0	5	2	1	8
Unemployment Insurance Complaints Centre	0	0	1	0	1
Board of Equal Treatment	1	3	4	2	10
Employees' Guarantee Fund	0	0	1	0	1
Danish Agency for Labour Market and Recruitment	0	1	8	2	11
Total	**3**	**17**	**60**	**11**	**91**
b. Ministry of Energy, Utilities and Climate					
The Department	0	1	1	2	4
Energinet.dk	0	0	1	0	1
Danish Energy Agency	0	0	3	0	3
Danish Energy Regulatory Authority	2	0	1	0	3
Valuation Authority	0	0	1	0	1
Total	**2**	**1**	**7**	**2**	**12**

1) The cases in Section A of the table have been classified under the ministries existing at the end of the year. Cases relating to authorities which have been 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.

Continued next page

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
c. Ministry of Business and Growth					
The Department	0	1	4	3	8
Companies Appeal Board	0	1	5	1	7
Danish Business Authority	0	0	2	0	2
Danish Financial Supervisory Authority	0	1	5	1	7
Danish Competition and Consumer Authority	0	1	2	4	7
Danish Supervisory Authority on Auditing	0	1	0	0	1
Danish Safety Technology Authority	0	0	2	0	2
Danish Storm Council	0	0	2	0	2
Danish Maritime Authority	0	1	1	0	2
Total	**0**	**6**	**23**	**9**	**38**
d. Ministry of Finance					
The Department	3	2	2	1	8
Agency for Digitisation	0	3	6	1	10
Agency for Modernisation	2	3	2	2	9
Total	**5**	**8**	**10**	**4**	**27**
e. Ministry of Defence					
The Department	4	5	4	0	13
Danish Defence Intelligence Service	0	0	1	0	1
Danish Defence Personnel Organisation	0	0	3	1	4
Defence Command Denmark	0	0	2	0	2
Total	**4**	**5**	**10**	**1**	**20**

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
f. Ministry of Justice					
The Department	6	21	41	12	80
Local prisons	0	0	19	2	21
Department of Civil Affairs	0	3	5	1	9
Danish Data Protection Agency	0	2	6	1	9
Independent Police Complaints Authority	0	3	8	1	12
Greenland Criminal Injuries Compensation Board	0	0	2	0	2
Department of the Prison and Probation Service	4	75	64	2	145
Criminal Injuries Compensation Board	0	2	4	2	8
Prison and Probation Service in Greenland	0	0	1	1	2
Regional offices of the Prison and Probation Service	11	0	9	0	20
Prison and Probation Service institutions	1	0	1	2	4
Halfway houses under the Prison and Probation Service	1	0	0	0	1
The police	1	5	79	21	106
Danish Security and Intelligence Service (PET)	0	1	4	0	5
Chief Constable of Greenland	0	1	8	1	10
Danish Medico-Legal Council	0	0	1	0	1
Director of Public Prosecutions	0	10	13	7	30
National Police	4	24	31	5	64
Public Prosecutors	0	25	35	13	73
State prisons	11	0	55	18	84
Total	**39**	**172**	**386**	**89**	**686**
g. Ministry of Ecclesiastical Affairs					
The Department	0	0	3	0	3
Parochial church councils	0	0	2	0	2
Deaneries	0	0	2	0	2
Dioceses	0	1	1	1	3
Total	**0**	**1**	**8**	**1**	**10**

Continued next page

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
h. Ministry of Culture					
The Department	1	5	3	2	11
DR (Danish Broadcasting Corporation)	0	6	10	5	21
The Royal Theatre	0	0	5	0	5
Danish Agency for Culture	1	1	2	0	4
Museums	0	0	2	0	2
Danish National Archives	0	1	2	0	3
Total	**2**	**13**	**24**	**7**	**46**
i. Ministry of Environment and Food					
The Department	0	4	3	3	10
Danish Veterinary and Food Administration	0	1	2	2	5
Complaints Centre for Food, Agriculture and Fisheries	0	2	7	1	10
Danish Coastal Authority	0	0	1	1	2
Environmental Protection Agency	0	0	5	0	5
Environmental Board of Appeal	0	11	19	3	33
Danish AgriFish Agency	0	0	8	1	9
Danish Nature Agency	0	2	6	2	10
Total	**0**	**20**	**51**	**13**	**84**
j. Ministry for Children, Education and Gender Equality					
The Department	2	4	1	1	8
Appeals Board for Special Needs Education	0	1	1	0	2
National Agency for IT and Learning	0	0	1	0	1
National Agency for Education and Quality	0	1	2	0	3
Educational establishments	0	2	11	1	14
Total	**2**	**8**	**16**	**2**	**28**

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
k. Ministry of Taxation					
The Department	7	6	21	0	34
National Tax Tribunal	0	5	5	4	14
Danish Registry of Motor Vehicles	0	0	1	0	1
Danish Customs and Tax Administration (SKAT)	0	8	96	18	122
Regional tax appeals boards	0	0	1	1	2
Tax Appeals Agency	1	12	18	0	31
Total	**8**	**31**	**142**	**23**	**204**
l. Ministry of Social Affairs and the Interior					
The Department	1	9	29	9	48
Danish National Board of Adoption	0	1	0	0	1
State Educational Grant and Loan Scheme Board of Appeal	0	11	6	1	18
National Social Appeals Board	4	305	304	70	683
Danish Supervisory Board of Psychological Practice	0	0	0	1	1
The State Administration	3	17	133	18	171
Udbetaling Danmark (authority responsible for a number of public benefits)	0	5	91	15	111
Total	**8**	**348**	**563**	**114**	**1,033**
m. Prime Minister's Office					
The Department	1	0	5	1	7
High Commissioner of Greenland	0	0	1	0	1
Total	**1**	**0**	**6**	**1**	**8**
n. Ministry of Health					
The Department	4	6	11	2	23
Psychiatric Appeals Board	0	1	1	0	2
Danish Mental Health Patients' Complaints Board	0	1	5	1	7
Danish Medicines Agency	0	0	1	0	1
SSI (Statens Serum Institut)	0	0	3	0	3
Danish Patient Safety Authority	1	12	31	1	45
Danish Health Authority	1	7	13	0	21
Disciplinary Board of the Danish Health Service	3	11	15	1	30
Total	**9**	**38**	**80**	**5**	**132**

Continued next page

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
o. Ministry of Transport and Building					
The Department	0	8	7	2	17
Danish State Railways	0	1	3	4	8
Danish Rail Regulatory Body	0	2	0	0	2
Danish Transport and Construction Agency	0	1	23	1	25
Danish Road Directorate	0	2	1	0	3
Total	**0**	**14**	**34**	**7**	**55**
p. Ministry of Higher Education and Science					
The Department	0	4	3	0	7
Accreditation Council	0	1	2	0	3
Danish Agency for Higher Education	0	9	25	2	36
Educational establishments	1	2	23	2	28
Danish Committees on Scientific Dishonesty (DCSD)	0	1	3	0	4
Total	**1**	**17**	**56**	**4**	**78**
q. Ministry of Foreign Affairs					
The Department	11	9	16	2	38
Total	**11**	**9**	**16**	**2**	**38**
r. Ministry of Immigration, Integration and Housing					
The Department	9	12	27	6	54
Immigration Appeals Board	0	8	18	1	27
Danish Immigration Service	1	4	34	10	49
Total	**10**	**24**	**79**	**17**	**130**
Central authorities, total	**105**	**732**	**1,571**	**312**	**2,720**
B. Municipal and regional authorities (within the Ombudsman's jurisdiction)					
Municipalities	28	106	961	157	1,252
Regions	13	10	75	13	111
Joint municipal or regional enterprises	0	0	4	0	4
Special municipal or regional entities	3	0	2	0	5
Total	**44**	**116**	**1,042**	**170**	**1,372**

Cases concluded in 2015 – by authority etc.

Authority etc. with prime responsibility[1]	Investigations		Other forms of processing and assistance to citizens	Rejections for formal reasons	Total cases
	With criticism, formal or informal recommendations etc.	Without criticism, formal or informal recommendations etc.			
C. Other authorities etc. within the Ombudsman's jurisdiction[2]					
Other authorities etc. within the Ombudsman's jurisdiction	7	5	23	1	36
Total	**7**	**5**	**23**	**1**	**36**
D. Authorities etc. within the Ombudsman's jurisdiction, total					
Central authorities, total (A)	105	732	1,571	312	2,720
Municipal and regional authorities, total (B)	44	116	1,042	170	1,372
Other authorities etc. within the Ombudsman's jurisdiction, total (C)	7	5	23	1	36
Total	**156**	**853**	**2,636**	**483**	**4,128**
E. Institutions etc. outside the Ombudsman's jurisdiction					
1. Courts etc., cf. section 7(2) of the Ombudsman Act	0	0	0	87	87
2. Dispute tribunals, cf. section 7(3) of the Ombudsman Act	0	0	0	17	17
3. Other institutions, companies, businesses and persons outside the Ombudsman's jurisdiction	0	0	0	209	209
Total	**0**	**0**	**0**	**313**	**313**
F. Cases not relating to specific institutions etc.					
	0	**0**	**383**	**36**	**419**
Grand total (A-F total)	**156**	**853**	**3,019**	**832**	**4,860**

2) The figures comprise private institutions which fall within the Ombudsman's jurisdiction in connection with OPCAT (the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) or in the children's field and other institutions etc. which have been included under the Ombudsman's jurisdiction. In 2015, the Ombudsman decided in pursuance of section 7(4) of the Ombudsman Act that his jurisdiction was to extend to the companies Danish Library Centre (Dansk BiblioteksCenter A/S), Energi Viborg Kraftvarme A/S and Femern A/S to the extent to which they are covered by the provisions of the Access to Public Administration Files Act.

PROCESSING TIMES

Types of cases and outcomes		Average processing time[1]	Targets and results[2]
Complaint cases and cases opened by the Ombudsman on his own initiative	Investigations	3.7 months	Concluded within 6 months **Target: 70%** **Actual: 87%**
			Concluded within 12 months **Target: 90%** **Actual: 95%**
	– of which access to public files cases[3]	21 working days (from maturity date)	Investigated access to public files cases concluded within 20 working days from maturity date **Target: 45%** **Actual: 49%**
			Investigated access to public files cases concluded within 40 working days from maturity date **Target: 90%** **Actual: 91%**
	Other forms of processing and assistance to citizens and rejections for formal reasons	32 days	Concluded within 3 months **Target: 90%** **Actual: 92%**
			Concluded within 6 months **Target: 98%** **Actual: 99%**
Monitoring cases[4]		3.8 months (from date of monitoring visit)	Concluded within 6 months from date of monitoring visit **Target: 80%** **Actual: 89%**

1) Processing times are stated in *calendar days*, except for access to public files cases, where processing times are stated in *working days* – as in the Access to Public Administration Files Act. The 'maturity date' for a case is the date on which it was ready for final processing after the Ombudsman had received the necessary information and statements from the citizen and the authorities.

2) The Ombudsman introduced these targets for processing times as from 1 October 2015. However, the results cover cases concluded during the whole of 2015.

3) Cases concerning access to files under the Access to Public Administration Files Act, the Environmental Information Act, the Administration of Justice Act etc., with the exception of cases concerning the right of a party to a case to obtain access to documents of the case and cases concerning persons requesting access to information about themselves.

4) Monitoring cases comprise concluded cases concerning monitoring visits carried out in pursuance of section 18 of the Ombudsman Act, OPCAT monitoring visits, combined section 18 and OPCAT monitoring visits, monitoring visits regarding physical accessibility for persons with disabilities and monitoring of forced deportations of foreign nationals. For organisational reasons, monitoring visits in the children's sector were temporarily not covered by targets for case processing times in 2015 and are therefore not included in the table.

OTHER FACTS

The Ombudsman declared himself **disqualified** in four complaint cases and one monitoring case in 2015. Parliament's Legal Affairs Committee assigned these cases to Henrik Bloch Andersen, High Court Judge. The Ombudsman's office provided secretariat assistance in connection with the processing of the cases.

The Inatsisartut (the Parliament of Greenland) asked the Ombudsman to act as **ad hoc ombudsman** for the Ombudsman for Inatsisartut in four cases in 2015, and the Ombudsman was asked by the Faroese Lagting (the Parliament) to act as ad hoc ombudsman for the Faroese Parliamentary Ombudsman in one case.

STATEMENT OF REVENUE AND EXPENDITURE – 2015

The Ombudsman's ordinary activities

	DKK
Revenue	
Subsidy from Ministry of Foreign Affairs	900,000
Other revenue	30,000
Total revenue	**930,000**
Expenditure	
Wages and salaries, pension costs	51,502,000
Rent	4,008,000
Staff and organisation, including staff welfare	250,000
Continuing training/education	862,000
Books and library	134,000
Specialist databases	1,064,000
Newspapers and journals	250,000
Communication	522,000
Computer systems – operations and development	1,875,000
Computer hardware	492,000
Telephony and broadband	579,000
Premises – repairs and maintenance	500,000
Furniture, fixtures and fittings	111,000
Cleaning, laundry and refuse collection	204,000
Heating and electricity	460,000
Premises – other expenditure	234,000
Travel	424,000
Entertainment and meals	95,000
Contribution to financial support scheme for trainees	254,000
Stationery and office supplies	119,000
Postage	125,000
Other goods and services	778,000
Total expenditure	**64,842,000**
Total expenditure (net)	**63,912,000**
Government appropriation	66,000,000
Result for the year	**2,088,000**

Public service pension payments

	DKK
Pension payments for former public servants	1,791,000
Public service pension contributions	-1,958,000
Public service pension payments, total	**-167,000**

Cooperation project with China

	DKK
Revenue	246,000
Expenditure	246,000
Result for the year	**0**

SUMMARIES OF SELECTED STATEMENTS

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

Summaries are provided below (by ministerial area[1]) of the statements which have been published on cases concluded in 2015.

A. MINISTRY OF EMPLOYMENT

The following statements on cases concluded in 2015 have been published:

2015-6. The National Social Appeals Board was a party in a Board of Equal Treatment case while at the same time acting as the Board's secretariat in the case. Administrative disqualification

An employee of the National Social Appeals Board was dismissed in connection with a major round of dismissals. The dismissed employee believed that he had been the victim of age discrimination, and he complained to the Board of Equal Treatment.

Pursuant to the Act on the Board of Equal Treatment, the National Social Appeals Board acts as secretariat for the Board of Equal Treatment.

The Ombudsman investigated the issue of disqualification, meaning the importance of the National Social Appeals Board providing the secretariat services for the Board of Equal Treatment in a case where the National Social Appeals Board was also a party.

The Board of Equal Treatment and the National Social Appeals Board did not think that administrative disqualification was an issue in the case.

In the Ombudsman's opinion, however, administrative disqualification was an issue in the case, and the Board of Equal Treatment should therefore have considered the possibilities of substitution of the National Social Appeals Board's

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

secretariat services. The Ombudsman recommended the Board of Equal Treatment to reopen the case and make a new decision.

2015-26. Insufficient grounds given for partial refusal to grant access to files. Extraction duty

A journalist complained to the Ombudsman because he had received a partial refusal from the Ministry of Employment to a request for access to information about the payment of social benefits to persons who had departed for Syria.

It was the Ombudsman's opinion that the grounds given by the Ministry for the decision far from satisfied the requirements of section 24 of the Public Administration Act and the established practice. It appeared nowhere – neither from the decision itself nor from the accompanying files list – which documents had been exempted from access or according to which provisions in the Access to Public Administration Files Act the individual documents had been withheld. Nor did it say if the documents included information which was subject to extraction but which had not been given to the journalist after all – because it was already publicly available or had been released via other documents.

The Ombudsman considered whether the grounds given by the Ministry were so insufficient that he could not investigate the case, but he did find, however, that the Ministry's information provided a sufficient basis for an investigation.

The Ombudsman could not criticise that the Ministry of Employment had exempted a number of documents from access pursuant to section 23(1)(i) of the Access to Public Administration Files Act on internal documents and section 24(1) of the Act concerning ministerial advice and assistance documents.

However, the Ombudsman did find that two of the exempted documents contained more information about the factual basis of the case than the Ministry had assumed, and that this information should therefore have been extracted pursuant to section 28(1) of the Access to Public Administration Files Act.

The Ombudsman recommended that the Ministry of Employment reopen the case and make a new decision regarding access to the exempted information.

The Ministry subsequently reopened the case and granted access in accordance with the Ombudsman's comments. In addition, the Ministry took note of the Ombudsman's criticism of the grounds given by the Ministry for its original decision.

