FOLKETINGETS OMBUDSMAND

Parliamentary Commissioner
for Civil and Military Administration
in Denmark

SUMMARY
Annual Report
2002

SCHULTZ GRAFISK

This booklet summarises my Annual Report 2002 to the Folketing (the Danish parliament).

Part I concerns staff, inspections, travels, conferences attended, visitors from abroad, other activities, and some statistics.

Part II contains summaries of cases.

Copenhagen, September 2003

HANS GAMMELTOFT-HANSEN

SUMMARY
ANNUAL REPORT 2002

PART I

Staff and Office

The structure of the Office was as follows:

In my absence from the Office Mr. Jens Møller, Deputy Ombudsman, replaced me in the performance of my Ombudsman duties. He was in charge of general matters taken up for investigation on my own initiative and the processing of special complaint cases.

Mr. Lennart Frandsen, Deputy Permanent Secretary, was in charge of inspections.

Mr. Kaj Larsen, Deputy Permanent Secretary, was in charge of staffing and recruitment, budgeting and other administrative matters.

Mr. Jon Andersen, Deputy Permanent Secretary, Mr. Karsten Loiborg, Chief Legal Adviser, and Mr. Jens Olsen, Chief Legal Adviser, dealt with general questions of public administrative law as well as investigations undertaken on my own initiative. They also participated in the processing of individual complaint cases.

The Office had five Divisions with the following persons in charge:

General Division
Deputy Permanent Secretary Mr. *Kaj Larsen*

First Division
Head of Division Mrs. *Kirsten Talevski*

Second Division
Head of Division Mrs. *Bente Mundt*

Third Division (inspections division)
Deputy Permanent Secretary Mr. *Lennart Frandsen*

Fourth Division
Head of Division Mr. *Morten Engberg*

Fifth Division
Head of Division Mrs. *Vibeke Riber von Stemann*

The 74 employees of my Office included among others 13 senior administrators, 24 investigation officers, 17 administrative staff members and 12 law students.

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Inspections

Twenty-three inspections have been carried out during the reporting year. Part IV of the Danish Report provides details of these inspections.

Travels and Conferences Attended

- On 17 – 21st January: together with representatives from the Danish Ministry of Foreign Affairs and the Norwegian Parliamentary Ombudsman, Head of Division Karsten Loiborg and I participated in an ombudsman conference in Jordan in connection with which I also visited the Palestinian Independent Human Rights Commission (PICCR) in Ramallah as part of the discussions concerning Danish support for a possible establishment of an ombudsman office
- On 25 – 26 February: I attended a West-Nordic ombudsman meeting in Norway, hosted by the Norwegian ombudsman
- On 27 February – 1st March: I attended an international ombudsman meeting in Sarajevo, arranged by the ombudsman of Bosnia & Hergovina
- On 24 – 25 April: Chief Legal Adviser Jens Olsen and I participated in an international conference in Madrid in connection with a collaboration between the EU, Latin America

and the Caribbean on the protection of human rights
- On 16 – 18 May: Chief Legal Adviser Jens Olsen and I attended the 2nd Seminar for Nordic Parliamentary Ombudsmen the members of the Baltic Sea Council in St. Petersburg
- On 26 –29 June: I visited the Albanian ombudsman and various Albanian institutions in connection with our assistance to the Albanian ombudsman institution
- On 14 – 17 August: I participated in a West-Nordic ombudsman meeting in Helsinki, hosted by the Finnish ombudsman
- On 15 – 17 August: Heads of Division Vibeke Riber von Stemann, Bente Mundt, Karsten Loiborg and Legal Adviser Lisbeth Adserballe attended the 36th Nordic Meetings of Jurists in Helsinki
- On 2nd – 8 November: Chief Legal Adviser Jens Olsen visited the Danish embassy in Ghana and the Ghanian Commission on Human Rights and Administrative Justice On 5 – 8 December: I attended an annual meeting of the I.O.I.'s Voting Members of the European Region in Ljubljana, Slovenia, hosted by the Slovenian human rights commissioner

Visitors from abroad

During 2002, as in previous years, the guests we received had very different backgrounds. However, their common goal was to learn more about the Ombudsman institution and its role in a modern democratic society. Therefore, my Office always offers general information about the Ombudsman institution and its history with a view to a subsequent exchange of experiences and reflections.

Some of our guests in 2002 were:
- On 15 January: visit by Mr. Kensuke Segushi from the Japanese embassy on a fact-finding mission concerning European ombudsman institutions
- On 6 February: visit by an evaluation team from GRECO (the Group of States against Corruption)
- On 28 February: visit by a group of Lithuanian civil servant trainees
- On 4 – 8 March: visit by a study group from the Albanian People's Advocate
- On 7 March: visit by a group of Chinese lawyers
- On 14 March: visit by an international study group via the Danish Institution for Human Rights
- On 16 April: visit by a group of Chinese public prosecutors
- On 19 April: visit by Mr. Pat Whelan, Director General at the Irish Ombudsman's office, together with colleagues
- On 28 May: visit by the trade representative of Taiwan, Mr. Fuchang Ku
- On 29 May: visit by a group of Albanian judges and policemen
- On 19 May: visit by members of an Islamic human rights commission
- On 24 June: visit by delegation from Taiwan
- On 24 June: visit by a group of Korean ombudsmen
- On 1st – 5 July: visit by a delegation from the Chinese Ministry of Supervision headed by Senior Commissioner Mr. Qi Peiwen
- On 1st – 4 July: visit by a delegation from the provincial government of Heilongjiang, China, headed by Division Director of the Foreign Affairs Division Ms. Yang Songping
- On 16 July: visit by a delegation from the Chinese Legislative Affairs Committee
- On 24 July: visit by Mr. Tawfiq Kawar, Denmark's Consul General to Jordan
- On 6 September: visit by Mr. Qemal Minxhozi, Albania's chargé d'affaires to Denmark
- On 24 – 30 September: visit by Mr. Ermir Dobjani, the Albanian People's Advocate, and some of his senior staff
- On 16 September: visit by the members of the EU Parliament's Committee on Petitions
- On 1st October: visit by a group of Chinese public prosecutors
- On 1st October: visit by the Armenian ambassador, Mr. Vladimir Karmirshalyan
- On 25 October: visit by a delegation from the National Congress of Vietnam
- On 29 October: visit by a study group of judges, etc. from Morocco
- On 5 November: visit by a group of Chinese public prosecutors
- On 19 November: visit by a group of Belorussians
- On 20 November: visit by Mr. Zhen Jiangou, Chinese ambassador to Denmark
- On 27 November: visit by a study group of Vietnamese public prosecutors

– On 9 – 13 December: study visit by Mr. Mihkel Allik, adviser to the Legal Chancellor of Estonia

Other Activities

During the year some of my senior administrators and investigation officers and I myself gave several lectures on general and more specific subjects related to my activities as Danish Ombudsman; together, we also lectured at various courses in public administrative law.