2015-62. Reopening pursuant to non-statutory rules of case concerning calculation of employment rate under Act on Tax Credits for Seniors

A woman complained to the Ombudsman because ATP (the Danish Labour Market Supplementary Pension Scheme) and the ATP Appeals Board had declined to consider her objection that the statement of her employment rate for 2010 was incorrect. She explained that her employer had made an error when reporting her ATP contribution (on the basis of which a person's employment rate is determined).

The authorities declined to consider the woman's objection on the grounds that she had not observed the time limit for objections. She had received a letter in June 2011 with information about her employment rate, in which it was also stated that any objections were to be lodged with ATP within three months. As the woman did not contact ATP until after expiry of the time limit, the authorities declined to consider her objection.

The Ombudsman was unable to ascertain if the authorities had also considered whether the case could be reopened pursuant to the general non-statutory rules of administrative law on the reopening of cases. He therefore asked the authorities for a statement about whether the case could be reopened pursuant to the non-statutory rules.

The authorities stated that the Act on Tax Credits for Seniors contains no provisions on exemption from the time limit for objections or on the reopening of cases. The authorities found that a case could be reopened pursuant to the non-statutory rules in the event of either particularly extenuating circumstances (such as serious illness) or errors on the part of an authority. However, an error made by an employer in the form of incorrect reporting of an ATP contribution or failure to report a contribution did not constitute grounds for reopening a case, even if correct reporting would have resulted in a different employment rate.

Owing to the special characteristics of the rules of law applicable to objections to statements of employment rates, the Ombudsman found no grounds for repudiating the authorities' general view. The possibilities of having cases concerning the calculation of employment rates reopened are thus more limited than what follows from the general non-statutory rules on the reopening of cases.

In addition, the Ombudsman could not criticise the authorities' decision to decline to reopen the specific case despite the fact that the woman's employer had reported an incorrect contribution amount.

B. MINISTRY OF ENERGY, UTILITIES AND CLIMATE

No statements on cases concluded in 2015 have been published.

C. MINISTRY OF BUSINESS AND GROWTH

No statements on cases concluded in 2015 have been published.

D. MINISTRY OF FINANCE

The following statements on cases concluded in 2015 have been published:

2015-21. Citizens' right to use Public Digital Post and the receiving capacity of the public e-mail solution

The Ombudsman took up a case on his own initiative with the Agency for Digitisation and the Ministry of Finance concerning, among other things, the capacity of Public Digital Post.

The Ombudsman stated that according to section 8 of the Public Digital Post Act, citizens (including enterprises and other legal entities) are entitled to use Public Digital Post as their mail solution in communication with public authorities.

In the Ombudsman's perception, the capacity of the digital mail solution may be assumed to constitute a considerable obstacle or impediment to the right in section 8 of the Public Digital Post Act.

The Ombudsman expressed the opinion that the difficulties he had pointed out must be presumed to affect the use of the digital mail solution to such an extent that the right pursuant to section 8 cannot be considered to be real. This problem should have been addressed when the digital mail solution was established.

Consequently, the existing solution cannot be said to comply fully with the provision in section 8 of the Public Digital Post Act.

The Ombudsman noted that – with the concurrence of the Ministry of Finance – the Agency for Digitisation is going to take measures so that the actual options conform to the provision in section 8. The Agency had stated that it is going to take steps to increase the receiving capacity and have the law amended.

2015-22. Public Digital Post must be configured in accordance with general administrative law requirements

A university researcher who had co-written three reports on the digital mail solution Public Digital Post contacted the Ombudsman, and on that basis the Ombudsman took up a case on his own initiative with the responsible authorities: the Agency for Digitisation and the Ministry of Finance.

The Ombudsman found that Public Digital Post was configured in such a way that it was not always possible to see which authority had sent a letter. In the Ombudsman's opinion, it would have been advisable if – before it became obligatory for citizens to use the digital mail solution – the authorities had ensured that the mail solution had been configured in such a way that it supported compliance with the basic requirement of administrative law that a message from a public authority must show the correct identity of the sender.

The investigation also showed that some public authorities were listed by the wrong name in the address book of Public Digital Post, for example by a previous name. However, as the Agency for Digitisation informed the Ombudsman that the Agency now checked every quarter whether the authorities could actually be contacted and whether they were listed under their correct name in the address book, the Ombudsman took no further action in relation to this matter.

Finally, the Ombudsman examined whether it was contrary to the Public Digital Post Act that – besides Public Digital Post – some municipalities had established a local digital mail solution which they used for communication with their citizens. He did not find that this was the case. However, the municipalities in question were obligated to provide clear guidance for their citizens on the consequences of accepting to receive public communications via a local digital mail solution, including that it did not free the citizens from checking their Public Digital Post inbox. As the Agency for Digitisation stated that the Agency would now implement a general guidance effort with a view to ensuring that authorities using a local digital mail solution provide citizens with the necessary guidance, the Ombudsman took no further action regarding this issue.

2015-44. Refusal of access to consultants' report commissioned for use in negotiations on new agreement with the Legal Adviser to the Danish Government

A journalist complained to the Ombudsman because the Agency for Modernisation had denied him access to various items of information in a report commissioned by the Agency from a consultancy company. The report was to be used in negotiations on a new agreement with the Legal Adviser to the Danish Government (Kammeradvokaten, a private law firm).

The information had been exempted from access in order to protect the consultancy company from financial loss and/or to protect the Government's economic interests.

The Ombudsman did not agree with the Agency's assessment with regard to some of the price information included in the report. He therefore recommended that the Agency make a new decision concerning that information.

In a new decision, the Agency for Modernisation upheld its decision to refuse access to information on 'best prices'. The Agency was of the opinion that the information was misleading and that if the information were to be surrendered, the Agency would have to explain the method used by the consultancy company to arrive at the prices. In the Agency's judgement, that would involve a risk of the consultancy company suffering financial loss.

The Ombudsman found that the Agency for Modernisation had no legal obligation to explain the method used by the consultancy company. In the Ombudsman's view, the information on 'best prices' – which did not in itself reveal anything about the working methods used by the consultancy company – could only be exempted from access if the Agency were under such a legal obligation.

The Agency for Modernisation subsequently reopened the case and made a decision to surrender the information on 'best prices' to the journalist.

E. MINISTRY OF DEFENCE

The following statements on cases concluded in 2015 have been published:

2015-12. Refusal of access to document based on regards for Denmark's security, defence and foreign policy interests. Would granting partial access compromise the intention behind the provisions on the protection of these interests?

A journalist complained to the Ombudsman because the Ministry of Defence had refused to give access to a draft of the DDIS[2] Intelligence Risk Assessment 2013 with reference to the provisions laid down in sections 31 and 32(2) of the Access to Public Administration Files Act on protection of Denmark's security, defence and foreign policy interests.

The Ministry of Defence did not wish to give access to the draft in full so that a comparison with the published risk assessment would show what had been changed. The Ministry also did not wish to hand over the unchanged – and thus published – parts of the draft since it would be possible to see by a corresponding comparison where changes to the draft had been made. In the opinion of the Ministry of Defence, the latter would compromise the intention behind the provisions mentioned; cf. section 34(i) of the Access to Public Administration Files Act.

The Ombudsman did not find grounds for criticising the refusal of access given by the Ministry of Defence regarding those parts of the draft which were not identical to the published risk assessment and where the changes made were of a substantive nature and not merely proofreading changes.

However, in the Ombudsman's opinion the parts of the draft which were not identical to the published risk assessment but where the changes made were merely proofreading changes etc. could not be exempted from access.

Moreover, the Ombudsman did not agree with the Ministry of Defence that it had been rendered sufficiently probable that granting access to the unchanged – and thus published – parts of the draft would compromise the intention behind sections 31 and 32(2) of the Access to Public Administration Files Act.

On this basis, the Ombudsman recommended that the Ministry of Defence reopen the case and make a new decision.

2) Danish Defence Intelligence Service

The Ministry of Defence subsequently reopened the case and decided to give the journalist access to the draft, except for a relatively limited number of sentences and paragraphs.

2015-48. E-mails exchanged between the Ministry of Defence and Defence Command Denmark in connection with ministerial advice and assistance. Extraction of information

A journalist complained to the Ombudsman because he had received a partial refusal of access to correspondence between the Ministry of Defence and Defence Command Denmark about two articles in a daily newspaper based, among other things, on an interview with the Chief of Defence. The correspondence resulted in a press release which was published on the website of the Defence Command.

The grounds given by the Ministry for its partial refusal were that the correspondence consisted of documents and information exchanged in connection with ministerial advice and assistance.

The Ombudsman agreed with the Ministry's assessment of the documents and information which it had exempted with reference to the provisions of the Access to Public Administration Files Act on ministerial advice and assistance. In this connection, the Ombudsman stated that in his view section 24 of the Act was (also) applicable in a situation such as the present – where the head of a government agency acted on behalf of the minister – and that the decisive factor in the assessment was that in the situation in question, the Minister needed advice and assistance from the Civil Service (or must be presumed to need such advice and assistance subsequently).

Unlike the Ministry of Defence, the Ombudsman was of the opinion that some of the exempted documents contained information about the factual basis of the case that was relevant to the case. In principle, this information was therefore to be extracted and access to be granted to it. However, some of this information was also included in a document to which the journalist had already been granted access – and which was publicly available. This meant that the Ministry was not obliged to extract the information and grant the journalist access to it. With regard to the remaining information to which the obligation to extract and grant access to information applied, the Ombudsman recommended that the Ministry reopen the case in order to consider whether the journalist could be granted further access to information.

Finally, the Ombudsman found it regrettable that a text message from the Chief of Defence to the Minister of Defence had not been registered to the case by the time of the decision, as a result of which the question of access to the message was not considered until later.

On reconsidering the case, the Ministry of Defence granted the journalist access to further information.

F. MINISTRY OF JUSTICE

The following statements on cases concluded in 2015 have been published:

2015-7. Demands on the investigation of cases about deaths at Prison and Probation Service institutions

By agreement with the Department of the Prison and Probation Service, the Ombudsman is informed about the outcome of the Department's investigations in all cases regarding deaths, suicides, attempted suicides and other suicidal or self-harming behaviour among inmates at institutions under the Prison and Probation Service.

The Ombudsman assesses whether the Department and the institutions have acted contrary to applicable law or otherwise have been guilty of errors or dereliction in connection with such incidents. The Ombudsman considers, among other things, whether the institution and the Department have undertaken a sufficient investigation of the incidents.

In a specific case, a prison inmate was found dead in his cell. After an analysis of a syringe and a hypodermic needle, the Department of Forensic Medicine reached the conclusion that the inmate had died from an intravenous injection of heroin/morphine. However, investigations carried out by the prison and the Department of the Prison and Probation Service did not include any information about a syringe and a hypodermic needle having been found.

Following an enquiry from the Ombudsman, the Department of the Prison and Probation Service stated that prison officer trainees had found the syringe and the hypodermic needle by chance 10 days after the incident. The syringe and the hypodermic needle had not been part of the prison's and the Department of the Prison and Probation Service's investigation of the case. The syringe and the hypodermic needle had merely been included in the Department of Forensic Medicine's investigation of the death.

The Ombudsman found it regrettable that the investigation carried out by the prison and the Department of the Prison and Probation Service into the inmate's death had been insufficient.

In his assessment, the Ombudsman emphasised that cases involving deaths at Prison and Probation Service institutions are of such a serious nature that considerable demands must be made regarding the extent of the investigations and the guaranteed correctness of the relevant information.

2015-18. Consultation responses disclosed according to the principle of increased access to public records

A journalist asked the Ministry of Justice for access to the consultation responses on a bill, No. L 72, on amendments to the Aliens Act (Temporary protection status for certain foreign nationals and refusal of substantive processing of asylum applications when the applicant has been granted protective status in another EU country, etc.).

The Ministry granted the journalist access in accordance with the request. However, the Ministry did exempt eight consultation responses from seven different ministries with reference to section 24(1)(ii) of the Access to Public Administration Files Act regarding documents exchanged between various ministries at a time when there is specific reason to assume that a minister has or will have a need for advice and assistance from the Civil Service.

The Ministry of Justice did not find that the exempted consultation responses contained any information that was subject to extraction duty, and the Ministry did not find any grounds for granting the journalist access on the basis of the principle of increased access to records.

The journalist then complained to the Ombudsman about the decision and pointed out, among other things, in his complaint that the Ministry of Justice in his opinion ought to have given him the relevant consultation responses in accordance with section 14(1) of the Access to Public Administration Files Act regarding the principle of increased access to records.

In connection with the processing of the case, the Ombudsman asked the Ministry of Justice for a supplementary statement with more details of its deliberations concerning the question of increased access to records.

The Ombudsman referred, among other things, to the fact that the principle of increased access also applies to documents and information covered by section 24 of the Access to Public Administration Files Act. Consequently, in cases where there is not – as stated in the explanatory notes – a 'real and legitimate' need for exempting information from access, disclosure should be considered. In this context, the Ombudsman pointed out that the relevant eight consultation responses were of a quite varied nature, among other things in relation to the extent and content of the comments made by the individual ministries.

The Ministry of Justice subsequently informed the Ombudsman that, on the basis of the Ombudsman's processing of the case, the Ministry had found occasion to consider whether the relevant consultation responses could now be given to the journalist, and that the Ministry had decided in this context to hand over the consultation responses according to the principle of increased access.

It appeared that in making this new decision, the Ministry of Justice had attached particular importance to the time that had passed since the Bill on which the consultation responses were made had been introduced before Parliament.

Based on the new decision by the Ministry of Justice, the Ombudsman discontinued his investigation of the case.

2015-27. Dismissal of tenured civil servant with availability pay instead of relocation

The Ministry of Justice dismissed a tenured civil servant due to cutbacks and elimination of jobs in the police district where he served. In connection with the dismissal, the civil servant got the right to availability pay for three years and subsequent pension. The civil servant complained to the Ombudsman because there were vacant positions outside the police district, but within his field of employment, to which he would have liked to be relocated.

On the basis of statements obtained from the National Police, the Ministry of Justice, the Ministry of Finance and the Agency for Modernisation, the Ombudsman did not find grounds for criticising that the civil servant had been dismissed rather than relocated to one of the vacant positions.

2015-28. Refusal to issue new passport was without legal authority and contrary to the rules on case investigation and assessment of evidence

A man complained to the Ombudsman because his municipality and the National Police had declined to issue a new passport for him. The man, who had originally entered Denmark as a refugee from Sri Lanka, was a Danish citizen and had received a new Danish passport three times previously – the first time in 1987.

The grounds given by the municipality for its refusal were that the man's registered place of birth was not stated in the Civil Register. In order to be able to enter his registered place of birth correctly in the Register, the municipality required the man to procure a birth certificate. Until he did so, he could not get a new passport.

The man complained to the National Police and explained, among other things, that as an asylum seeker, he had handed over all his documents, including his birth certificate, to the police and that he did not believe the documents had been returned to him. The National Police also declined to issue a new passport for the man, with reference to the grounds given by the municipality. In the opinion of the National Police, the fact that the man had previously had Danish passports issued could not lead to a different decision.

After being granted access by the National Police to, among other things, a copy of his certificate of naturalisation, the man received a new passport using that as documentation.

The Ombudsman stated that the municipality and the National Police had no legal authority to decline to issue a new passport on the grounds they had given. In addition, the Ombudsman was of the opinion that the way in which the municipality and the National Police had handled the case was contrary to the general principles of administrative law on case investigation and assessment of evidence and furthermore reflected an unreasonable lack of understanding for the applicant's personal situation.

The National Police stated that it would inform the municipalities how to handle such cases. The Ombudsman asked the National Police to notify him when it had done so. He also asked the National Police to inform him whether the case gave rise to considerations about practices for keeping documentation.

2015-38. Criticism of time taken by Ministry of Justice to process request for access to document

On 17 December 2014, a journalist asked the Ministry of Justice for access to a supplementary report from the Immigration Service on the so-called Eritrea case. Not until 3 February 2015 did the Ministry acknowledge receipt of the journalist's request and inform him of the expected processing time. Subsequently, the Ministry informed the journalist several times that the case was still pending – the grounds given being primarily that the Ministry was still in the process of going through the files covered by his request.

On 17 March 2015, the journalist complained to the Ombudsman as the Ministry of Justice still had not made a decision in the case.

On 27 April 2015, the Ministry granted the journalist access to the document which he had requested.

On the same day, the Ministry made a statement to the Ombudsman expressing its regrets about the excessive time it had taken to process the journalist's request. The Ministry explained that its long processing time was due, among other things, to a decision to process the journalist's request together with a considerable number of other, more comprehensive, requests for access to documents of the Eritrea case. Thus, when receiving the journalist's request, the Ministry had not been sufficiently aware that he was requesting access to one document only. This also meant that the content of the Ministry's letters informing the journalist about delays was misleading.

The Ombudsman stated that – based on an overall assessment of the errors which had been made – the Ministry's processing of the case was to be regarded as a matter for extreme criticism.

2015-43. Information in specific cases concerning individual persons' employment within the public sector was also included in a general case. No specific assessment was made in relation to the general case of whether the information could be exempted from access

A journalist asked the Department of the Prison and Probation Service for access to information about disciplinary cases relating to abuse of clients committed by employees of the Prison and Probation Service in the period 2006

to 2014. The information was included both in the specific disciplinary cases involving the individual employees and in a general case in which a list of disciplinary cases with summaries of the cases was kept for management information purposes.

The Department of the Prison and Probation Service granted the journalist access to some of the information in the cases, but denied him access to other information with reference to the provision in section 21(2) of the Access to Public Administration Files Act, according to which there is no right of access to information in cases concerning individual persons' employment within the public sector.

The journalist complained to the Ombudsman. The Ombudsman agreed with the Department that the specific disciplinary cases were cases concerning individual persons' employment within the public sector and were therefore as a general rule not covered by the right of access.

The Ombudsman stated that – in the light of the explanatory notes to the provision in section 21(2) of the Access to Public Administration Files Act – it must be presumed that there were relatively wide powers also to exempt the information in the general case in accordance with the provision in section 33(v) of the Act. However, it was important to note that in such instances, where information in specific cases concerning individual persons' employment within the public sector was also included in a general case, a specific assessment was to be made of whether there were such public or private interests as to necessitate secrecy because of the special nature of the matter.

As the Department's processing of the case left the impression that such an assessment had not been made in relation to the general case in which the list of disciplinary cases was kept, and as some of the information contained in the summaries might in part be publicly available, the Ombudsman recommended that the Department reopen the case in order to make a specific assessment of whether the journalist should be granted further access to information in the summaries.

The Department subsequently reopened the case and granted the journalist access to further information.

2015-45. In order to protect the political neutrality of the Ombudsman institution, the Ombudsman declined to investigate a complaint about the closure of the Commission on Iraq and Afghanistan

The Ombudsman received a complaint about the decision of the centre-right government that had recently taken power to close the Commission on Iraq and Afghanistan. The Commission had been appointed by the previous, Social Democrat-led government.

The Ombudsman assessed that the case was of such an extraordinary political nature that in order to protect the political neutrality of the Ombudsman institution, he should not take any action in relation to the complaint.

2015-47. Refusal of request for access to information about speed checks

A journalist requested access to information concerning the speed checks conducted in a police district from 2010 until 4 May 2015. For each speed camera van deployed, the journalist wanted information about the exact addresses at which it had been positioned, the dates and time periods when it was deployed, the number of cars passing the van and the number of cars recorded for speeding.

The police refused the journalist's request with reference to section 33(i) of the Access to Public Administration Files Act. The police gave weight to the fact that information about where camera vans had previously been deployed formed part of the basis for the police's tactical solutions and initiatives in the current year. Thus, automatic speed checks would be conducted in the same locations as previously, among others. The police were therefore of the opinion that if such information were made public, there would be a risk that this would adversely affect the police's possibilities of preventing and investigating traffic offences under the Road Traffic Act. The National Police upheld the police's refusal.

The Ombudsman agreed that because of the need to ensure the general preventive effect of automatic speed checks, the police could not be obliged to make information about future locations of camera vans public in advance.

However, the Ombudsman was of the opinion that the assessment of the local police force and the National Police that it was necessary to exempt information about where camera vans had been positioned was not sufficiently justified. Among other things, the Ombudsman emphasised that making such infor-

mation publicly available differed from making information about the future positioning of camera vans public in advance. Thus, despite the fact that the public would know that camera vans might be deployed in the same locations in future, the public's knowledge would not be complete. On the available basis, the Ombudsman therefore did not find that the police force and the National Police could exempt the information under section 33(i) of the Access to Public Administration Files Act.

The Ombudsman thus recommended that the National Police reopen the case and make a new decision.

2015-56. Refusal of access to documents about experience with the rules on logging of telephone and Internet traffic. Cases concerning legislation. The case concept

A journalist complained to the Ombudsman because the Ministry of Justice had denied him access to documents about experience with the rules on logging of telephone and Internet traffic.

The documents – which had been registered to four different cases – had been exempted on the grounds that they were part of cases about revision of the provisions in the Administration of Justice Act on logging, i.e. they were part of cases concerning legislation.

The case occasioned the Ombudsman to express some views on the case concept and the registration of documents.

The Ombudsman agreed with the Ministry of Justice that there was a 'case concerning legislation' within the meaning of the Access to Public Administration Files Act.

However, the Ombudsman found that some of the exempted documents could not be considered to be part of the case concerning legislation. Instead, these documents were to be regarded as part of one or more cases about revision of the executive order on logging of telephone and Internet traffic, and they could therefore not be exempted from access under the provision on exemption of cases concerning legislation.

The Ombudsman recommended that the Ministry reopen the case and make a new decision with respect to the documents in question.

G. MINISTRY OF ECCLESIASTICAL AFFAIRS

No statements on cases concluded in 2015 have been published.

H. MINISTRY OF CULTURE

The following statements on cases concluded in 2015 have been published:

2015-4. Public employees receiving gifts etc. and their participating in events together with a private companion

The Ombudsman took up a case with the Ministry of Culture because three employees from the Agency for Palaces and Cultural Properties had received tickets for an event arranged by the Danish Broadcasting Corporation (DR) and had participated in the event with private companions. The tickets had been received in connection with contract negotiations with DR for the hire of one of the Agency's properties for the event.

During the case, the Ministry explained that the three employees' participation was not of a representative nature but was based exclusively on official concerns (supervision of adherence to the hire contract and the future applications of the property). Consequently, the three employees' participation in the event did not give the Ombudsman cause for comment. However, the Ombudsman and the Ministry agreed that the employees should not have brought private companions to the event. Furthermore, the Ombudsman considered it relevant to clarify if – and if so, in what situations – the Agency's employees could participate in events with private companions. He asked the Ministry of Culture to inform him how the Ministry would ensure such a clarification.

Incidentally, in its gift policy the Agency had set a minimum limit for when gifts from suppliers and clients were to be returned, so that gifts below a certain value could be kept by the Agency. In its reply to the Ombudsman, the Ministry of Culture stated that it was the Ministry's view that basically all gifts should be returned. The Ministry would therefore ask the Agency to change its gift policy so that it was to be assessed specifically in each individual case whether a gift could be kept. On this basis, the Ombudsman found no grounds for taking further action in the matter.

2015-52. Refusal of application for distribution subsidy for association's periodical – interpretation of provision in executive order and explanatory notes to enabling act

An association complained to the Ombudsman because the Allocation Committee for the Pool for Certain Magazines and Periodicals had refused the association's application for a distribution subsidy for its periodical on the grounds that the association operated a professional publishing house. In its complaint to the Ombudsman, the association stated, among other things, that under the Executive Order on Distribution Subsidies, the Allocation Committee could only refuse its application if, in addition, its periodical was published for a commercial purpose.

The Ombudsman was of the opinion that the wording of the Executive Order did not in itself provide a completely clear answer to the question of what was required in order for the association's application to be refused.

However, based on the explanatory notes to the enabling act, the Ombudsman concluded that the will of the legislature had been to preclude publications published for a commercial purpose from receiving subsidies. The provision was therefore to be interpreted to mean that an application could be refused only if the applicant was a professional publishing house/a professional publisher *and* the specific publication was published for a commercial purpose.

The Ombudsman also disagreed with the Committee's understanding of the phrase 'for a commercial purpose'. In the Committee's opinion, the mere fact that a publication was sold was enough for the publication to be regarded as published for a commercial purpose. However, the Ombudsman noted that the Committee's understanding of the phrase differed markedly from the usual linguistic understanding of the phrase as meaning 'for financial gain'. As the explanatory notes did not provide grounds for a different interpretation, the Ombudsman was of the opinion that the phrase was to be understood in accordance with the usual linguistic understanding of the phrase – that is, the publication was to be published for financial gain.

The Ombudsman recommended that the Allocation Committee reopen the case and make a new decision. In this connection, the Ombudsman recommended, among other things, that the Committee include in its considerations that according to the available information the association was a non-profit organisation with an educationally-related object and that the editorial staff and the other contributors to the periodical were unpaid.

I. MINISTRY OF ENVIRONMENT AND FOOD

The following statement on a case concluded in 2015 has been published:

2015-37. Are animal owners parties to the Veterinary and Food Administration's cases about violations of section 8(1) of the Act on Veterinary Surgeons?

A specific case prompted the Ombudsman to take up a general case on his own initiative with the Veterinary and Food Administration and the Food and Veterinary Complaints Board.

In the specific case, the Veterinary and Food Administration had made a decision under section 8(1) of the Act on Veterinary Surgeons that a veterinary surgeon had exercised care and conscientiousness in his treatment of a dog. The Veterinary and Food Administration and the Food and Veterinary Complaints Board were of the opinion that the owner of the dog was not a party to the Veterinary and Food Administration's case concerning the veterinary surgeon.

In the general case, the Ombudsman stated that animal owners cannot be considered parties to the Veterinary and Food Administration's cases concerning violations of section 8(1) of the Act on Veterinary Surgeons. In the Ombudsman's opinion, the interests of animal owners in such cases could not be considered as strong and worthy of recognition as the interests of the next of kin in cases concerning medical treatment of humans, where the party status of next of kin has long been recognised.

J. MINISTRY FOR CHILDREN, EDUCATION AND GENDER EQUALITY

The following statements on cases concluded in 2015 have been published:

2015-3. Use of sanctions against students at upper secondary schools

The Ombudsman took up an own-initiative case with the Ministry of Education on the use of sanctions against students at upper secondary schools.

The reason for this was a specific complaint case about a school principal's use of sanctions against a student who had broken the school's study and house

rules which had been issued under the authority of the Executive Order on Study and House Rules for Upper Secondary Schools. In the case in question, the Ministry had expressed the opinion that a school principal could employ sanctions beyond the forms of sanction mentioned in the study and house rules.

When asking the Ministry for a statement, the Ombudsman pointed out that it is usually presumed that a more stringent legal authority is required in the case of intrusive decisions. Furthermore, the Ombudsman was of the opinion that the list of possible forms of sanction in the Executive Order on study and house rules appeared exhaustive according to its wording.

After reconsidering the case, the Ministry of Education concurred with the Ombudsman that a school principal cannot employ sanctions not mentioned in the Executive Order on study and house rules against a student who has broken those rules.

Subsequently, the Ombudsman did not have grounds for taking further action. He did, however, find occasion for commenting that the use of specific forms of sanction does not only require legal authority in the Executive Order on study and house rules but also requires that the forms of sanction be implemented in the locally established study and house rules.

In addition, the case gave the Ombudsman occasion to make some general comments on the question regarding suspension of the appeal deadline in the case of insufficient guidance on appeal.

2015-34. Unclear legislation regarding special nursery schools

A municipality converted a special nursery school from a special day-care facility for children according to the Social Services Act to a facility according to the Day-Care Facilities Act. In overall terms, the conversion did not affect the care and treatment of the children but it did, among other things, mean the introduction of the same self-payment as in the municipality's other day-care facilities. The central theme in the case was the distinction between section 32 of the Social Services Act regarding special day-care facilities and section 4 of the Day-Care Facilities Act regarding general day-care facilities.

In the Ombudsman's opinion, the relevant legislation was unclear. In his assessment, based purely on the wording of the relevant provisions in the Social Services Act and the Day-Care Facilities Act, the legislation did on the face of it allow such a conversion. However, it was also the Ombudsman's view that the explanatory notes to the provisions made it seem unlikely that the legislation

had been intended to allow a day-care facility such as the special nursery school involved to be set up according to the Day-Care Facilities Act.

Due to the ambiguities in the legislation, the Ombudsman did not have sufficient grounds for criticising the municipality's decision to convert the status of the special nursery school from a special day-care facility according to the Social Services Act to a facility according to the Day-Care Facilities Act.

The Ombudsman found it most appropriate to inform the then Ministry of Children, Gender Equality, Integration and Social Affairs pursuant to section 12 of the Ombudsman Act with a view to the Ministry considering a legislative clarification, including a clarification of the issue of financial consequences for citizens and municipalities, respectively.

The Ombudsman chose to inform Parliament's Legal Affairs Committee and Parliament's Social Affairs Committee for the same reason.

2015-53. The right of private school pupils to be heard prior to expulsion or removal. Article 12 of the Children's Convention

The Ombudsman had considered two complaints about pupils at private primary and lower secondary schools being expelled/removed at very short notice, among other things without prior consultation.

As neither the Act on Private Independent Schools nor the Act on Continuation Schools contains any provisions on children's right to be heard, the Ombudsman asked the Ministry of Education for a general statement on the implementation of Article 12 of the UN Convention on the Rights of the Child, which stipulates children's right to be heard in all matters affecting them.

The Ministry of Education subsequently prepared two guides: one for head teachers and one for pupils. The guide for head teachers draws attention to the fact that the requirement of the Children's Convention that the views of the child must be included applies to all matters, and the guide for pupils informs them about their right to be heard.

On that basis, the Ombudsman took no further action but asked the Ministry to inform him at the beginning of 2016 about the result of a planned evaluation of follow-up efforts. In addition, he would keep updated on whether the Ombudsman's office received further complaints about private schools or continuation schools not including the views of pupils in matters of, for instance, expulsion or removal.

2015-54. Practice of using teachers without the qualifications required by the Act on Primary and Lower Secondary Education was not included in the Act

A mother and a father complained to the Ombudsman because their son, who was a pupil at a municipal primary and lower secondary school, was taught in certain subjects by a substitute teacher who was not a qualified teacher. In addition, the substitute teacher had been assigned a shared class teacher role.

The Ombudsman asked the municipality and the Ministry of Education (now the Ministry for Children, Education and Gender Equality) for statements on the specific case. After the Ombudsman had taken on the case, the parents decided to move their son to another school, and the Ombudsman took no further action in the specific case.

Instead, the Ombudsman opened a general case occasioned by the statement which he had received from the Ministry. In its statement, the Ministry had described a long-standing practice of municipalities in certain cases employing teachers who do not have the qualifications required by the Act on Primary and Lower Secondary Education.

The Ombudsman noted that neither the wording of the Act nor the explanatory notes to the Act currently in force took into account the practice described by the Ministry. Therefore, the Ombudsman recommended that the Ministry take the initiative to seek to provide greater clarity by way of inclusion of the described practice in either the Act on Primary and Lower Secondary Education or an executive order issued under the Act.

K. MINISTRY OF TAXATION

The following statements on cases concluded in 2015 have been published:

2015-16. Exemption from payment of premiums could not lead to refund of government tax upon payout of capital pension

A man complained to the Ombudsman that the tax authorities had refused to refund the 40 per cent government tax which had been deducted in connection with payout of his capital pension.

The man – who for a number of years had been granted exemption from payment of premiums in connection with the pension scheme due to disablement – was of the opinion that he was covered by a special rule on exemption from tax pursuant to the Act on Taxation of Pensions. It followed from this rule that no tax was to be paid on that part of a pension payout which corresponds to payments for which there has been no deductibility.

The tax authorities emphasised that due to the exemption from payment of premiums, the man had not made any payments (i.e. paid premiums) for which there was no deductibility, and that therefore the rule did not apply.

The man was of the opinion that the premiums he had paid into the scheme over the years until he was exempted from payment of premiums covered the insurance company's risk in undertaking to grant exemption from payment of premiums, and that in this way payments with no deductibility had been made – within the meaning of the provision.

The Ombudsman did not agree. In the opinion of the Ombudsman, neither the wording of the provision nor its explanatory notes could be interpreted this way. The provision was aimed at creating taxation symmetry, meaning that premium payments without deductibility were to be counterbalanced by payouts exempt from tax. Since the amount corresponding to the exempted premiums had not been included when the man's taxable income was assessed, exemption from payment of tax on the payouts would lead to a double tax benefit, which could not be assumed to be the objective of the rule.

2015-25. Partial refusal of access to information about meetings between Ministry of Taxation and lobbyists concerning changes to taxation of North Sea oil

A journalist complained to the Ombudsman because he had received a partial refusal from the Ministry of Taxation of access to information about the meetings between the Ministry and lobbyists concerning changes to the taxation of North Sea oil in 2013.

In the case of some of the documents and information exempted by the Ministry, the grounds given were that they were covered by the specific confidentiality provision in section 17 of the Tax Administration Act and thus, pursuant to section 35 of the Access to Public Administration Files Act, not covered by the right to access.

The Ombudsman could not generally criticise that the Ministry had exempted information, including the names of the companies participating in the meetings, in a number of documents with reference to section 35 of the Access to Public Administration Files Act, cf. section 17 of the Tax Administration Act. However, the Ombudsman pointed out that the name of an employee with the Danish Customs and Tax Administration could not be exempted under section 35 of the Access to Public Administration Files Act, cf. section 17 of the Tax Administration Act.