As mentioned in my previous annual report, at the request of the Minister of Justice, and with the approval of the Danish Parliament's Legal Affairs Committee, I have undertaken to chair the government's Public Disclosure Commission. The Commission's task is to describe current legislation concerning public disclosure and to deliberate on the extent to which changes are required to the Access to Public Administration Files Act, and to make proposals to such changes. High Court Judge Mr. John Vogter from the Danish Western High Court is appointed vice-chairman, and Deputy Permanent Secretary Mr. Jon Andersen from the Parliamentary Ombudsman Institution is secretary to the Commission.

In the spring of 2002 the Minister for Justice appointed Deputy Ombudsman Mr. Jens Møller as chairman of the government's Due Process Commission, which has made proposals for changes to the current legislation with a view to advancing the legal rights of individuals, particularly in connection with the authorities' supervision and inspection activities whereby access to private dwellings and companies is obtained without a warrant. The Commission submitted its report on 4 June 2003 (report No. 1428).

The Minister for Defence has appointed Deputy Permanent Secretary Mr. Lennart Frandsen as member of the committee, which is charged with examining the military penal code and administration of justice act with the attendant administrative provisions with a view to a revision of the existing legislation. The committee was appointed by the Minister of Defence in 1999.

Complaints Received and Investigated

3,695 new cases were received during 2002. In comparison, the corresponding figure for 2001 was 3,689 new cases.

To compare the development in the total number of cases registered during the past ten years, please see the figures below:

1993	2,943
1994	2,937
1995	3,030
1996	2,914
1997	3,524
1998	3,630
1999	3,423
2000	3,498
2001	3,689
2002	3,695

Of the total number of 3,695 new cases, 3,543 were complaint cases.

125 individual cases were taken up on my own initiative, cf. Section 17, subsection (1) of the Ombudsman Act. The Ombudsman may on his own initiative conduct general investigations of case processing by various authorities, cf. Section 17, subsection (2) of the Ombudsman Act. No such investigations were carried out in 2002.

The Ombudsman may carry out inspections of public institutions and other administrative bodies. Of the 3,695 new cases in 2002, 27 were inspection cases. The majority of the registered inspection cases relates to institutions managed by the police and the prison service (remand centres, county goals, prisons, etc.) and psychiatric institutions. However, inspections of other administrative bodies were also carried out, for example of the Danish Immigration Service and the Copenhagen Central Library. In addition, an inspection of the Kerteminde local authority was carried out in October 2002. The inspection cases are described in more detail in the Danish version of this report. Furthermore, all inspection reports are published in Danish on the Office homepage www.ombudsmanden.dk).

1. Cases Rejected after a Summary Investigation

2,777 complaints registered by my office during 2002 were not investigated for the reasons mentioned below. 1,264 of these cases were referred to another administrative authority, and an additional complaint may therefore be lodged with my office at a later stage.

I did not investigate the above 2,777 cases for the following reasons:

– Complaint had been lodged too late..	95
– Complaint concerned judgments or the discharge of judges' official duties.....	138

– Complaint concerned other matters outside my jurisdiction including legislation issues and matters of private law	205
– Complaint concerned other, municipal, matters outside my jurisdiction..	1
– Complaint not clarified or withdrawn	184
– Inquiry not involving a complaint	269
– Inquiry involved an anonymous and manifestly ill-founded complaint	519
– The authority has reopened the case following my preliminary request for a statement	41
– Cases on my own initiative and not investigated	41
– Complaint had been lodged too late with a superior authority	20
– Complaint had not been lodged with a superior administrative authority	1,264
	2,777

2. Cases Investigated

I declared myself disqualified from investigating one complaint case from 2002, and High Court Judge Mr. Holger Kallehauge was appointed ad hoc ombudsman by the Legal Affairs Committee. Cases for which I have declared myself disqualified are not included in the statistics for the Ombudsman's pending cases, case processing time or cases closed.

The Faroese Representative Council, the Lagthing, asked me to act as ad hoc ombudsman for the Lagthing Ombudsman in two cases in 2002. Cases where I am asked to act as ad hoc ombudsman are not included in the statistics and are not otherwise mentioned in the annual report.

215 individual cases lodged with my office before 1st January 2002 were still pending on 1st June 2003. 125 of the pending cases awaited the Ombudsman's decision, while 90 cases awaited responses from the authorities or the complainants. Two own–initiative investigations concerning rehabilitation assistance (a total of 75 cases distributed among five local authorities) and the Central Customs and Tax Administration (fifty disclosure cases) were also pending on 1st June 2003.

174 of the pending individual cases were registered in 2002, and 41 dated from previous years. For some of the pending individual cases, only a statement from the relevant authority or from the complainant was needed in order to close the case, or general responses from a complainant or from an authority were awaited

All cases (regardless of registration date) concluded during the period 1st January – 31st December 2002, distributed per main authority, and as the result of the Ombudsman's case processing

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
A. State Authorities			
1. Ministry of Employment			
– Department of Employment	12	2	3
– Labour Market Appeal Board	36	24	3
– Directorate General for Employment and Placement	4	1	0
– Working Environment Appeal Board	1	1	0
– National Institute of Occupational Health	1	0	0
– Labour Market Councils, total	8	0	0
– Public Employment Services	1	0	1
– National Working Environment Service	8	0	0
– The National Directorate of Labour	12	2	0
– LD Pensions	1	1	0
– National Board of Industrial Injuries	40	0	0
Total	127	31	6