The Ombudsman also observed that in connection with the Government's changing the taxation of North Sea oil, a number of named oil and gas companies had publicly expressed their views on changes to the taxation of North Sea oil, among other places in the media and in a letter to Parliament's Climate, Energy and Building Committee. In addition, there had previously been press reports of a number of named oil and gas companies appointing communications agencies with the aim of influencing the negotiations on changes to the taxation of North Sea oil.

It did not appear from the decision of the Ministry of Taxation if the Ministry had considered, when assessing whether the information was covered by section 17 of the Tax Administration Act, to what extent the information was in fact publicly available, and if so, what bearing this had on the Ministry's decision on access.

The Ombudsman recommended that the Ministry reopen the case in order to reconsider – in the light of what he had stated – whether there was a basis for the journalist to be granted further access to information about the meetings between the Ministry and lobbyists concerning changes to the taxation of North Sea oil in 2013.

2015-50. Refusal by Ministry of Taxation of request for access to documents exchanged in connection with preparatory legislative work. Ministerial advice and assistance. Processing time

A journalist complained because the Ministry of Taxation had denied him access to a number of documents exchanged in connection with preparatory legislative work. The documents had been exempted with reference to section 24 of the Access to Public Administration Files Act on ministerial advice and assistance. In the journalist's opinion, the Ministry was stretching the provision to its limits as in his view, the aim of section 24 was only to provide a 'free space' for exchanging airy ideas etc.

The Ombudsman did not agree with the journalist's view. On the contrary, the Ombudsman was of the opinion that ministerial advice and assistance would often include concrete expert assessments from the Civil Service.

With regard to the vast majority of documents, the Ombudsman could not criticise the Ministry's use of section 24. However, a few of the documents could not be exempted under section 24 as they were to be regarded as external documents.

The case also raised a question about the use of the specific confidentiality provision in section 17 of the Tax Administration Act. Thus, it was open to question whether a specific type of information exempted by the Ministry was confidential at all within the meaning of section 17.

Finally, the Ombudsman stated that the Ministry's processing time of 76 working days was much too long.

2015-61. Accounting company not entitled to appeal decision in case concerning reimbursement of expenses – personal bankruptcy of the party entitled to reimbursement

An accounting company had provided professional assistance to a client in connection with two tax cases which the client brought before the district court. The client subsequently went personally bankrupt. The accounting company applied to the Danish Customs and Tax Administration (SKAT) for reimbursement of expenses for the assistance it had provided to its client.

Because the party entitled to reimbursement of expenses (i.e. the client) was personally bankrupt, the application form for reimbursement had been signed by the trustee of the client's estate in bankruptcy. It was stated on the form that the claim for reimbursement had been assigned to the party which had provided the assistance involved (i.e. the accounting company). However, SKAT refused the application for reimbursement because the application form had not been signed by the party entitled to reimbursement.

The accounting company appealed SKAT's refusal to the Tax Appeals Agency, which rejected the appeal on the grounds that the company was not a party to the case concerning reimbursement of expenses and was therefore not entitled to appeal SKAT's decision.

The Ombudsman was of the opinion that the trustee in bankruptcy could not assign the claim for reimbursement to the accounting company. As the claim could not be regarded as assigned to the company by the party entitled to reimbursement either, the Ombudsman agreed with the Tax Appeals Agency that the accounting company did not have such a direct interest in SKAT's decision which would mean that the company could be regarded as a party to the case and thus as entitled to appeal.

However, in the Ombudsman's opinion the grounds given by the Tax Appeals Agency for rejecting the appeal did not meet the requirements of section 24, cf. section 22, of the Public Administration Act. The Tax Appeals Agency should have explained to the accounting company why the Agency found that it had not been established that the claim had been assigned to the company. In addition, the Ombudsman was of the opinion that the Agency should have responded to a relevant extent to the company's arguments as to why it should have party status.

L. MINISTRY OF SOCIAL AFFAIRS AND THE INTERIOR

The following statements on cases concluded in 2015 have been published:

2015-34. Unclear legislation regarding special nursery schools

For a summary of the case, see under 'J. Ministry for Children, Education and Gender Equality'.

2015-35. An employer appealing a decision on recognition of an industrial injury becomes a party to the case of the National Social Appeals Board

A man complained because the National Social Appeals Board had granted his employer access to documents of his industrial injury case in accordance with the provisions of the Public Administration Act. The National Social Appeals Board was of the opinion that the man's employer was a party to the case as his employer had exercised its right of appeal to the Board against a decision to recognise an injury suffered by the man as an industrial injury, cf. section 44(1)(iv) of the Act on Protection against the Consequences of Industrial Injuries.

The authorities in the industrial injuries field – the National Social Appeals Board, the Ministry of Employment and the National Board of Industrial Injuries – disagreed whether an employer exercising its statutory right of appeal became a party to the appeal case. The National Social Appeals Board was of the opinion that this was the case but the Ministry of Employment and the National Board of Industrial Injuries took the opposite view.

On analysing the applicable legislation, the Ombudsman did not find that he could criticise that the National Social Appeals Board had based its practice in this respect on the general rules of administrative law. In accordance with general administrative law, a person who exercises a statutory right of appeal as a general rule becomes a party to the appeal case itself – also if he or she was not a party to the case when it was considered at first instance.

The Ombudsman pointed out that the employer becomes a party to the case only as far as the issue of recognition of the industrial injury is concerned, as it is in relation to decisions on this issue that employers have a right of appeal. The Ombudsman also stated that when considering a request for access to information, the National Social Appeals Board needs to pay attention to whether the case contains information which is exempt from access.

2015-39. Case about repayment of housing benefit was inadequately investigated. Failure to consult recipient as a party to the case

A woman complained to the Ombudsman about decisions made by Udbetaling Danmark (the authority responsible for a number of public benefits) and the National Social Appeals Board that she had to repay the full amount of housing benefit which she had received for 2012.

The decisive factor in the case was whether the woman had informed her municipality (which at that time had the remit for the housing benefit area) during the 2012 benefit year about an extra income which her husband had received in 2012. Thus, if she had informed her municipality about the extra income, the authorities could demand repayment of only part of the amount which she had received in housing benefit. If, on the other hand, she had not informed the municipality, the full amount was to be repaid.

Udbetaling Danmark did not ask for the municipality's case records for 2012 until in connection with the Ombudsman's investigation of the case. The case records showed that the woman had informed the municipality about changes in her household income – but it was not clear which changes.

The Ombudsman criticised the authorities' failure to investigate the case adequately.

The Ombudsman stated that in a situation such as the present – where decision-making powers within a category of cases have been shifted from one authority to another – it is a prerequisite for observance of the ex officio inquiry principle that before making a decision, the authority to which decision-making powers have been shifted obtains all relevant case records from the authority which formerly had the powers to make decisions.

In addition, the Ombudsman criticised Udbetaling Danmark's failure to consult the woman as a party to the case. If she had been consulted, her objection that she had fulfilled her obligation to inform the municipality about changes in her circumstances could have been included in the case earlier and could thus have caused Udbetaling Danmark to investigate the issue before making a decision.

While the Ombudsman was investigating the case, the National Social Appeals Board revoked its decision and referred the case back to Udbetaling Danmark, stating that when reconsidering the case, Udbetaling Danmark was to take for its basis that the woman had informed the municipality about her husband's extra income. On that basis, the Ombudsman took no further action in relation to the woman's complaint.

2015-57. Membership of music group during period of unemployment was not grounds for refusal of unemployment benefit as the work involved could at all times be carried out outside normal working hours

A woman complained to the Ombudsman because the Employment Committee of the National Social Appeals Board had made a decision that she was not entitled to (supplementary) unemployment benefit while being self-employed on a part-time basis during a period of unemployment. She therefore had to repay approximately DKK 160,000 which she had claimed in unemployment benefit.

The woman's part-time occupation consisted in being a member of a music group which offered church concerts and concerts for receptions, opening ceremonies of exhibitions and other events. During the 2006 to 2011 period the group had played a total of eleven concerts, of which the woman had participated in nine. In addition, she had taken part in other activities in relation to the group to a very limited extent.

The Employment Committee of the National Social Appeals Board found that the woman had not proved on a balance of probabilities that her work with the music group could 'at all times' be carried out outside normal working hours, which was a condition for her being deemed to be available for work and thus entitled to (supplementary) unemployment benefit. The Employment Committee attached decisive importance to there being no delimitation of the activities of the group (including the times at which the group was available for concerts) and no (written) agreement on the division of work among its members.

Based on the information about the very limited activities of the music group and the details of the organisation of these activities, the Ombudsman found that the woman had proved on a balance of probabilities that her work with the group could 'at all times' be carried out outside normal working hours. This meant that she was available for work, and in the Ombudsman's opinion she was entitled to (supplementary) unemployment benefit. The Ombudsman gave particular weight to information that the woman had never been under any contractual obligation towards the group, that there was a clear (verbal) agreement between its members that in the event a member was prevented from being present at a concert, another member (or a substitute) would step in, and that the woman could leave the group at any time – without notice.

The Ombudsman therefore recommended that the Employment Committee of the National Social Appeals Board reopen the case and make a new decision on the woman's entitlement to unemployment benefit and – in the light of that decision – on the demand for repayment of unemployment benefit claimed by the woman.

M. PRIME MINISTER'S OFFICE

The following statement on a case concluded in 2015 has been published:

2015-59. Documents exchanged in connection with ministerial advice and assistance. Information to be extracted. Precise information required about where publicly available information can be found

A journalist complained to the Ombudsman because the Prime Minister's Office had denied him access to four documents. One of the documents was an e-mail from the Prime Minister's Office to the Ministry of Justice in which the former asked the latter for comments to be used by the then Prime Minister for the purpose of replying to a question from Parliament. The other three documents were e-mails containing contributions from the Prime Minister's Office to material to be used by the Minister of Justice.

The Ombudsman agreed with the Prime Minister's Office that the four documents had been exchanged in connection with ministerial advice and assistance and were therefore in principle exempt from access (section 24(1)(ii) of the Access to Public Administration Files Act).

The Ombudsman was of the opinion that three of the documents contained information which was subject to extraction. At the same time, however, the Ombudsman agreed with the Prime Minister's Office that the information was publicly available and that therefore the Prime Minister's Office was not obliged to extract and provide access to the information (section 28(2)(iii) of the Access to Public Administration Files Act).

This raised the question how precisely an authority applying section 28(2)(iii) of the Act must refer to where the information can be found. The Ombudsman obtained several statements on the question from the Prime Minister's Office. In addition, the question was discussed at a number of meetings between the Ombudsman and the two ministries.

The Ombudsman subsequently agreed with the Prime Minister's Office (and the Ministry of Justice) that section 28(2)(iii) of the Access to Public Administration Files Act was to be interpreted to mean that when publicly available information is not extracted under the provision, the authority's reference to where the information can be found must be so precise that the person who has asked for access is able to determine which specific information has not been extracted.

In the specific case, the Ombudsman was of the opinion that stating that the information which had not been extracted could be found in documents of 1½, 3½ and 27 pages, respectively, was not sufficiently precise, as this did not make it possible for the journalist to determine which specific information the Prime Minister's Office had omitted to extract. In the Ombudsman's opinion the Prime Minister's Office should have referred to the specific pages and paragraphs containing the information.

N. MINISTRY OF HEALTH

The following statements on cases concluded in 2015 have been published:

2015-23. Extraction of information in internal document

A journalist complained to the Ombudsman because he had received a partial refusal from the Danish Health Authority and the Ministry of Health to a request for access to four files. The files were part of a case regarding an information note which the Ministry had asked the Authority to prepare.

The Ombudsman agreed with the Authority and the Ministry that two of the files in their entirety and e-mails contained in the other two files were internal documents covered by section 23(1)(i) of the Access to Public Administration Files Act and therefore as a general rule exempt from access.

In the Ombudsman's opinion, two of the files contained information that was subject to extraction. However, the information in one of these files was also included in other documents which were released to the journalist in response to his request for access, and the Ombudsman could therefore not criticise that the information was not extracted from the file.

The other file (File No. 4) contained, among other things, a summary of statements from an authority other than the Danish Health Authority – namely the Ministry of Health. These statements must be assumed to have been decisive for the contents of part of the Authority's information note as they appeared to be decisions already made which the Authority subsequently was to carry out in the final preparation of the information note. In these circumstances, the Ombudsman found that it was most likely that the statements were to be regarded as information about the 'factual basis' of the case, and the information was also to be considered relevant to the case.

The Ombudsman recommended to the Ministry of Health that the Ministry reopen the case and make a new decision regarding the request for access to the information in File No. 4.

The Ministry subsequently reopened the case and gave the journalist access to File No. 4 in its entirety.

2015-33. Refusal of dispensing chemist's application for permission for affiliation with pharmaceutical enterprise

A dispensing chemist wished to be co-owner of a pharmaceutical firm which had permission to sell livestock pharmaceuticals. Under the Act on Dispensing Chemists, a dispensing chemist could not be affiliated with a pharmaceutical enterprise without permission from the Danish Health Authority.

However, the Health Authority had stated in guidance notes from 2010 that an application for permission under the Act on Dispensing Chemists was not required from chemists who did not sell livestock pharmaceuticals themselves in their capacity as dispensing chemists and who wished to be affiliated with an enterprise which exclusively sold livestock pharmaceuticals. And the chemist concerned wished to sell livestock pharmaceuticals via the pharmaceutical firm only, not as a dispensing chemist.

The Danish Health Authority and the Ministry of Health found that the guidance notes were incorrect and that the chemist had to apply for permission. The Health Authority and the Ministry subsequently refused his application as they were of the opinion that such an affiliation was incompatible with his business as a dispensing chemist.

The chemist complained to the Ombudsman, who stated that he could not criticise the decision that the chemist had to apply for permission, as this was stated clearly in the Act on Dispensing Chemists. The Ombudsman further stated that it was extremely regrettable that the guidance notes issued by the Danish Health Authority in 2010 contained an error.

Finally, the Ombudsman stated that in his opinion the authorities had no legal basis for refusing the chemist's application. He stated that in their administration of the relevant provision of the Act on Dispensing Chemists, the Danish Health Authority and the Ministry could not – as they had done in the case – give weight to considerations of competition and a wish to keep the business

of dispensing chemists separate from other business with pharmaceuticals. The Ombudsman therefore recommended that the Danish Health Authority reopen the case.

2015-42. Access to correspondence between Danish Health Authority and Ministry of Health. Ministerial advice and assistance. Extraction of information

A scientist complained to the Ombudsman because he had received a partial refusal from the Ministry of Health of access to correspondence between the Danish Health Authority and the Ministry about a proposal from the Government to introduce health checks for men with little education.

The Ombudsman agreed with the Ministry that the documents – except one, which consisted of notes from a telephone conversation – were to be regarded as ministerial advice and assistance documents covered by the provision in section 24(1)(i) of the Access to Public Administration Files Act.

Some of the documents were different versions of a memorandum, 'Targeted Health Checks', which was subsequently submitted to the Government's Coordinating Committee. The authorities had based their assessment of whether information was to be extracted under section 28 of the Access to Public Administration Files Act on the last version of the memorandum which had been exchanged between them. They found no grounds for extracting information from earlier versions of the memorandum because some of the information in those versions had not been included in the last version exchanged between them or in the final memorandum, which was submitted to the Coordinating Committee. In the Ministry's opinion, the information was not relevant to the case within the meaning of section 28 of the Access to Public Administration Files Act simply because it had not been included in the final memorandum.

The Ombudsman was of the opinion that this was too narrow an interpretation of the concept of relevance compared to what was stated in the explanatory notes to the Act. The fact that some information had not been included in the final memorandum did not in the Ombudsman's opinion necessarily mean that that information was irrelevant. The question of relevance was to be determined on the basis of a specific assessment, and in this connection it must be kept in mind that it is not only information forming the basis for the authorities' decision which may be relevant.

On this basis, the Ombudsman recommended that the Ministry reopen the case in order to consider whether the scientist should be granted further access to information.

2015-51. The legal position of minor patients under the Mental Health Act and other issues concerning the use of coercion in psychiatric treatment

Following monitoring visits to adolescent psychiatric wards, the Ombudsman opened a case on his own initiative concerning problems in relation to the use of coercion in psychiatric wards. An important issue was the legal position of minor patients under the Mental Health Act.

The Ministry of Health stated that psychiatric treatment of patients under 15 years and immature 15- to 17-year-old patients initiated with the consent of a person with parental authority is not considered coercion within the meaning of the Mental Health Act. If, on the other hand, treatment is initiated without the informed consent of a person with parental authority, this must always be done in compliance with the Mental Health Act. The Ministry was drafting a bill to amend the Mental Health Act and expected the bill to propose clearer rules on the legal position of minor patients. The Ombudsman took note of this.

Another issue was the relationship between the Act on Due Process in Connection with the Public Administration's Use of Coercive Measures and Duties of Disclosure and section 19 a of the Mental Health Act. Thus, section 19 a of the latter Act contains provisions on, among other things, searches of patient rooms in psychiatric wards, whereas the former Act applies to certain coercive measures used by authorities outside criminal procedure.

The Ministry of Health and the Ministry of Justice were of the opinion that some of the measures listed in section 19 a of the Mental Health Act are covered by the Act on Due Process in Connection with the Public Administration's Use of Coercive Measures and Duties of Disclosure. The Ministry of Health stated that the latter Act applies to measures used with the patient's informed consent under the Mental Health Act, cf. the Health Act. The Ministry assumed that this is also the case when a minor patient or a person with parental authority has given his or her consent under the Mental Health Act, cf. the Health Act. Therefore, when it is decided to use coercive measures under section 19 a of the Mental Health Act or to search a patient's room with his or her informed consent, it must be ensured that the provisions on case processing

of the Act on Due Process in Connection with the Public Administration's Use of Coercive Measures and Duties of Disclosure are observed.

The Ombudsman took note of this.

The Mental Health Act was amended by Act No. 579 of 4 May 2015.

O. MINISTRY OF TRANSPORT AND BUILDING

The following statement on a case concluded in 2015 has been published:

2015-1. Refusal of request for data extraction from Public Information Server according to section 11 of the Access to Public Administration Files Act

A journalist complained because the Ministry of Housing, Urban and Rural Affairs had refused his request for a mass extraction of information pertaining to all Danish land and property contained in the OIS (The Public Information Server, a data warehouse managed by the Ministry), which contains information from the Central Building and Dwelling Register (BBR). Instead, the Ministry advised the journalist that he could pay for access to extraction of the desired information – either by paying DKK 72,000 for becoming a so-called data distributor, and thereby gaining access to the information via a distribution network, or by entering into an agreement on market terms with an already established data distributor for the purchase of an extract of the information.

The journalist was of the opinion that he was entitled to the desired data extraction pursuant to section 11 of the Access to Public Administration Files Act and that, in addition, the Ministry's refusal contravened the Act on the Reuse of Public Sector Information.

The Ombudsman agreed with the Ministry that the journalist was not entitled to the desired information in the form of a data extraction pursuant to section 11 of the Access to Public Administration Files Act. In this context, the Ombudsman emphasised that the special scheme on the disclosure of OIS data was to be considered a lex specialis scheme whereby the Ministry could with statutory authority demand payment for the sale or compilation of documents. The Ombudsman also agreed with the Ministry that the established scheme whereby anyone can become a data distributor against payment of a fee of

DKK 72,000 or can enter into an agreement with an already established distributor was in accordance with the Act on the Reuse of Public Sector Information.

P. MINISTRY OF HIGHER EDUCATION AND SCIENCE

The following statements on cases concluded in 2015 have been published:

2015-9. Partial refusal to request for access to documents prepared by interdepartmental working group. Ministerial advice and assistance. Extraction

A journalist complained to the Ombudsman because he had received a partial refusal from the Ministry of Higher Education and Science to a request for access to a number of documents. The documents were exchanged in a working group consisting of civil servants from the Ministry of Higher Education and Science, including the Agency for Higher Education, and from the Ministry of Finance. The working group was set up by the Government's Committee on Economic Affairs for the purpose of preparing schemes for increased adjustment of student intake at higher education institutions. The working group was thus to advise the Government's Committee on Economic Affairs and the Ministry of Higher Education and Science by means of a political discussion paper/action plan concerning an adjustment of student intake at higher education institutions.

The Ombudsman agreed with the Ministry of Higher Education and Science that the documents were to be considered ministerial advice and assistance documents pursuant to section 24 of the Access to Public Administration Files Act. In this connection, the Ombudsman attached importance to the fact that the documents had been exchanged at a time when there was specific reason for assuming that a 'minister has or will have a need for advice and assistance from the Civil Service'. Moreover, it follows from the explanatory notes to section 24 that a ministry's department as defined in section 24 also comprises interdepartmental working groups which solely consist of civil servants. The Ombudsman also emphasised that the working group consisted exclusively of civil servants from authorities which are covered by section 24(1)(i) and (ii).

The Ombudsman also agreed with the Ministry that the documents did not contain information subject to extraction pursuant to the provisions laid down in sections 28 and 29 of the Access to Public Administration Files Act. As regards section 29, the Ombudsman pointed out that the case concerned a bill

which had been introduced to Parliament or a published report, action plan or material of a similar kind comprised by the provision, but the exempted material did not contain internal professional assessments in a final form.

2015-31. No criticism of refusal of student grant for course abroad – issues relating to official recognition in the country of study

A father complained on behalf of his son, who had been refused a student grant for a course in the United Kingdom by the Danish authorities. The course was provided by an American educational establishment which had departments in the United States and other locations, including London. The reason for the authorities' refusal was that the course was not officially recognised in the country of study. However, as the course was officially recognised in the United States, the son would have been eligible for a student grant had he chosen to take the course in the United States.

The Ombudsman agreed with the Danish Agency for Higher Education that the course in London could not be considered to be officially recognised in the United Kingdom within the meaning of the Danish State Educational Grant and Loan Scheme Executive Order.

The Ombudsman also investigated whether the State Educational Grant and Loan Scheme Act provided a sufficient legal basis for the provision in the Executive Order on official recognition in the country of study. The Ombudsman concluded that he had no basis for assuming that the rules laid down exceeded the authority conferred by the Act.

Finally, the Ombudsman could not criticise that the authorities had found no grounds to grant an exemption from the Executive Order in the case in question.

In connection with the Ombudsman's investigation of the case, the Ministry of Higher Education and Science informed the Ombudsman that it intended to amend the rules of the Executive Order with the effect that as from 1 July 2015, students on courses/at educational establishments which are not officially recognised in the country of study would be eligible for a student grant provided the quality of the courses/educational establishments is assured by an internationally recognised quality assurance body.

After the case had been concluded, the Ministry of Higher Education and Science informed the Ombudsman that, as intended, the State Educational Grant and Loan Scheme Executive Order had been amended.

Q. MINISTRY OF FOREIGN AFFAIRS

The following statements on cases concluded in 2015 have been published:

2015-14. Partial refusal to request for access to correspondence between the Ministry of Foreign Affairs and South Korean authorities. Cooperation was subject to confidentiality. Practice under international law

A journalist complained to the Ombudsman because he had received a partial refusal from the Ministry of Foreign Affairs to a request for access to the Ministry's correspondence with South Korean authorities and Global Green Growth Institute (GGGI), respectively, regarding a South Korean investigation of GGGI. The Ministry of Foreign Affairs referred to section 32(1) of the Access to Public Administration Files Act on the realm's foreign policy interests. The Ministry stated that the information was received and exchanged as part of diplomatic cooperation subject to confidentiality under a tacit, jointly accepted and observed practice.

The Ombudsman stated that – as under the previous Access to Public Administration Files Act – a justified expectation of confidentiality may exist without an actual indication when documents are forwarded that the Danish authorities should not publish the documents.

After an investigation of the case, the Ombudsman did not find any grounds for repudiating the assessment by the Ministry of Foreign Affairs that the South Korean authorities – based on an international practice of confidentiality in relation to diplomats' sphere of activities – had a justified expectation that the information would not be published. Consequently, the Ombudsman agreed with the Ministry of Foreign Affairs that the information could be exempted from access pursuant to section 32(1) of the Access to Public Administration Files Act.

2015-24. Refusal of access to files due to risk of gross harassment. Right of access to data insight (own access). The inquisitorial principle

A man complained to the Ombudsman because the Ministry of Foreign Affairs had refused his request for access to his 'own case' – meaning access to the files contained in his own case. The case concerned, among other things, a cor-

respondence between a Danish embassy in a foreign country and that country's police. The embassy had reported the man to the police for harassment.

The Ministry's refusal was originally based on consideration for the investigative methods of the police. As the Ministry had not obtained a statement from the foreign country's police regarding the question of access, the Ombudsman recommended that the Ministry reopen the case and make a new decision.

The Ministry made a new decision which maintained the refusal. The Ministry now took into account that the first decision to refuse access had led to a wave of gross harassment from the man in the form of, among other things, statements about named staff members on social media. In the Ministry's opinion, granting access would lead to more gross harassment.

The Ombudsman found it no occasion for comment that the Ministry had, on the basis of the inquisitorial principle, emphasised events taking place after the Ministry's first decision on access.

The Ombudsman did not think that the special harassment provision in section 9(2)(ii) of the Access to Public Administration Files Act could be applied to refuse requests for access to own files. The general provision in section 33(v) could apply – but it was a requirement that there were decisive reasons why the man should not be granted access to his own files.

The Ombudsman agreed with the Ministry that this was a case of harassment of an extremely gross nature which lay beyond what a public employee must tolerate. In the Ombudsman's opinion, the Ministry's risk assessment of the consequences if access to the files were granted could give rise to some doubt, but the Ombudsman found that the Ministry must be best qualified to assess the issue. The Ombudsman therefore did not find sufficient cause to criticise the decision.

2015-30. Text message correspondence – the concept of 'document'

A journalist complained to the Ombudsman because the Ministry of Foreign Affairs had made two decisions denying him access to text messages exchanged between (at the time of the journalist's complaint to the Ombudsman) a former Minister for Development Cooperation and the former chairman of an international organisation.

The grounds given by the Ministry in its first decision for refusing the journalist's request for access were that the Ministry had not identified any documents covered by his request. In its second decision, the Ministry informed him that it had identified an internal document (an e-mail) in a case file in the Ministry which gave an account of the contents of text messages exchanged between the two persons. The Ministry denied the journalist access on the grounds that the e-mail was an internal document covered by section 23(1) of the Access to Public Administration Files Act and that it did not contain any information to be extracted under section 28(1) of the Act.

The Ombudsman did not find that there were sufficient grounds for criticising the Ministry's assessment that at the time of the Ministry's first decision, the text messages were not documents covered by the Access to Public Administration Files Act.

In the grounds for its decision, the Ministry should have informed the journalist that it had in fact identified text messages exchanged between the two persons but assessed that they were not comprised by the concept of 'document' within the meaning of the Access to Public Administration Files Act. The grounds given by the Ministry were likely to leave the journalist with the – erroneous – impression that the Ministry had identified no such text message correspondence.

In addition, the Ministry should have actively ensured that the text message correspondence was kept for a (relatively short) period of time until the journalist had had a reasonable opportunity to, for instance, complain to the Ombudsman about the Ministry's decision.

With respect to the Ministry's second decision, the Ombudsman found that the e-mail was not to be regarded as one document but as consisting of seven distinct documents (four text messages and three internal e-mails). At the time of this decision, the text messages – in their then context – met the requirements of section 7 of the Access to Public Administration Files Act of being documents.

The Ombudsman recommended that the Ministry reopen the case and reconsider the question of access to the text messages reproduced in the e-mail.

The Ombudsman also requested the Ministry to consider to what extent the journalist might be entitled to full or partial access to another internal e-mail thread which the Ministry had identified while the Ombudsman was investigating the case and in which further text messages exchanged between the two persons were reproduced.

The Ministry of Foreign Affairs subsequently made a new decision, granting the journalist access to the text messages reproduced in the two internal e-mails.

R. MINISTRY OF IMMIGRATION, INTEGRATION AND HOUSING

The following statements on cases concluded in 2015 have been published:

2015-5. Case processing time by the Ministry of Justice in cases concerning reporting duty for foreign nationals

In a judgment of 1 June 2012, the Danish Supreme Court declared invalid the decisions by the immigration authorities regarding residence and reporting duty for a specific foreign national. Based on an overall assessment, the Supreme Court found that the decisions constituted a disproportionate restriction of the foreign national's freedom of movement and that, consequently, the restriction contravened Article 2 of Additional Protocol No. 4 to the European Convention on Human Rights.

Based on the judgment, the Ministry of Justice issued a practice direction of 6 September 2012 to the Immigration Service and the National Police to the effect that decisions regarding residence and reporting duty were to be reassessed every six months. The majority of the reassessments of reporting duty that the National Police carried out for the first time in the spring of 2013 were appealed to the Ministry of Justice.

The Ministry of Justice and the National Police agreed to suspend the next round of reporting duty reassessments, which the National Police were to have carried out in the autumn of 2013, while waiting for the Ministry's decisions regarding the submitted appeals against the reassessments from the spring of 2013.

As it took the Ministry of Justice over a year to process the appeals, the National Police therefore omitted to carry out the biannual reassessments in the autumn of 2013 and the spring of 2014.

Following coverage of the matter in an article in a national daily newspaper, the Ombudsman asked the Ministry of Justice for a statement. The Ministry said that the process had been very regrettable on a number of counts, and that the Ministry had focused particularly on these cases so that in future the Ministry will be making a decision three months at the latest from the time when the

Ministry has received the appeal. In addition, the Ministry stated that it had been agreed with the National Police that in future, the National Police will not await the Ministry's decision in appeal cases which are making slow progress.

The Ombudsman agreed with the Ministry of Justice that it was very regrettable that the Ministry had not come to decisions on the appeals earlier and that the Ministry had not at an earlier stage informed the National Police that the Ministry's processing of the cases was making slow progress.

2015-8. Deportation of children in municipal care

In March 2011, a ten-year-old boy and his grandmother, who was his guardian, were denied asylum in Denmark.

In September 2011, their municipality of residence decided to place the boy in an institution in order to find out whether there was a risk of serious harm to his health and development. Among other things, it was doubtful whether his grandmother was capable of taking relevant care of him.

The municipality also filed an application for a residence permit under section 9 c(1) of the Aliens Act on behalf of both the boy and his grandmother. The provision states, among other things, that a residence permit may be issued to a foreign national if exceptional reasons make it appropriate, including regard for family unity.

In October 2011, the Immigration Service made a decision that the boy and his grandmother could not submit applications for residence permits after entry into Denmark under the then current provisions of section 9 c(1), cf. subsection (5), of the Aliens Act. The Immigration Service did not find that Denmark's international obligations could warrant allowing the submission of applications from the two persons after entry into Denmark. In addition, the Immigration Service informed the National Police that the boy and his grandmother could be deported from Denmark, and they were subsequently deported to Serbia together.

The Ombudsman became aware of the case when it was mentioned during a monitoring visit in February 2014 to the asylum centre where the boy and his grandmother had stayed. As a result, the Ombudsman asked the Ministry of Justice to send him the files of the case.

The Ombudsman had previously taken an interest in the issue of deportation of children in municipal care. In that connection, the then Ministry of Integration had stated, among other things, back in June 2011 that children who are in care against their parents' or guardians' wishes must be presumed to need the protection of the Kingdom of Denmark, cf. the UN Convention on the Rights of the Child and the European Convention on Human Rights, Article 3, on prohibition of torture and other inhuman or degrading treatment, and Article 8, on the right to a private life. The Ministry added that in relation to Article 8 of the European Convention on Human Rights, children who are in care against their parents' or guardians' wishes thus cannot generally be required to take up residence in another country, let alone leave the country together with their parents.

The Ombudsman found that it was a matter for extraordinary criticism – and a fundamental betrayal of the boy – that the Immigration Service had decided that the boy and his grandmother could not submit applications for residence permits after entry into Denmark and that the Immigration Service had subsequently informed the National Police that there were no grounds for not deporting them from Denmark.

2015-29. Case processing by Ministry of Justice in cases concerning retention of Danish citizenship

In May 2014, an association which helps Danes living abroad contacted the Ombudsman concerning a number of problems which some of the association's members had experienced in connection with the Ministry of Justice's processing of cases about retention of Danish citizenship under section 8 of the Danish Citizenship Act.

Among other things, the association pointed out that the guidance on the website of the Ministry of Justice on the criteria for retaining Danish citizenship lacked transparency. In addition, the association stated that a few applicants had waited for more than two years for a reply to their application and that the guidance on the time at which applications were to be submitted was misleading. Furthermore, according to the association, up to six months could pass from the Ministry's receipt of an application before a case was opened, and until then, the applicant was unable to get information about the processing of his or her case.

In reply to letters from the Ombudsman, the Ministry of Justice stated, among other things, that it had decided to upgrade the guidance on its website on the factors which may enter into the decision whether an applicant is to be granted permission to retain his or her Danish citizenship.

In addition, the Ministry had taken a number of initiatives to reduce the processing time for applications from an average of 14 to 16 months in 2014 to an expected 7 months by the end of 2015, and this target was now stated on the Ministry's website.