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
2. Ministry of Finance			
– Department of Finance	4	3	0
– Financial Administration Agency	4	0	0
– State Employer's Authority	10	1	4
– Health State and Ability Board for Civil Servants	1	0	0
– Palaces and Properties Agency	1	0	0
– Board of Tender	1	0	0
Total	21	4	4
3. Ministry of Defence			
– Department of Defence	25	4	1
– Royal Danish Administration ofNavigation and Hydrography	1	0	0
– Defence Command Denmark	3	0	1
– Home Guard	2	0	2
Total	31	4	4
4. Ministry of the Interior and Health			
– Department of the Interior and Health	65	19	4
– Regional State Authorities, total	61	9	1
– (Regional) Supervisory Boards, total	74	36	2

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– Emergency Management Agency	1	0	0
– Danish Medicines Agency	4	1	0
– National Board of Health	3	0	0
– Medical Health Officers, total	5	0	0
– National Board of Patient Complaints	57	18	5
– Psychiatric Patient Complaint Board, total	1	0	0
Total	271	83	12
5. Ministry of Justice			
– Department of Justice	6	11	4
– Adoption Board	4	2	0
– Department of Private Law	166	66	5
– Data Protection Board	13	5	0
– Animal Experimentation Inspectorate	1	1	0
– Danish Prison and Probation Service	136	31	17
– State Prisons	64	21	2
– Pensions	4	1	3
– County Prisons	47	25	7
– Criminal Injuries Compensation Board	5	1	0
– Danish Medico-Legal Council	2	1	0

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– Director of Public Prosecutions	19	8	0
– National Commission of the Danish Police	11	0	0
– Chief Constables[1]	85	4	13
– Public Prosecutors, total	63	15	1
– Committee on Intelligence Services	1	1	0
Total	689	193	52
6. Ministry of Ecclesiastical Affairs			
– Department of Ecclesiastical Affairs	14	1	3
– Diocesan Authorities	2	0	0
– Church	2	0	0
– Church Music School	1	0	0
– Parish Councils	1	0	0
Total	20	1	3
7. Ministry of Culture			
– Department of Culture	13	4	0
– DR Radio	10	1	1
– TV 2	1	0	0
– Radio and Television Board	1	0	0

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– National Museum	1	0	0
– State Reimbursement Committee	1	1	0
– Library of Talking Books and Braille	1	0	0
– The Royal Theatre	2	0	0
Total	30	6	1
8. Ministry of Environment and Energy			
– Department of Environment and Energy	10	4	2
– National Environmental Research Institute	1	0	0
– Environmental Protection Agency	8	1	2
– Nature Protection Board of Appeal	55	26	2
– Forest and Nature Agency	6	0	0
– Forest Districts	2	0	0
Total	82	31	6
9. Ministry of Refugee, Immigration and Integration Affairs[2]			
– Department of Refugee, Immigration and Integration Affairs	236	56	8
– Refugee Board	47	0	0
– Immigration Service	144	8	1
Total	427	64	9

Table 1: All concluded cases 1/1 – 31/12 2002 _____ **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
10. Ministry of Food, Agriculture and Fisheries			
– Department of Food, Agriculture and Fisheries	11	6	0
– Directorate for Food, Fisheries and Agri Business	6	1	3
– Veterinary and Food Administration	5	2	0
– Agricultural Commissions, total	1	0	0
– Danish Plant Directorate	3	0	0
– Veterinary and Food Directorate	1	0	0
Total	27	9	3
11. Ministry of Science, Technology and Innovation[3]			
– Department of Science, Technology and Innovation	22	8	2
– Danish State Information Service	1	0	0
– Central Scientific Ethical Committee	2	1	1
– Universities and institutions of higher education	10	1	0
Total	35	10	3
12. Ministry of Taxation			
– Department of Taxation	17	4	0

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– National Income Tax Tribunal	23	14	0
– The Assessment Council	1	0	0
– Central Customs and Tax Administration	24	8	2
– Regional Customs and Tax Administration, total[4]	27	1	1
– Valuation Appeal Boards, total[5]	2	0	1
– Valuation Authorities (real estate)[6]	2	0	0
Total	96	27	4
13. Ministry of Social Affairs			
– Department of Social Affairs	14	2	0
– Social Appeals Board	107	56	7
– National Social Security Agency	19	1	0
– Supervisory Board of Psychological Practice	4	0	0
– (Regional) Social Boards of Appeal, total	235	105	21
Total	379	164	28
14. Prime Minister's Office			
– Department of the Prime Minister's office	7	1	0
Total	7	1	0

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
15. Ministry of Transport			
– Department of Transport	20	5	6
– Danish State Railways (DSB)	2	0	0
– Railway Inspectorate	1	0	0
– Danish Coastal Authority	1	0	0
– Road Safety and Transport Agency	5	3	0
– Post Denmark	5	0	3
– National Railway Agency	2	0	0
– Civil Aviation Administration	3	0	0
– Road Transport Council	10	3	3
Total	49	11	12
16. Ministry of Foreign Affairs			
– Department of Foreign Affairs	9	3	1
– Danish delegations abroad	3	0	0
Total	12	3	1
17. Ministry of Education			
– Department of Education	9	1	0
– National Authority for Institutional Affairs	6	2	0
– National Education Authority	11	5	1

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– Students' Grants and Loan Scheme Appeal Board	5	2	2
– State Educational Grant and Loan Agency	7	2	0
– Technical and Vocational Schools	2	0	0
– Other institutions of higher education	3	0	0
Total	43	12	3
18. Ministry of Economic and Business Affairs			
– Department of Economic and Business Affairs	12	5	1
– Danish Commerce and Companies Agency	3	1	0
– National Agency for Enterprise and Housing	8	2	0
– Commercial Appeal Board	3	2	0
– Danish Consumer Agency	1	0	0
– Danish Consumer Ombudsman	3	0	0
– Danish Competition Authority	3	0	0
– Danish Competition Council	1	0	0
– Competition Appeal Board	1	0	0
– Danish Energy Authority	4	0	0
– Energy Board of Appeal	5	2	0

Table 1: All concluded cases 1/1 – 31/12 2002 **Authority, etc.**	Cases in total	No criticism or recommendation, etc.	Criticism and recommendation, etc.
– Danish Energy Regulatory Authority	2	0	0
– Statistics Denmark	2	0	0
– Danish Financial Supervisory Authority	2	1	0
– Danish Maritime Authority	1	0	0
– Danish Homeowners Investment Fund	1	0	0
– Danish Patent ad Trademark Office	2	0	0
Total	54	13	1
State Authorities, total	2,400	666	152
B. Local Government Authorities, total	924	86	45
C. Administrative authorities under the jurisdiction of the Ombudsman, total	3,324	752	197
D. Institutions, etc., outside the jurisdiction of the Ombudsman, total	193		
E. Cases not related to specific institutions, etc.	209		
A – E, total	3,726	752	197

1. The heading “Chief Constables” also includes those cases, which in annual reports from previous years were found under the heading of “Police”
2. Created by royal decrees of 27 November 2001 and 4 December 2001 (cf. government order No. 1107 of 20 December 2001). The ministry’s responsibilities have primarily been transferred from the former Ministry of the Interior
3. Formerly Ministry of Information, Technology and Research
4. The previous customs and tax regions are now merged in a total of 8 regional customs and tax authorities.
5. Formerly assessment committees
6. Formerly assessment councils. Assessment of real estate in the first instance is now carried out by state assessment authorities

3. Case Processing Time

As stated above, 2,777 complaints were rejected (corresponding to 74.5 % of the complaints received during 2002). The majority of these cases had been closed within ten days of receipt of the complaint.

949 (25.5%) of the concluded cases had been subjected to a full investigation. In most of these cases the complainant and the authorities involved had been notified within ten days that an investigation would be undertaken.

The average throughput time was 5.9 months (181 days) for cases subjected to a full investigation in 2002.

4. Graphics

The following graphics illustrate the development of cases registered during the past 10 years (Figure 1), categories of cases investigated to conclusion (Figure 2), categories of cases containing criticism or recommendation (Figure 3), categories of closed cases (Figure 4), reasons for rejection in categories (Figure 5), and total of municipal cases closed in 2001 in categories (Figure 6).

Figure 1
Number of cases registered for the past ten years

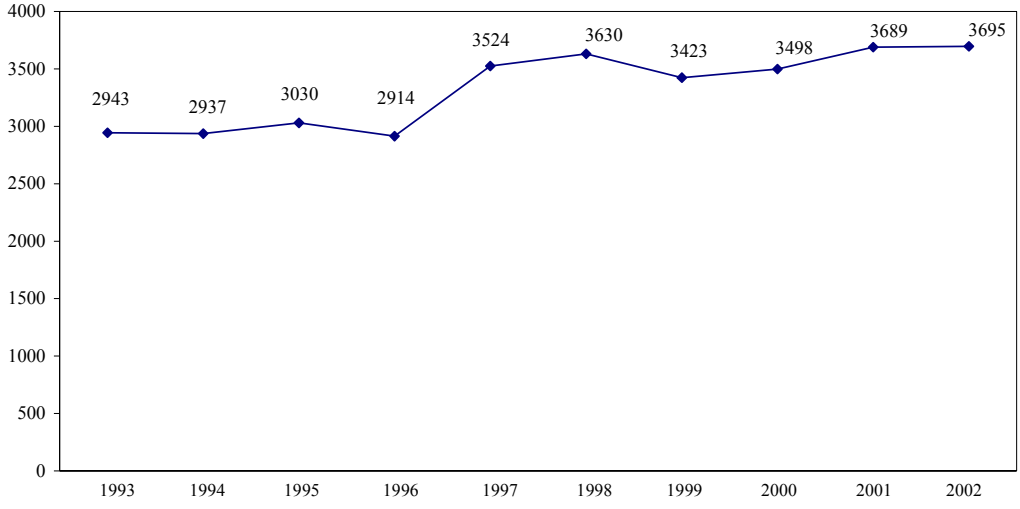


Figure 2
Categories of cases investigated to conclusion (2002)

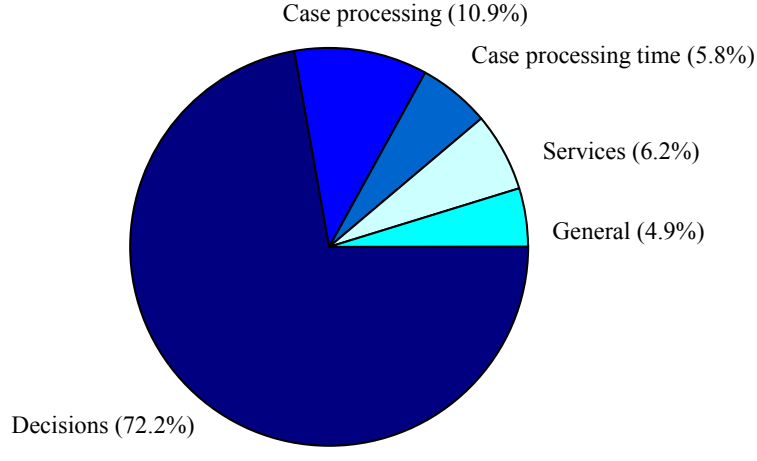


Figure 3
Categories of cases in which criticism or recommendations were expressed (2002)

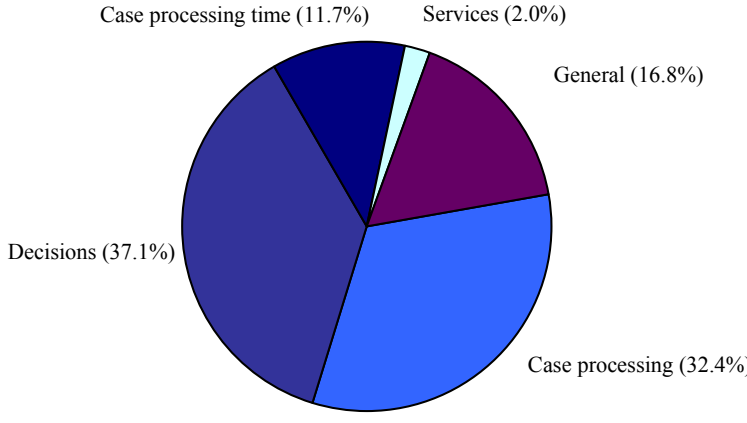


Figure 4
Cases closed, in categories (2002)