The Ministry also informed the Ombudsman that the guidance on its website on when applications were to be submitted had now been adjusted to take the current processing time into account and that a number of initiatives had been taken with a view to Danish citizens living abroad being informed of the current processing time.

Furthermore, the Ministry stated that it had cleared a considerable backlog with regard to opening cases and that on receipt of an application, a letter was now sent acknowledging receipt and informing the applicant of the processing time.

The Ombudsman found it a matter for severe criticism that some applicants had had to wait for several months – with the inconvenience this had caused – from the Ministry's receipt of their application before a case was opened and a letter was sent acknowledging receipt and informing them of the expected processing time.

In addition, the Ombudsman found it undesirable that the guidance in Danish passports that an application for retention of Danish citizenship was to be submitted as soon as possible after the applicant's 21st birthday and before his or her 22nd birthday was not consistent with the other guidance on when applications were to be submitted and that it was not correct.

The Ombudsman was furthermore of the opinion that it was unfortunate that until May 2014, the guidance on when applications were to be submitted stated that an application could not be submitted until after the applicant's 21st birthday.

Otherwise the Ombudsman noted the replies given by the Ministry of Justice, and he found no cause to take any further action in the matter.

2015-60. Confidence in immigration authorities adversely affected in general case about conditions in Eritrea (the 'Eritrea case')

In August 2014, it became known that the Immigration Service would carry out a fact-finding mission in Eritrea in order to determine whether there was still a basis for granting asylum to persons who claimed to be from Eritrea. The fact-finding mission was prompted by a heavy increase in numbers of asylum seekers from Eritrea.

In November 2014, the Immigration Service published a report on the situation in Eritrea. In the light of the report, the Immigration Service assessed that the situation in Eritrea relating to national service and illegal exit no longer in itself constituted persecution or meant that asylum seekers from Eritrea could claim protection.

Serious doubts were raised about the authorities' handling of the case, with, among other things, questions being raised about illegitimate political interference in the processing of asylum cases. A named source rejected the report, and two employees of the Immigration Service criticised it publicly. The Immigration Service subsequently changed its general position on the right of asylum once more, in the sense that as a general rule asylum seekers from Eritrea were still to be granted asylum.

On reviewing the documents of the case, the Ombudsman found no grounds to assume that any material breaches of applicable law had been committed in the case. However, the Ombudsman pointed to various issues which – although not being material breaches of applicable law – nevertheless appear to have contributed to a problematic impression of the authorities' handling of the case:

The authorities' approach and communication could very well leave the impression that the decision that a fact-finding mission was to be carried out in Eritrea was made by the Minister of Justice or by the Ministry and that this was illegitimate political interference in the processing of asylum cases.

In addition, the Immigration Service at first announced that as a general rule persons from Eritrea were not to be granted asylum, but 14 days later, the Immigration Service made the exact opposite announcement. The rationale behind this change of course by the Immigration Service was not clear.

Furthermore, the Ministry of Justice had stressed the importance of the so-called arm's length principle several times – but had not given the impression of complying consistently with the principle itself.

The Ministry of Immigration, Integration and Housing, which had taken over the remit for immigration from the Ministry of Justice with the change of government in June 2015, subsequently informed the Ombudsman that it agreed with his overall views and had taken note of his comments.

2015-63. Advertisement from the immigration authorities printed in four Lebanese newspapers did not comply with the rules on the provision of guidance to citizens by public authorities

On 7 September 2015, the Danish immigration authorities placed an advertisement in four Lebanese newspapers with information about rules, including the tightening of rules, of Danish immigration legislation.

The advertisement generated a good deal of media coverage in Denmark. Among other things, it was regarded as misleading in several quarters. On that basis, the Ombudsman opened a case on his own initiative with the Ministry of Immigration, Integration and Housing about the advertisement.

The Ombudsman was of the opinion that although the pieces of information in the advertisement were individually correct, the advertisement did not provide a true and fair view. The Ombudsman explained that the reason for his assessment was that the information contained in the advertisement had only very limited relevance for Syrian refugees – who were to a considerable degree to be regarded as the actual users of the information in the advertisement as it was printed in Lebanese newspapers only and Syrian refugees were staying in Lebanon and other parts of the Middle East in very large numbers at that time. In addition, Syrian refugees made up almost half of all asylum seekers in Denmark at the time.

In his statement the Ombudsman emphasised that the immigration authorities have the right to advertise in foreign media provided the information in the advertisements gives a true and fair view.

The Ministry of Immigration, Integration and Housing made some comments on the Ombudsman's statement. In this connection, the Ministry stated, among other things, that in similar situations in future, it would be aware of target groups and precision in communication. The Ombudsman subsequently

informed the Ministry that he maintained his view of the case and that he was pleased to note the Ministry's statement about what it would do in similar situations in future.

S. MUNICIPAL AND REGIONAL AUTHORITIES

The following statements on cases concluded in 2015 have been published:

2015-2. Public employees accepting invitations. Deputy hospital chief executive and spouse lunching with relatives of patient

The Ombudsman took up a case with the Capital Region of Denmark because a deputy hospital chief executive and his spouse had participated in a lunch given by the ambassador of a country on the Arabian Peninsula. The lunch took place while the ambassador's mother was a patient at the hospital. The participation in the lunch had been the subject of public debate, and in that context questions were asked about possible preferential treatment of the ambassador's mother.

The mother's hospital stay had been characterised by a quite unusual, conflict-ridden and resource-demanding relationship with the patient's family. In this situation, the deputy hospital chief executive therefore considered it best to accept the lunch invitation in order to facilitate a solution to the problems that had arisen.

The Ombudsman did not find sufficient grounds for repudiating the Region's decision not to criticise the deputy hospital chief executive's assessment in the specific situation. However, at the same time the Ombudsman emphasised that, in principle, it was clearly wrong to participate in such a lunch because it could leave the suspicion that illegitimate advantages had been given. In addition, the fact that the deputy hospital chief executive brought his spouse to the lunch helped to strengthen such a suspicion and to create particularly strong doubt as to the professionally legitimate reason for participating in the lunch.

2015-10. Observance and revision of case processing time limits

The Ombudsman opened an own-initiative case regarding the observance and revision by the City of Copenhagen's Social Services Administration of the time limits which it had stipulated according to section 3(2) of the Legal Protection and Administration in Social Matters Act for, among others, payment

assistance applications for dental treatment etc. and dental healthcare. The own-initiative case was based on a specific complaint which the Ombudsman had received about the case processing time at Social Centre Copenhagen.

The percentage of applications for assistance with regard to payment of dental treatment and dental healthcare expenses where the case processing time limit was observed had been very low for an extended period. A statement of the observance percentage for applications received in November 2014 showed that only 30 per cent of applications for payment of dental treatment expenses etc. and only 49 percent of applications for payment of dental healthcare expenses were processed within the stipulated time limit of six weeks.

The Ombudsman criticised that the observance percentage for particularly cases involving assistance for payment of dental treatment expenses etc. had not improved from June 2014 till November 2014 despite the Social Services Administration's implementation in August 2014 of various measures intended to bring down the case processing times.

The Ombudsman also criticised that it was not until 17 December 2014 – after he had taken up the matter – that the Social Services Administration had put forward proposals for the adjustment of the time limit for the processing of cases involving dental treatment. In this context he said, among other things, that the purpose of the Act's demand for the stipulation of general time limits is that citizens must be able to know what time frame they can expect with regard to case processing time, that the time limits must be realistic, and that there must therefore be an obligation to revise the time limits when it turns out that the municipality – for example following a change in work routines and workflows – cannot manage to rectify the observance percentage over a certain period of time.

2015-11. Extended stays at overcrowded crisis centre

Six children under emergency placement at a 24-hour residential institution had to wait 1 to 2½ years for a clarification of their future. In a case report, the Ombudsman expressed criticism and severe criticism, respectively, because the six children had stayed at the institution for this long.

The Ombudsman stressed the importance of the municipality being aware – in the case of emergency placements – that the placement time has to be as short as possible for the individual child/young person.

Among other things, the Ombudsman emphasised that the placement of a child at a crisis centre is a temporary measure and that a crisis centre is not to be regarded as the placement facility best suited to meet the child's or the young person's needs in the long run. According to the Ombudsman, a municipality therefore has to make a decision about a placement at a more long-term facility as quickly as possible out of regard for the child's best interest.

The 24-hour residential institution had been constantly overcrowded for 18 months. The Ombudsman and the municipality agreed that an institution's occupancy has to be adjusted to its capacity and that overcrowding has a number of negative consequences for the children. With the constant overcrowding for at least 18 months, the Ombudsman found that it would have been desirable if the municipality had created more crisis centre places at an earlier stage.

The Ombudsman informed Parliament's Legal Affairs Committee, Parliament's Social Affairs Committee, the then Ministry of Children, Gender Equality, Integration and Social Affairs and the municipal council about the case.

2015-13. The right not to incriminate oneself

A Social Supervision authority had decided to place a private accommodation facility under strict supervision. At the same time, the Social Supervision authority issued a special order to the daily manager of the facility: he was not to have contact with the children who had been placed at the facility. The reason for the instruction was the Social Supervision authority's suspicion that the daily manager had behaved violently towards the children placed at the facility. The Social Supervision authority also reported the daily manager to the police.

The board of the private accommodation facility requested that the Social Supervision authority invite the daily manager to a meeting regarding the matter, and the Social Supervision authority followed the request. The meeting took place while the police were still investigating the reported matters. The daily manager came to the meeting and of his own accord began to tell of the matters for which he had been reported to the police. The daily manager's attorney later complained to the Social Supervision authority and then to the Ombudsman that the daily manager had not been guided by the Social Supervision authority that he was under no obligation to give any information regarding the matters for which he had been reported to the police.

The Ombudsman upheld the daily manager's complaint, finding that the Social Supervision authority had failed to comply with section 10(3) of the Act on

Due Process in Connection with the Public Administration's Use of Coercive Measures and Duties of Disclosure.

2015-15. Revocation of decision to grant exemption from municipal property tax. Retroactive effect

A golf club complained to the Ombudsman because the municipality had revoked the golf club's exemption from municipal property tax.

The municipality's revocation of the exemption was based on the municipality's general budgetary decision that previously granted exemptions from municipal property tax were to end.

The golf club had been exempt from property tax for a number of years, and the Ombudsman took into account that it was a continuing legal relationship between the municipality and the golf club. In the Ombudsman's opinion, the municipality was within its rights in revoking the exemption.

The case raised the question of retroactive effect as the municipality's decision to revoke the exemption had, in the Ombudsman's opinion, retroactive effect. However, there were special circumstances in the case which meant that the Ombudsman did not find sufficient grounds for recommending that the municipality reopen the case and make a new decision with regard to the date when the decision took effect – despite the clear principle that retroactive revocation of beneficial administrative acts cannot take place in connection with a continuing legal relationship either.

2015-17. Free choice of school for special needs education cannot be refused solely on the basis of cost

A boy required special needs education instead of standard education. The boy and his mother wanted him to go to a special needs school in another municipality. There was a similar school in the boy's own municipality, and in that municipality's assessment both schools would be able to accommodate the boy's educational needs. However, the boy's choice of school was DKK 220,000, or approx. 50 per cent, more expensive annually than the school in the boy's own municipality. The boy's own municipality then decided that the desired programme was 'more extensive' because it was considerably more expensive than the municipality's own programme.

According to section 12(3) of the Primary and Lower Secondary Education Act, a municipality of which a child is not a resident cannot refer that child to a more extensive special needs education programme than the programme to which the municipality of residence has referred the child. It was the Ombudsman's opinion that the expression 'more extensive' refers to the contents of the special needs education programme and that, consequently, the boy's own municipality could not in its decision rely solely on the costs when assessing whether the special needs education programme in the other municipality was more extensive. The municipality's decision was therefore not in accordance with the law. In addition, it was the Ombudsman's opinion that the municipality should have asked for comments from the representative of the boy's mother regarding the cost of the desired special needs educational programme before the municipality made its decision.

However, the Ombudsman did not find grounds for recommending a reopening of the case as the boy was now enrolled at a continuation school.

2015-19. School's decision to transfer pupil to another school was a decision within the meaning of the Public Administration Act. Failure to comply with case processing rules

A lawyer complained on behalf of a pupil and his guardian to the Ombudsman because the pupil's school had decided to transfer him to another school in the municipality. The decision was reached after a specific incident at the school, but according to the available information, the decision was reached both on the basis of that specific incident and a number of previous incidents.

It appeared from the complaint to the Ombudsman that the pupil did not wish to return to his old school, but he was dissatisfied with the school's handling of the case.

Firstly, the Ombudsman stated that the decision to transfer the pupil to another school – which was made pursuant to the Executive Order on Good Order in Primary and Lower Secondary Schools – was a decision within the meaning of the Public Administration Act. This means that the school should have consulted the pupil and his guardian in accordance with the provisions of the Act before a decision was taken.

It appeared from the case that the pupil's guardian was first notified of the decision of transfer by telephone. Later on, the guardian received – upon his own request – a written decision from the school.

In this connection, the Ombudsman stated that the school should have taken notes of the telephone conversation during which the guardian was informed of the decision, and the school should on a continuous basis have been more aware of the need for written documentation of the incidents involving the pupil to which the school had given weight when reaching the decision.

The Ombudsman also stated that the written decision should have included adequate grounds with reference to the rules of law according to which the decision had been made.

Finally, the Ombudsman stated that in view of the intrusive nature of the decision, it would have been more appropriate to inform the guardian about the decision in writing from the beginning – or at least very soon to confirm the verbal decision in writing.

2015-32. Personal data processed in contravention of the Act on Processing of Personal Data as a result of a municipality's registration of letters which each contained replies about more than one matter. The municipality should therefore have sent separate replies regarding the individual matters

A man had extensive correspondence with his municipality, both about his son and in connection with his involvement in activities in relation to disability politics. The municipality combined its replies to the man, so that the individual letters concerned both his son's cases and his general disability-related cases. The municipality also created a combined case on the man to which all letters to and from the man were registered.

As a result of the municipality's practice of combining its replies to the man, information about his son had been processed – among other things in connection with the municipality's registration of its replies – in the combined case on the man and in certain instances also in the man's general disability-related cases. The man complained to the Ombudsman because the municipality declined to send its replies concerning his son and those concerning his disability-related cases in separate letters.

The Ombudsman took for his basis that information about the man's son was not relevant to the municipality's substantive processing of the man's general disability-related cases. Neither was it necessary to process personal data about the son in these cases in order to coordinate and manage the correspondence, as the man's combined case served this purpose.

The Ombudsman stated that it follows from the requirement of necessity under sections 6 to 8 of the Act on Processing of Personal Data and the requirement of relevance under section 5(3) of the Act that the municipality should not process personal data about the man's son in the man's general disability-related cases. The municipality should therefore have separated its replies concerning the son's cases from those concerning the man's general disability-related cases to avoid processing personal data about the son in connection with combined replies being registered to the man's general disability-related cases.

The Ombudsman had no comments on the municipality's having registered its combined replies to the man's combined case. Neither did he have any comments on the municipality's having registered any letters from the man concerning both his son and his general disability-related cases to both his son's case and his general cases.

2015-36. No statutory basis for compulsory use of digital self-service solution for appeals about parking fines. Guidance on website

A municipality stated on its website that citizens wishing to appeal a parking fine had to use the municipality's digital self-service solution.

The Ombudsman found it regrettable that the municipality had stated so on its website, as there is no statutory basis for requiring that citizens who wish to appeal a parking fine use a digital self-service solution.

In addition, the Ombudsman stated that guidance given by authorities to citizens on digital self-service solutions must not convey the impression that it is compulsory to use a self-service solution which in reality is optional to use.

2015-40. Establishment of parking arrangement on hospital site by the Region of Southern Denmark and delegation of its management to private parking company

A complaint about a parking fine issued on a hospital site prompted the Ombudsman to open a general investigation of the parking arrangement on the site. As the management etc. of the car parks had been delegated to a private parking company, the Ombudsman also considered whether the Region of Southern Denmark – which was the owner of the hospital site – was entitled to make such delegation.

In the Ombudsman's opinion, the Region was entitled, by virtue of a private law right of ownership combined with the Danish principle of implied powers[3], to establish car parks and lay down rules for their use, including to charge parking fees and issue fines.

The Ombudsman was of the opinion that imposing fines for violations of the rules and conditions laid down for parking on the hospital site was actual administrative activity (unlike when fines are imposed under the authority of the Road Traffic Act). Therefore, the Ombudsman found that the Region was entitled to delegate the management etc. of the car parks on the hospital site to a privately owned enterprise.

Overall, the Ombudsman thus found no grounds for criticising the parking arrangement established on the hospital site.