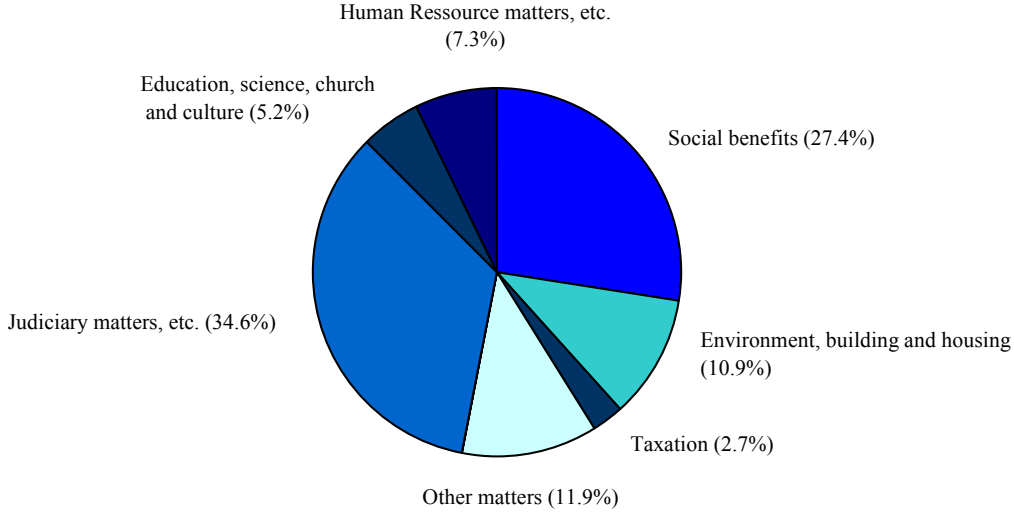


Figure 5
Reasons for rejection, in categories (2002)

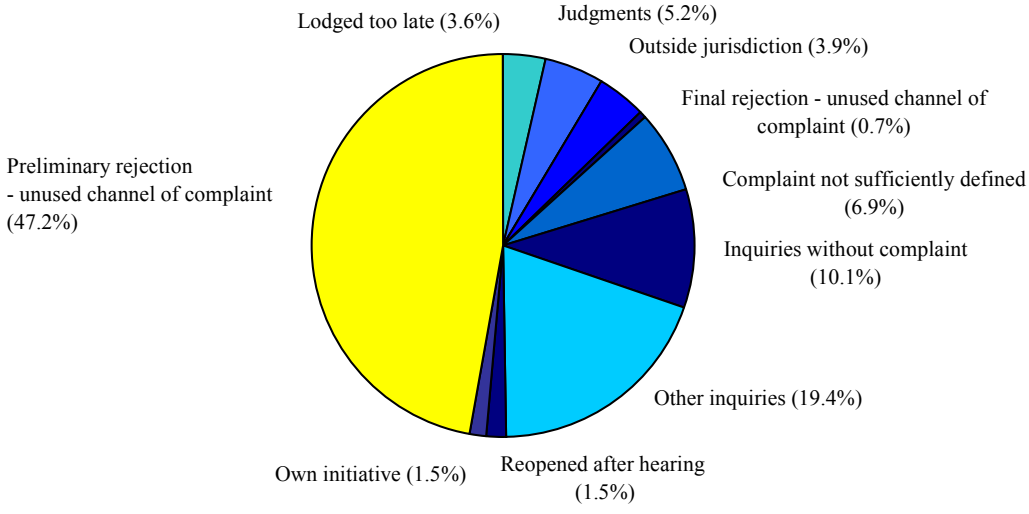
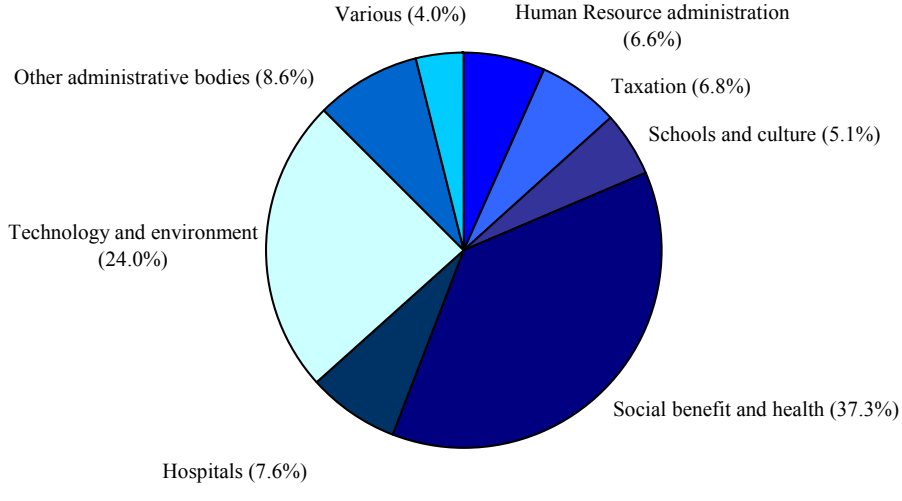


Figure 6
Total of Municipal cases closed in 2002, in categories



Part II

1.1. Unemployment fund's repayment of reimbursement. Interpretation of Section 86, subsection (4) of the Unemployment Insurance Act

In April 1999 a union noticed that the right to unemployment benefit for one of its members had expired in November 1997. The unemployment fund then ceased paying unemployment benefit to the member and informed her that she was ineligible for the early retirement pension, as well.

The union took responsibility for the wrongly paid unemployment benefit.

The Directorate of the Unemployment Insurance System and the Labour Market Appeal Board subsequently decided that the member should be placed as if she had applied for early retirement pension before her right to unemployment benefit expired. The early retirement pension would not be payable until the date when the unemployment benefit payments ceased. The authorities also decided that, pursuant to Section 86, subsection (4) of the Unemployment Insurance Act, the union should pay back a reimbursement sum corresponding to the unemployment benefit that had mistakenly been paid.

The Ombudsman found that the regulation in Section 86, subsection (4) of the Unemployment Insurance Act fell within the law of torts and therefore should be interpreted pursuant to the general regulation requirements governing the law of torts. The state's loss only constituted the difference between the mistakenly paid unemployment benefit and the early retirement pension which the member should have received instead from November 1997 when the right to unemployment benefit expired. In the Ombudsman's opinion, it was only this difference for which there would be no reimbursement. (Case No. 2000-1896-020).

2-1. No authority to pay senior lecturer according to the principle of differentiated salary

A senior university lecturer was diagnosed with sclerosis and in consequence suffered a 66 % loss of earning capacity. He received a disability pension from his pensions fund and at the same time accepted a part-time position at a university.

The Ministry of Finance demanded that the senior lecturer be paid according to the principle of differentiated salary during his part-time employment. This would mean that the senior lecturer's salary would be reduced to approximately a third of the salary that would ordinarily be paid for corresponding work. The demand was made pursuant to the ministry's managerial rights (employer's authority).

The Ombudsman agreed that managerial rights to a certain extent might provide the Ministry of Finance with grounds for laying down specific terms for state employment that (as in the senior lecturer's case) involves areas not regulated by collective agreements, contracts or law. In the Ombudsman's opinion, however, the exercise of a public authority's managerial rights would as a starting point also be covered by the common principles of administrative law concerning the exercise of power by public authorities, including the principle of legality, the objectivity requirement, and the principle of proportionality.

The Ombudsman did not find that the Ministry of Finance had the authority to demand

that the senior lecturer be paid according to the principle of differentiated salary.

The Ombudsman agreed with the ministry that it was extremely regrettable that a reform of the subject area had only been accomplished a very long time after the Ombudsman's recommendation in the case as mentioned in his Annual Report for 1987, p. 206ff, which also dealt with the principle of differentiated salary. (Case No. 1999-0702-811).

2-2. Remission of study debt

The Mortgage Bank and Financial Administration Agency of the Kingdom of Denmark refused a man's application for remission of a study debt. This decision was based on a summary of the size of the debt, the payment instalments and the applicant's income.

The refusal was confirmed by the Budget Department at the Ministry of Finance. The man then applied to the Mortgage Bank to have the case reopened with reference, inter alia, to the fact that he had since been dismissed from his position.

The Mortgage Bank was of the opinion that regulations had been changed since the first application and that the applicant now fulfilled the conditions for a partial remission of the study debt. The bank therefore decided to allow a reduction of the remaining debt and offered this decision to the applicant. The man appealed this decision to the Ministry of Finance which changed the Mortgage Bank's decision to the effect that the study debt was further reduced. The man submitted further details, but the Ministry of Finance maintained its previous decision.

The Ombudsman's request for a statement caused the Finance Agency to re-evaluate the case and subsequently to reduce the man's debt further. The Ombudsman found it regrettable that the authorities had not had a party hearing concerning the summary, which the Mortgage Bank had used in its evaluation of whether the man had paid off a satisfactory amount of the study debt, and which was later proven to be defective. The Ombudsman found that it was unfortunate that the authorities had applied the law incorrectly, and that the authorities had communicated their decision in the form of an offer. (Case No. 2000-1226-730 and Case No. 2000-1934-700).

3-1. Mistaken salary placement. Revocation. The decision concept. Hearing of parties

Because of an error a person in the army had his availability contract renewed on more favourable terms than warranted. The authorities were entitled to revoke the decision, but this should have been accompanied by the usual term of notice.

The revocation led to a significant change of salary and was therefore a decision within the meaning of the Public Administration Act. No hearing of parties had been carried out prior to the decision being made.

The Ombudsman criticised that a number of the authorities involved had not treated the revocation as a decision case, meaning that the regulations governing the Public Administration Act concerning the hearing of parties and complaints guidance should have been employed.

As the contract at the time of expiry of the usual term of notice had actually been in force for more than a year, which according to the favourable conditions elicited a remuneration of DKK 15,000, the Ombudsman recommended that the case be reopened so that the Ministry of Defence could consider the consequences of the Ombudsman's statement. (Case No. 2001-2518-811).

4-1. Local authority's nomination for chairman of rent control board. Inclusion of considerations concerning the candidate's party political affiliations. Basis of evidence

A chairman of a rent control board wished to be reappointed for a new term, which he told the local authority. The local council then held a meeting to discuss whom the local authority would nominate as chairman. The wish for reappointment was not mentioned at the council meeting, and the council decided to nominate another person whom the State Regional Authority then appointed.

The previous chairman complained to the Ombudsman about the local authority's nomination. The grounds for his complaint were that the local authority in its decision had included the candidate's party political affiliation, as he thought that the reason why he was not nominated again was that he was no longer a member of a specific party. He also felt that the wish for reappointment should have been mentioned to the local council.

Following his investigation the Ombudsman took for his basis that consideration for the candidate's party political affiliation had been included in the local council's decision on who to suggest as chairman of the rent control board. The Ombudsman considered this to be a matter for serious concern. In the Ombudsman's opinion the information that the previous chairman wished to continue as chairman should, as matters stood, have been submitted to the local council. (Case No. 2000-3002-161).

4-2. Complaint about the Patients' Complaints Board. Good administrative behaviour. Hearing of parties. Giving of grounds

A 47-year old woman went to see her General Practitioner three times due to pain in the uppermost part of her stomach. She also complained of heartburn and eructation of acid fluid. The GP diagnosed her as having gastritis and prescribed acid neutralising medication. Three weeks after her last consultation with the GP the woman died of heart failure. The widower complained about the GP to the Patients' Complaints Board. The board obtained two medical assessments from medical experts (both GPs). The board subsequently decided that there were no grounds for criticising the woman's GP for the diagnosis based on the symptoms.

The widower complained to the Parliamentary Ombudsman who could not criticise the contents of the decision made by the Patients' Complaints Board but did criticise the board's case processing. The Ombudsman stated that it would have accorded best with good administrative behaviour if, before making a decision, the board had informed the complainant that the board would not accede to his request that the matter be presented to expert consultants within the fields of pathology, heart disease, gastric disorders and allergies.

The board did not hear the complainant as a party concerning the other expert statement it had obtained on the case. The Ombudsman found that the board should have heard the widower – not pursuant to Section 19 of the Public Administration Act, but pursuant to Section 10, subsection (7) of the rules concerning the board's procedure.

Finally, the Ombudsman criticised the grounds given by the Patients' Complaints Board for the decision. (Case No. 2000-1240-420).