2015-41. The Council for the Use of Expensive Hospital Medicines is subject to the Access to Public Administration Files Act

The Ombudsman received three different complaints about refusals by the Council for the Use of Expensive Hospital Medicines (RADS) to requests for access to files. The refusals were given on the grounds that the Council was not subject to the Access to Public Administration Files Act because the Council had been established under private law and had no specific connection to the public administration.

However, in the Ombudsman's opinion the Council was to be regarded as an authority within the public administration, cf. section 2 of the Access to Public Administration Files Act. Therefore, the Council was subject to the Access to Public Administration Files Act.

In the assessment, the Ombudsman attached considerable importance to the Council's having been established on the basis of an agreement between Danish Regions (on the regions' behalf) and the Government regarding the regions' finances. The Ombudsman also attached importance to the purpose of establishing the Council (equal access to expensive hospital medicines and more favourable prices for the regions etc.).

3) The principle that a public institution may to a certain degree establish such rules and make such decisions as are necessary for the institution to function

These factors, combined with the facts that the majority of the members of the Council (13 out of 17) were appointed by/represented public authorities, that the public sector at least indirectly contributed the majority of the finances, that the Council's activities by way of issuing treatment guidance with matching medicines recommendations were binding for the regions, and that the Council was subject to a certain degree of general state monitoring by the Danish Health Authority, meant that overall, the Ombudsman was of the opinion that the Council had such a connection with the public administration that it was to be regarded as subject to section 2 of the Access to Public Administration Files Act.

As a public authority, the Council was also subject to the Ombudsman's jurisdiction, cf. section 7(1) of the Ombudsman Act, and the Ombudsman recommended that the Council reopen the three specific access cases.

2015-46. Warning issued to municipal employee did not meet the general requirements of clarity

A municipal employee was given a written warning on the grounds that she did not carry out her role professionally. In the warning, specific instances were cited in which according to the municipality the employee had done a citizen who had a case with the department in which she was employed private favours. In addition, the municipality cited instances in which she had had conversations with citizens who had cases with the department but for whom she no longer had any responsibility. In the municipality's opinion, her conduct was disloyal and had adversely affected a number of the department's cases.

In its warning letter, the municipality therefore informed the employee, among other things, that she would risk being dismissed if in future she did citizens private favours or discussed their cases in the department with them despite being aware that they had a pending or completed case to which she was not assigned. The employee complained about the decision on the grounds, among others, that the restrictions on her future conduct were impossible to comply with in practice and that her freedom of speech – both in her capacity as a citizen and in her capacity as a member of the municipal council – was being restricted.

In two letters to the Ombudsman, the municipality stated more specifically how the restrictions on the employee's future conduct were to be understood.

The more specific information given by the municipality had changed the nature of the warning substantially, and it was therefore the Ombudsman's view that the original warning did not meet the requirement of clarity which must be presumed to apply to decisions of such intrusive a nature as a warning.

The Ombudsman therefore recommended that the municipality reopen the case to define more accurately the actions which it considered it necessary for the employee to avoid in future. The Ombudsman further stated that this would also give the municipality the opportunity to consider whether – in the light of the time which had elapsed since the original warning – the warning should now be rescinded in its entirety.

2015-49. Telephone conversation about doctor's critical website was in violation of the rules on freedom of expression for public employees

A doctor had a website which criticised the decision of the Capital Region of Denmark to introduce the Medical Helpline 1813. The domain name of the doctor's website, www.18-13.dk, was almost identical with the domain name of the website of the Region's Medical Helpline, which was www.1813.dk, and the Region therefore had a lawyer write to the doctor, asking him to change the domain name. The doctor also received a telephone call from his personnel manager, who summoned him to a disciplinary hearing. During the telephone conversation, which was recorded, the doctor was informed that the Region regarded him as disloyal towards the political decision and that it intended to give him a warning.

The case occasioned the Ombudsman to investigate whether the Region's telephone call to the doctor was in violation of the rules on freedom of expression for public employees.

The Ombudsman stated that an authority should only contact a public employee who has expressed critical views in public if it does so for a legitimate purpose. This means, among other things, that the authority must determine in advance what it wishes to achieve by contacting the employee. In addition, the employee must be contacted in such a manner that there is no risk that the authority will be perceived as attempting to make the employee refrain from expressing critical views, including on his or her own workplace, in the public debate.

The Ombudsman would not rule out that the Region could contact the doctor. However, the Ombudsman was of the opinion that it was very clearly to

be expected that the Region's telephone call to the doctor would influence him not to express critical views on the Medical Helpline 1813. The telephone call was thus not made in a way which respected the right of public employees to express their views in public. In addition, the Ombudsman found that it was to be expected that the Region's reaction towards the doctor would also cause uncertainty among other employees about their right to express critical views on the Medical Helpline 1813 in public. Overall, the Ombudsman concluded that the Region's course of action was a matter for severe criticism.

2015-55. Locking of patient rooms – due process protection and documentation

The Ombudsman received information that a patient in a forensic psychiatric facility with a level of security similar to that of a prison had been locked in his room for 2½ years. Patient rooms may be locked under section 18 a of the Mental Health Act. The Ombudsman asked the forensic psychiatric facility and the Region Zealand for a statement on the facility's locking of the patient's room, including an account of the course of events.

When the Ombudsman had reviewed the statement, a meeting was held with representatives of the Region and the forensic psychiatric facility. At the meeting, it emerged that about half of the patients in the facility were locked in their rooms for a considerable amount of time.

The Ombudsman expressed concern at the level of documentation in cases of patients being locked in their rooms. Among other things, there was no information whether the decisions were reviewed on a regular basis or about any measures taken to avoid adverse effects of patients being locked in their rooms. The Ombudsman was concerned about both the due process protection of patients and the authorities' possibility of subsequently documenting the course of events.

As the patient's lawyer took the matter to court, the Ombudsman discontinued his investigation of the specific case. However, the Ombudsman continued investigating the general procedures etc. followed by the forensic psychiatric facility in connection with patients being locked in their rooms.

The facility and the Region subsequently initiated a revision of the guidelines on this coercive measure. When the Ombudsman had been notified of the revised guidelines, he concluded the case.

2015-58. Municipality's guidelines on reporting violence and harassment against municipal employees to the police

After investigating a specific case in which a municipal special school had reported a ten-year-old pupil to the police for assaulting a teacher, the Ombudsman opened a case on his own initiative about the municipality's guidelines on reporting violence and harassment against municipal employees to the police. The case was opened because the school had complied with the municipality's guidelines, which the municipality had stressed must be followed.

The Ombudsman stated, among other things, that actions carried out by children under the age of criminal responsibility are not punished and that it is therefore not relevant to involve the police in incidents concerning actions carried out by children under 15 years of age – unless there are special circumstances, for instance if an action is reported in the context of a cooperation programme between the child's school, the municipality's social services department and the police aimed at preventing crime. The Ombudsman referred to the principles of the Act on Processing of Personal Data of legitimacy of purpose and relevance.

The Ombudsman recommended that the municipality adjust its guidelines.

At the same time, the Ombudsman noted that the guidelines did not mention those cases where it may be relevant to report an incident to the police in order for a person to be awarded compensation under the State Compensation to Victims of Crime Act. In the Ombudsman's opinion it would be desirable to supplement the municipality's guidelines in this respect, and he therefore asked the municipality for its comments on the issue.

2015-64. Municipality could legally establish hiking trail by agreements with riparian owners instead of by compulsory acquisition of rights to use affected properties

A municipality wished to establish a hiking trail along a stream in cooperation with a number of private associations and locally-based authorities in order to make the land along the stream accessible to the general public. The municipality acquired rights to use the affected properties by entering into agreements with the riparian owners instead of making decisions on compulsory acquisition of such rights.

One riparian owner, who had declined to enter into an agreement with the municipality to permit the municipality to use part of his land, complained about a number of aspects in relation to the establishment of the trail. The Ombudsman investigated two of his points of complaint: that the municipality could not legally enter into agreements instead of making decisions on compulsory acquisition and that the conditions for making decisions on compulsory acquisition were not met.

The Ombudsman was of the opinion that the municipality could legally enter into agreements instead of compulsorily acquiring rights to use the affected properties. Section 73 of the Constitution on compulsory acquisition presupposes that public authorities may acquire rights to use citizens' properties by entering into private law agreements. Provisions authorising compulsory acquisition cannot generally be construed as precluding the possibility of entering into agreements. Also section 11 of the Real Property Gains Tax Act presupposes that an agreement can be made instead of a decision on compulsory acquisition. In addition, the Ombudsman found no grounds for construing the specific authority in section 43 of the Public Roads Act as precluding the possibility of entering into agreements.

The riparian owner who complained to the Ombudsman claimed that recognising the right of public authorities to enter into agreements with landowners would considerably impair the procedural rights of any neighbours or the affected landowners. The Ombudsman also disagreed with this claim.

Finally, the Ombudsman was of the opinion that sections 43 and 97 of the Public Roads Act in force at the time of the municipality's decision to establish the hiking trail authorised the establishment of public paths such as the hiking trail and the making of decisions on compulsory acquisition to enable their establishment. In the circumstances the municipality was therefore entitled to acquire rights to use private properties by agreements in order to be able to carry out the project.

T. OTHER AUTHORITIES ETC. WITHIN THE OMBUDSMAN'S JURISDICTION

The following statement on a case concluded in 2015 has been published:

2015-20. Access to information at Danish Library Centre about, among other things, names of employees. Right of access to data insight (own access)

An author complained to the Ombudsman about a decision by the Danish Library Centre (Dansk BiblioteksCenter A/S, DBC) on access to files. DBC falls within the Access to Public Administration Files Act, and in connection with the case the Ombudsman decided that DBC fell within the jurisdiction of the Ombudsman in this respect.

The author had forwarded a novel to DBC which an external consultant – hired by the DBC – had assessed to be unsuitable for library cataloguing. The author requested access to the case with DBC subsequently, and in this connection he received one document – a transcript of the consultant's assessment of the novel. Information about the names of the case officer at DBC and the consultant had been exempted.

The Ombudsman stated that DBC should have considered the correspondence between the author and DBC about assessment of the novel as being part of the request for access. In this connection, it was of no importance that the author must be assumed to be in possession of the correspondence already. To the extent that DBC kept a list of documents, DBC should also have considered the list as being part of the request.

The question of access to, among other things, the name of the external consultant was in the Ombudsman's opinion to be decided pursuant to section 8 of the Access to Public Administration Files Act on the right of access to data insight (own access). This right can, among other things, be limited if private interests – as mentioned in section 33(v) of the Access to Public Administration Files Act – compellingly speak against giving access to files.

The Ombudsman stated that the requirements for exempting information about names of public employees from access pursuant to section 33(v) of the Access to Public Administration Files Act are stringent. Moreover, the conditions for applying this provision are even more rigorous if a citizen has requested access

to files of his or her own case. In the Ombudsman's opinion the same applies to names of employees of – and other persons who carry out work for – a company which is subject to the Access to Public Administration Files Act.

On this basis, the Ombudsman stated that DBC had no grounds for exempting the information from access. Among other things, he referred to there not being sufficient grounds for assuming that the author would use the information unlawfully, for example for harassment purposes.

The Ombudsman recommended DBC to reopen the case as far as the question of access to the names of the case officer and the consultant was concerned.

DBC subsequently reopened the case and gave the author access to the names.

NEWS PUBLISHED ON THE OMBUDSMAN'S WEBSITE IN 2015

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

5 January

Greenland detention facilities in the Ombudsman's searchlight

Following monitoring visits to a number of Greenland detention facilities and institutions for convicted persons, the Ombudsman is now raising critical questions with, among others, the Ministry of Justice and the Department of the Prison and Probation Service as the highest responsible authorities.

26 January

The Ombudsman supports evaluation of children's channels of complaint

The Parliamentary Ombudsman, Jørgen Steen Sørensen, supports the Minister for Social Affairs' plan for an evaluation of children's channels of complaint.

1 February

Feature article: Children's Division or children's ombudsman?

In a feature article today in the national newspaper Berlingske, the Parliamentary Ombudsman, Jørgen Steen Sørensen, comments on the discussion about the Ombudsman's Children's Division and whether there is a need for an actual children's ombudsman. (...)

2 February

The Ombudsman's Director General steps down – but stays with the Ombudsman institution

The Director General of the Ombudsman institution, Jens Møller, has decided to retire from his position as of 1 September 2015 and take up a part-time position as Chief Legal Advisor. By then, Jens Møller will be 65 years of age.

3 February

Severe criticism of long stays at overcrowded crisis centre

In a recent statement, the Parliamentary Ombudsman emphasises that children and young people should spend as little time as possible at a crisis centre. In his statement, the Ombudsman severely criticises six children's having had to spend 1-2½ years at Esbjerg Municipality's crisis centre, 'Nordstjernen'. (...)

11 February

The Ombudsman: A polling station should be easily accessible to people with a disability

Even if you are a wheelchair user, have impaired eyesight or have another kind of disability, you should be able to enter a polling station easily and cast your vote. So says the Ombudsman after having carried out four accessibility inspections at polling stations during the latest local elections.

12 February

New steps in the Eritrea case

On Tuesday, the Parliamentary Ombudsman received the decisions from the Ministry of Justice in the cases on the cautions given by the Immigration Service to two employees in connection with the Eritrea case.

The Ombudsman has now asked Parliament's Foreign Affairs Committee if the Committee has taken a position on the Eritrea case. (...)

23 February

The Ombudsman's international activities in 2014

The Parliamentary Ombudsman has just published his annual report about his international activities.

In 2014, the Ombudsman has put many resources into developing the collaboration with China which was initiated in 2013. At the same time, the Ombudsman has taken the first steps towards collaboration with Myanmar and Iran. (...)

24 February

Upper secondary schools are not allowed to invent their own sanctions

When principals of upper secondary schools wish to step in and use sanctions against students who have violated school regulations, the principals have to stick to the options outlined in the legislation. So says the Parliamentary Ombudsman in a recent statement.

25 February

Foreign nationals' reporting duty is assessed within the time schedule again

Foreign nationals under tolerated residence status again have their reporting duty with the police assessed every six months to see if it is in accordance with the regulations. The Ministry of Justice has so informed the Ombudsman, who raised the case after it emerged that the six-monthly reassessments had come to a standstill because of long case processing times in the Ministry of Justice.

27 February

The Ombudsman proceeds with investigation of increased access in cases involving the ministerial advice and assistance regulation

The Parliamentary Ombudsman has just asked four selected ministries for information on access request cases in which the so-called regulation on ministerial advice and assistance has been used. The Ombudsman is going to take a closer look into the ministries' use of the principle of increased access in these cases.

27 February

The Ombudsman asks region for information following deputy hospital chief executive's attending dinner hosted by ambassador

Today, the Ombudsman has asked the Capital Region of Denmark for more information on the background for a recent dinner at the residence of the Saudi Arabian ambassador in Denmark which was attended by Hvidovre Hospital's deputy chief executive with his spouse and another doctor from the same hospital.

3 March

Public employees were not allowed to use complimentary tickets for private companions

As a public employee you cannot just bring a private companion for free to an event in which you are participating as part of your job. It is one of the messages in a statement which the Parliamentary Ombudsman has just sent to the Ministry of Culture and to the Agency for Palaces and Cultural Properties.

5 March

The police are going to register the use of coercion in connection with forced deportations

For the first time, the police have made a summarising register on the use of coercion in connection with forced deportations. This is based on a recommendation from the Parliamentary Ombudsman, who on an ongoing basis monitors the forced deportations carried out by the police.

10 March

Principle of increased access also applicable to ministerial advice and assistance documents

On the recommendation of the Parliamentary Ombudsman, the Ministry of Transport has given a journalist access to two internal documents. These are so-called 'presentation papers' to the Minister of Transport in a case concerning the Ministry of Transport's handling of cracked axle bearings on IC4 trains.

27 March

The Ombudsman institution turns 60

The Ombudsman institution celebrates its 60th anniversary on Wednesday, 1 April. The anniversary was today marked by a specialist seminar entitled 'Ombudsman in a Nordic Country' with presentations by several Nordic Ombudsmen. This afternoon, the anniversary was celebrated at Parliament with speeches from, among others, the Speaker of Parliament, the Minister of Justice and the Ombudsman himself.

30 March

Authorities should keep and revise deadlines for case processing

If you are waiting for a reply from your municipality in a socio-legal case, you are not only entitled to as speedy case processing as possible; you are also entitled to know how long you can expect to wait.

These basic rules have recently been stressed by the Ombudsman to the Social Services Administration of the City of Copenhagen. (...)

1 April

Free choice of school in the special education sector cannot be refused solely because of the cost

Municipalities cannot refuse a pupil's wish to make use of the free choice of school in the special education sector solely because of the cost. So says a recent statement from the Ombudsman's Children's Division.