5-1. Refusal of access to correspondence between ministries concerning Denmark's accession to the Treaty of Nice

A citizen complained about the refusal by the Ministry of Justice to a request for access to files pursuant to Section 10, subsection (2) of the Access to Public Administration Files Act. The files in question concerned correspondence between the Prime Minister's De-

partment, the Ministry of Foreign Affairs and the Ministry of Justice. The correspondence formed part of the basis for an account of certain constitutional issues in connection with Denmark's ratification of the Treaty of Nice.

The Ombudsman concurred with the Ministry of Justice in that documents primarily concerned with choosing the constitutionally correct form of legislation for the fulfilment of Denmark's treaty obligations can be exempted pursuant to Section 10, subsection (2) of the Access to Public Administration Files Act ("Correspondence between ministries relating to the making of laws…").

The Ombudsman did, however, ask the Ministry of Justice to assess whether access to the documents could be granted after all in accordance with the regulations concerning increased access to public records in Section 4, subsection (1.2) of the Access to Public Administration Files Act.

The case also contained documents that the Ministry of Justice used as background material for the preparation of the Nice report. The Ombudsman agreed with the Ministry of Justice that this material was not directly covered by the citizen's request.

However, the Ombudsman stated that, considering that the material was present in the file to which the citizen had requested access, and considering the demonstrated uncertainty as to which documents the case actually comprised, the Ministry of Justice ought to have informed the citizen of the material's existence and ought to have asked the citizen whether his application included the said material. (Case No. 2001-4030-401)

5-2. Party status of interest group in criminal case. Giving of grounds

The Ombudsman did not have grounds for criticising the fact that a chief constable and a public prosecutor did not consider an interest group to have party status in a criminal case. Nor did the Ombudsman find that the interest group's delayed submission of a complaint was pardonable or that the chief constable should have regarded a previous letter from the organisation as a complaint.

The Ombudsman stated that it would have been natural and more appropriate if the chief constable had himself considered the question of a party hearing instead of passing the question on to the public prosecutor. Furthermore, the Ombudsman was of the opinion that, as a consequence of his decision to refuse access to files pursuant to the Public Administration Act, the chief constable should have stated explicitly with reference to, among other factors, the relevant provisions in the Act that the petition had been processed as a request for access to files pursuant to the Public Administration Act. (Case No. 2001-3379-610).

5-3. Postponement of case concerning advance approval. Giving of grounds

In a case concerning advance approval of job experience for the purpose of being admitted as a solicitor, the Ombudsman was in accordance with the Ministry of Justice's statements during the case, namely that the ministry's decision to postpone the case was regrettable.

The Ombudsman criticised the ministry's case processing time. He pointed out that it accords best with good administrative practice in such a case if the ministry gives its grounds for the decision to postpone the case in accordance with the principles in Section 22 and Section 24 in the Public Administration Act. The Ombudsman found that the Ministry of Justice had given adequate grounds for the decision. (Case No. 2001-3974-600).

5-4. Forwarding of confidential information in an adoption case

A regional joint adoption council approved a married couple's application to adopt a girl from abroad. The couple went to country in question personally to fetch the girl. When they came home it was discovered that the girl the couple had brought back was not the child they had been approved for.

The adoption council's secretariat subsequently passed on information concerning the couple's adoption case for use in a television documentary. The information had only been made partly anonymous, as only the names had been deleted. The couple learned that they would be featured as one of the cases in the documentary, and they asked the adoption council for access to the material that had been sent to the television company.

The couple then asked the television company to stop the documentary. The television company assured the couple that it would not be possible from the documentary to identify either them or their daughter.

The couple complained to both the county and the Civil Law Directorate that the material had been handed over without their consent. The Civil Law Directorate refused the complaint, stating that the question of whether confidentiality had been breached by a county employee was a matter for the county mayor.

The Ombudsman stated that the county had neither the duty nor the right to pass on the information to the television company. The Ombudsman found that the Civil Law Directorate's view that the matter belonged under the county mayor was incorrect, and he stated that the directorate should have forwarded the complaint to the Adoption Board. (Case No. 1999-2432-603).

5-5. Adoption order not invalid

On behalf of a foreign citizen residing in Denmark, an attorney complained about an adoption order by which the complainant's daughter was adopted by the ex-wife's new spouse. The complainant's visitation rights ceased as a result of the adoption.

The adoption case files contained a statement apparently signed by the complainant in which he declared that he consented to his daughter's adoption and that he was also aware of the regulations described in an enclosed guidelines leaflet in Danish. The statement had been procured by the mother and her new spouse.

The attorney maintained to the state county and the Civil Law Directorate that his client had not signed the statement and had at any rate not realised that it was an adoption he had agreed to. Following an investigation the police had not found grounds for charging anybody with any kind of fraud in connection with the statement.

During its processing of the adoption case the state county had not noticed that it was also considering an application from the complainant for extension of his visitation rights with his daughter.

The state county and the Civil Law Directorate did think that there were grounds for annulment of the adoption order.

The Ombudsman did not find any grounds for criticising the authorities' decision. He stated that the case gave occasion for considering whether the guidelines that were available to the complainant, and which are usually supplied in these cases, adequately fulfil the duty to give guidance. However, in the Ombudsman's opinion, there were no grounds for claiming that the duty to give guidance had been disregarded.

The Ombudsman noted that, in connection with the preparation of a new ministerial order concerning the state counties' processing of applications for adoption and issuing of adoption orders, the Civil Law Directorate had among other factors considered whether to make it an unqualified requirement that the statement pursuant to Section 13 of the Adoption Act must henceforth be procured by the state county. Furthermore, the Civil

Law Directorate had stated that the directorate agreed with the state county that there were grounds for considering a clarification of the written guidelines and that the directorate would initiate a discussion with the state counties to this effect.

The Ombudsman requested that the Civil Law Directorate keep him informed of the result of the directorate's deliberations concerning a change in the regulations for the procedures related to the state county's procurement of the statement pursuant to Section 13 of the Adoption Act, and concerning a clarification of the wording in the written guidelines. (Case No. 2000-2541-656).

5-6. Disclosure of internal working documents. Printouts from the Central Office of Civil Registration. Appeal board's consideration of disclosure issues

A man complained about the Civil Law Directorate's refusal to grant him access to the directorate's internal documents in relation to his name case. When processing the application for disclosure in the name case, the Civil Law Directorate had referred the complainant to request disclosure personally from the state county of any case documents that were not present in the directorate's case file.