7 April

The Ombudsman: Important to discuss the question of a children's ombudsman

'The Ombudsman's Children's Division was created to constitute a collaborative children's representative together with the National Council for Children and the children's NGO Børns Vilkår with the purpose of strengthening children's rights. I believe that the Children's Division is well underway but it is important to discuss whether we have found the ultimate solution for the entire sector.'

The Parliamentary Ombudsman, Jørgen Steen Sørensen, makes this statement a little more than two years after the establishment of the Ombudsman's Children's Division. This statement coincides with the Ombudsman's Annual Report for 2014 and a discussion on whether further bodies are necessary in the children's sector.

9 April

Social Supervision authority should have guided manager under suspicion on self-incrimination

Before the police question a suspect, the suspect has to be informed of his or her right not to speak. It is a principle well-known to the police but a recent case from the Parliamentary Ombudsman shows that other authorities also have to be aware of it.

15 April

Public employees have to be careful about invitations – but no criticism of deputy hospital chief executive

Public employees have to be very cautious about accepting, for instance, lunch invitations from private individuals in official contexts. The fact is that it can raise a suspicion of illegitimate special treatment and damage confidence in the authorities.

The Parliamentary Ombudsman emphasises this principle in a case where the deputy chief executive at Amager and Hvidovre Hospital and his spouse accepted a lunch invitation from the Saudi Arabian ambassador. (...)

5 May

Journalist was given access to ministerial advice and assistance documents pursuant to the principle of increased access to public records

A journalist was recently given access to a number of consultation responses concerning a much-discussed amendment of the Aliens Act. The documents were, at first, withheld by the Ministry of Justice as documents exchanged in connection with ministerial advice and assistance. However, after the Ombudsman's request for a statement, the Ministry gave the journalist access to the documents, and the Ombudsman therefore closed his investigation of the case.

8 May

The Ombudsman finds inadequacies in Public Digital Post

In two recent statements, the Ombudsman draws attention to legal inadequacies in Public Digital Post. Since 1 November 2014, the majority of Danes have received communications from public authorities via Public Digital Post. In some cases, it has been impossible to see which public authority is the sender of a letter, among other things. (...)

13 May

Author has the right to know who assessed his novel

Which consultant is responsible for the decision that my novel is not suitable for the libraries in this country? An author wanted an answer to this question after the Danish Library Centre had decided that his novel should not be library catalogued. At first, the Centre refused to state the name of the external consultant who had assessed the novel but upon recommendation from the Ombudsman, the author was informed of the name.

26 May

Ombudsman appoints Director General with strong international profile

Jonas Bering Liisberg has been appointed new Director General at the Parliamentary Ombudsman institution as of 1 September 2015. He is replacing Director General Jens Møller, who is taking up a new position as Chief Legal Advisor with the Ombudsman institution.

28 May

Ombudsman: Deportation of 10-year-old was a matter for extraordinary criticism

In a new statement, the Ombudsman expresses very severe criticism against the Immigration Service because the Immigration Service allowed a 10-year-old Serbian boy to be deported from Denmark in October 2011. (...)

2 June

Ombudsman: Psychiatric wards should gain better insight into the use of force

Some psychiatric wards do not have a sufficient overall view of whether there are patterns and causes for the force they use towards their patients – for example forced physical restraint. Therefore, it can be difficult to make systematic efforts in order to reduce the use of force.

The Parliamentary Ombudsman has reached this conclusion based on monitoring visits to a total of 31 psychiatric units in 2014.

3 June

The Ministry of Justice promises more prompt answers in cases about retention of citizenship

The Ministry of Justice intends to reduce the processing time in cases about young Danish expatriates who apply for retention of their nationality (Danish citizenship), and thereby, among other things, access to a Danish passport. The Ministry has so informed the Ombudsman after the Ombudsman had asked a number of questions about the processing of cases relating to continued citizenship.

4 June

The Ombudsman calls for clarification of legislation on special nursery schools

A municipality converted a special nursery school into an ordinary nursery school, and by doing so the municipality could introduce self-payment, thereby saving approx. DKK 1.7 million per year. Similar conversions have been effected in other municipalities. But is it legal?

The Ombudsman has investigated the issue, and he considers the question very much open to doubt. Therefore, he now recommends that the Ministry of Children, Gender Equality, Integration and Social Affairs clarify the legislation so that parents and municipalities know what the rules are.

9 June

Meet the Ombudsman at the People's Political Festival

The 'public watchdogs' will be facing intensive questioning on Friday, 12 June from 15:00-17:00 hrs at Danchells Anlæg, meeting tent A25 in Allinge on the island of Bornholm.

10 June

Ombudsman: Processing times in patient complaint cases very worrying

The Parliamentary Ombudsman considers the increasingly prolonged processing times in patient complaint cases 'very worrying'. He has recently asked the Ministry of Health to state how the Ministry is going to ensure shorter processing times within the sector.

23 June

Severe criticism of refusal to issue new passport to Danish citizen from Sri Lanka

The Ombudsman expresses severe criticism that both Køge Municipality and the National Police have refused to issue a new passport to a Danish citizen who entered Denmark from Sri Lanka some 30 years ago.

26 June

Customs and Tax Administration changes tax audit processing for properties

SKAT, the Danish Customs and Tax Administration, will in future be quicker to look into rateable value assessments for a whole housing area if the assessment of an individual property in the area has been overturned, SKAT replies to the Ombudsman after he has raised the issue. SKAT furthermore states that house owners who contact SKAT will be kept better informed of the progress of their case in future.

29 June

Public authorities have to provide correct guidance on digital self-service

Digital self-service solutions can benefit both citizens and authorities in many ways, but in principle, citizens are still entitled to choose for themselves whether they want to use digital solutions or not. A new statement from the Parliamentary Ombudsman illustrates this principle.

30 June

Private school pupils have the right to be heard before expulsion or removal

According to Article 12 of the UN Convention on the Rights of the Child, children have the right to be heard regarding all matters affecting them. This right also applies to pupils of private schools and continuation schools whom the schools wish to expel or remove, says Parliamentary Ombudsman Jørgen Steen Sørensen.

3 July

Extreme criticism of processing of request for access to document in the Eritrea case

...

In December 2014, a journalist asked the Ministry of Justice for access to a single document – a case report from the Immigration Service in the so-called Eritrea case. (...)

The general rule of the Access to Public Administration Files Act is that requests for access to files must be processed to conclusion within 7 working days. However, it took more than 4 months before the journalist was given the document.

'The request for access concerned a single document. The request was made at a time when the Eritrea case was of great current interest and therefore when the journalist had an obvious need for a quick reply. It is a matter for extreme criticism that he had to wait more than 4 months', says the Ombudsman, Jørgen Steen Sørensen.

7 July

Council for the Use of Expensive Hospital Medicines subject to the Access to Public Administration Files Act

In the Ombudsman's opinion, the Council for the Use of Expensive Hospital Medicines – also called RADS – is a public administration authority. Among other things, this means that the Council is subject to the Access to Public Administration Files Act.

13 July

Severe criticism of Udbetaling Danmark and the National Social Appeals Board in case regarding repayment of housing benefit

'It makes no sense', a woman wrote to Udbetaling Danmark (the authority responsible for a number of public benefits) when she received a repayment claim for the family's housing benefit for a whole year. Both Udbetaling Danmark and, later, the National Social Appeals Board rejected the woman's protests but the Ombudsman has now agreed with her. He also expresses severe criticism of the two authorities for basic legal errors.

23 July

Inadequate assessment cost brain-damaged woman 2 out of 3 hours of social care support

A severely brain-damaged woman has just got back her social care support of 63 hours a week after Lemvig Municipality reduced it to 22 hours a week 2 years ago. The Municipality must now also carry out a thorough assessment of the woman's future support requirements before making a new decision.

This is the outcome of a complaint from the woman's representative to the Ombudsman, who asked the National Social Appeals Board to take a position on a number of problems in the case in a new reply. (...)

31 July

Single pensioner was entitled to a full pension despite housing a sick friend

A single woman was told to repay part of her pension because a sick friend was staying with her. The authorities did not think that she was 'effectively single' within the meaning of the law any longer. But following the Ombudsman's intervention, the woman's claim that she is still effectively single has just been sustained, and she can keep her full pension.

8 September

The Ombudsman: Legal requirements for primary and lower secondary school teachers should match reality

Primary and upper secondary schools quite often employ teaching staff who are not qualified teachers – for instance young people with only the Upper Secondary School Certificate of Education. This practice is not in accordance with the Act on Primary and Lower Secondary Education, and the Parliamentary Ombudsman, Jørgen Steen Sørensen, has therefore recommended that the Ministry for Children, Education and Gender Equality draft a legislative proposal to bring the existing practice in accordance with the law.

11 September

Wrong to take blind woman off personal assistance scheme

A blind and wheelchair-bound woman was taken off the so-called BPA scheme (the Citizen-Managed Personal Assistance scheme), which entitled her to 59 hours of personal assistance a week. But the decision to take the woman off the scheme turned out to have been made on an incorrect basis, and Odense Municipality must now give the woman her assistance back and assess how many hours she is entitled to.

This is the outcome of a case which the Ombudsman took up on his own initiative after seeing the matter mentioned in a newspaper. (...).

14 September

Prospect of reasonable waiting times for disability pensioners in Odense Municipality

In Odense Municipality, disability pensioners have until now had to wait for an average of just under 10 months to have an application for an increase in pension processed. After the Ombudsman has been in contact with the Municipality, extra staff have been added, and the Municipality now promises an average case processing time of around 3 months.

15 September

The Ombudsman: We should learn from the Eritrea case

A review of more than 7,000 pages in the Eritrea case has not revealed significant infringements of the law. However, the Ombudsman still thinks it is important that the authorities learn from the course of events in the case.

'The authorities must not only follow the rules – they must also do so in such a way that it sustains citizens' confidence in the system. I question whether the Immigration Service and the Ministry of Justice have lived up to this basic principle in the Eritrea case', says Ombudsman Jørgen Steen Sørensen. (...)

16 September

Status of the Ombudsman's investigation of Odense Municipality's processing of cases involving child services

The Parliamentary Ombudsman is currently investigating a complaint (...) concerning Odense Municipality's processing of cases involving child services. (...)

The Ombudsman is now waiting until Parliament's Domestic and Social Affairs Committee has held an open consultation on 29 December 2015 regarding, among other things, this case. (...)

16 September

Feature article: What can we learn from the Eritrea case?

More than 7,000 documents in the Eritrea case have not revealed significant infringements of the law on the part of the authorities. But something still seems to have gone awry in the case when it has given rise to such serious suspicions of irregularities, says the Parliamentary Ombudsman, Jørgen Steen Sørensen, today in a feature article in the national daily newspaper Berlingske Tidende. He points out several circumstances in the case which the authorities would do well to draw a lesson from, and he is of the opinion that the Eritrea case interweaves with the discussion on the culture of the Danish Civil Service.

18 September

The Ombudsman starts a case regarding refugee advertisements

The Parliamentary Ombudsman has today taken up the case of the much-discussed advertisements which have been published in several Lebanese newspapers, among other places, and have been posted in Danish asylum centres. The Ombudsman has started the case after the advertisements have been characterised as misleading in several quarters.

29 September

The Ombudsman: Capital Region of Denmark violated doctor's freedom of expression

The Capital Region of Denmark went too far in a telephone conversation during which a doctor employed at the Hospital of North Zealand was summoned to a disciplinary hearing. The cause was the doctor's website which criticised the so-called Medical Helpline 1813. In the Ombudsman's opinion, a sound recording of the telephone conversation shows that the doctor might rightly understand the conversation as an attempt to make him stop criticising the Helpline.

6 October

The Ombudsman: Authorities cannot refuse new information

A citizen who has lodged an appeal against an administrative decision is normally always entitled to add new information to his or her case. Consequently, the National Social Appeals Board cannot refuse to include such new information in its case processing. This has now been established after the Ombudsman has asked about the Board's practice.

13 October

Status of the Ombudsman's case on refugee advertisements

On 18 September 2015, the Parliamentary Ombudsman asked the Ministry of Immigration, Integration and Housing for a statement regarding the much-discussed advertisements which have been published in Lebanese newspapers, among other places.

...

The Ombudsman has today asked the Ministry a number of supplementary questions about the case (...).

13 October

The Ombudsman concludes Odense case

As 107 disadvantaged children and their families are now again receiving their social support from Odense Municipality, the Parliamentary Ombudsman concludes the case that he started at the end of August.

'I note that Odense Municipality has acknowledged very serious errors and has withdrawn all relevant decisions. On that basis, I can do no more for the children in question or their families', says the Parliamentary Ombudsman, Jørgen Steen Sørensen.

20 October

Prospect of faster replies to appeals against municipalities' decisions on access to public files

You may in future expect a much faster case processing time from the State Administration if you lodge an appeal against a refusal by a municipality or region to a request for access to public files.

In a specific case, the State Administration had taken 7 months to process an appeal against a municipality's refusal to grant access to public files. The case caused the Ombudsman to raise the issue of the State Administration's case processing time with the Ministry of Social Affairs and the Interior. (...)

3 November

Jørgen Steen Sørensen re-elected Parliamentary Ombudsman

A unanimous Danish Parliament has today re-elected Jørgen Steen Sørensen as Parliamentary Ombudsman. According to the Parliamentary Ombudsman Act, a Parliamentary Ombudsman must be elected following every general election. Jørgen Steen Sørensen took up the post of Parliamentary Ombudsman on 1 February 2012.

24 November

The Ombudsman concludes the Eritrea case

The Ombudsman has now concluded the so-called Eritrea case after the Ministry of Immigration, Integration and Housing has concurred with the Ombudsman's chief points of view and taken note of his comments.

25 November

Municipalities must be cautious of reporting children to the police

After a teacher at a special school was attacked by a 10-year-old pupil, the school reported the pupil to the police. In doing so, the school was following the guidelines laid down by Halsnæs Municipality, which the Municipality had stressed must be followed.

In the Parliamentary Ombudsman's opinion, however, the school should not have reported the pupil to the police, and he maintains in a new statement that authorities should in general be very cautious of reporting children under the age of 15 to the police because actions carried out by children under the age of 15 cannot be punished.

27 November

Possibility of victim compensation may justify reporting children to the police

Municipalities may only report children to the police if this is relevant and done for a legitimate purpose. The Parliamentary Ombudsman stressed this earlier in the week in a case from Halsnæs Municipality. In the light of a number of reactions to his statement today in the online newspaper Altinget.dk, he now stresses that it is legitimate and relevant to report children to the police if, for instance, this is necessary in order to ensure that a teacher or social education worker is eligible for victim compensation.

4 December

Unemployed musician was entitled to unemployment benefit

A woman was told to pay back DKK 160,000 in unemployment benefit because she was a member of a renaissance music group, performing on average 1-2 times a year. But in the Ombudsman's opinion, this demand should not have been made. He has therefore asked the National Social Appeals Board to make a new decision.

8 December

Police Commissioner's statements were liable to restrict freedom of expression

According to stated information, the Police Commissioner on the island of Funen had no intention of restricting employees' freedom of expression when, in an article on 26 October 2015 in a regional daily newspaper, Fyns Amts Avis, she commented on the extent of the right of constables on the smaller island of Ærø to express themselves. However, the Police Commissioner's statements were liable to create uncertainty among employees about their freedom of expression, says the Parliamentary Ombudsman, Jørgen Steen Sørensen, in a statement to Funen Police.

10 December

The Ombudsman criticises refugee advertisement

The so-called refugee advertisement which the Danish immigration authorities placed in Lebanese newspapers in September did not comply with the rules on public authorities' guidance to citizens. The advertisement was liable to give Syrian refugees, among others, a wrong impression of Danish asylum practice, concludes the Parliamentary Ombudsman.

18 December

The Ombudsman is satisfied with the outcome of the refugee advertisement case

The Ombudsman is satisfied with the latest statement by the Ministry of Immigration, Integration and Housing in the case of the so-called refugee advertisement placed in Lebanese newspapers. He notes, among other things, that the Ministry will be mindful of target groups and of precision in communication in any future information initiatives.

This is the Ombudsman's reaction after he yesterday received the comments of the Ministry of Immigration, Integration and Housing on the criticism which the Ombudsman made public on 10 December 2015. (...)

18 December

Authorities must give journalists precise directions to publicly available information

Authorities may omit to give for instance journalists access to factual information from internal documents and ministerial advice and assistance documents (extraction) when this information is already publicly available. However, the law demands that the journalist is then given precise directions to where the information can be found. This is because the journalist must be able to see which specific information the authorities have omitted to extract, says the Ombudsman in a new statement.