The Ombudsman stated that the Civil Law Directorate's assessment that the directorate's reference sheets and procedural outlines were internal working documents did not give him cause for comment.

In addition, the Ombudsman found no cause for comment that the Civil Law Directorate had not considered photocopies of extracts from administrative law literature and from a circular to be documents with any bearing on the case in question, cf. section 10, subsection (1.1) of the Public Administration Act.

The Ombudsman stated, however, that he did not agree with the Civil Law Directorate in the view that two photocopies of a newspaper article could be exempted from disclosure pursuant to Section 12, subsection (1) of the Public Administration Act.

In the Ombudsman's opinion, in the present case the Civil Law Directorate was obligated to pass on the printouts from the Central Office of Civil Registration to the complainant, unless the printouts were totally or partly exempted from disclosure pursuant to Section 10, subsection (2) and Sections 12–15 of the Public Administration Act.

Finally, the Ombudsman stated that the board of appeal must make a decision as to the question of access to files, also in relation to those documents, which was previously included in the complaint case. There is, however, nothing to prevent the board of appeal from leaving to the lower instance the practical accomplishment of the disclosure.

In summary, in the Ombudsman's opinion the Civil Law Directorate had made its decision on the complainant's application for disclosure on incorrect grounds, which the Ombudsman found a matter for criticism. The Ombudsman therefore asked the Civil Law Directorate to reconsider the case and give a new decision to the complainant in the light of the Ombudsman's statements. (Case No. 2001-2217-601).

5-7. Forwarding of information between institutions under the Prison Service, etc., with a view to prevention of suicide/attempted suicide

In cases of suicide or attempted suicide in institutions under the Department of Prisons and Probation, the Ombudsman receives notification immediately and is later briefed on the results of the investigation which is set in motion by the institution in question and by the Department of Prisons and Probation. On this basis the Ombudsman investigates the case and informs the institution and the department of the result of his investigation.

There was a general aim to several of the cases concluded in 2002, which exceeded the

individual investigations.

The investigation of these cases are carried out pursuant to the provision in Section 17, subsection (1) of the Ombudsman Act concerning the Ombudsman's own initiative investigations. They are primarily carried out with a view to determining the measures taken to ensure that information concerning the inmate be passed on to the personnel at the institution responsible for the inmate at the time of the suicide attempt; that is, information which could have prevented a suicide or suicide attempt, such as information about any previous suicide attempts and about medical conditions, including (and particularly) a history of drug or alcohol abuse.

On the basis of, among other things, these ombudsman cases, the Department of Prisons and Probation sent out two memos in 2002 to the department's prisons and county gaols to ensure that the said information concerning the inmates is passed on if or when the inmate is transferred to another institution. In addition, the department is preparing further general measures in this respect. (Case No. 2000-3105-626, 2001-0452-626 and 2002-1923-626).

6-1. Criticism of civil servant. Inclusion of criteria

A bishop criticised a dean because polemic contributions written by the dean's spouse had, in the bishop's opinion, discredited the dean, and because the dean had not endeavoured to prevent this. The case was submitted to the Ministry of Ecclesiastical Affairs, which did not find grounds for directing the bishop to withdraw the criticism.

The dean's spouse had written his contributions in his own name. The Ombudsman stated that the fact that the spouse had used the deanery's e-mailing system could not in these circumstances rightly lead to any doubts as to the true sender.

Neither did the Ombudsman find that the fact that the spouse resided in the vicarage had any independent bearing on the matter.

Accordingly, there were no grounds for the bishop's criticism, and the Ombudsman recommended that the Ministry of Ecclesiastical Affairs reopen the case and make a new decision. (Case No. 2001-4018-812).

6-2. Annulment of preferential decision

A person who had changed his affiliation from his residential parish church to a church in another parish complained about the decision by the Ministry of Ecclesiastical Affairs that he was not eligible for the elections to the parochial church council in 2000 because he had been wrongly entered in the electoral rolls.

The Ombudsman agreed with the ministry that the complainant's inclusion in the electoral rolls of the parish in question was wrong. The Ombudsman found that when assessing whether the original preferential decision by the complainant's new parish vicar to include him in the rolls should be revoked, the ministry ought to have considered any special arguments against an annulment. The Ombudsman here pointed to circumstances which he thought should be included in the deliberations – amongst other things the fact that more than five years had elapsed from the time when the original decision had been made, that the complainant had conducted himself in trust of this decision, and that according to the available information he had acted in good faith.

On this basis the Ombudsman recommended that the Ministry of Ecclesiastical Affairs reopen the case. (Case No. 2001-3174-749).

8-1. Establishment of national testing station for large windmills

Among other things, a landowner complained to the Ombudsman on the grounds that the Ministry of Environment and Energy had looked after the private interests of the windmill industry in connection with a national planning directive enabling the establishment of a national testing station for large windmills, that the ministry had misinformed the public about the possibility of obtaining economic compensation for nuisances caused by the testing station, and that the ministry had refused to give economic compensation.

The Ombudsman found that the Ministry of Environment and Energy had the necessary powers to use the national planning authority pursuant to Section 3 of the planning act, as the ministry had considered the business economic interests of the entire windmill industry only together with other legal considerations.

However, the Ombudsman did criticise the fact that the Ministry of Environment and Energy had not provided the landowner with sufficient information concerning the possibility of getting compensation for inconveniences caused by the testing station.

The Ministry of Environment and Energy had not given a concrete reason for refusing to give compensation until the ministry responded to the Ombudsman's query. The Ombudsman therefore recommended that the ministry address the question of compensation directly to the landowner. (Case No. 2000-2742-129).

9-1. Residence permit pursuant to Section 9, subsection (1.2), cf. Section 9, subsection (2), of the Aliens Act

The Danish Immigration Service and the Ministry of Refugee, Immigration and Integration Affairs refused a Turkish man's application for a residence permit based on his marriage to a Danish woman. The refusals were made on the grounds that this was a pro-forma marriage. In their grounds for the refusal the authorities stressed that in connection with his application for a visa and for an extension of the visa, the applicant had given erroneous information, and that the couple had only known each other for a very short time prior to the marriage.

The Ombudsman asked the authorities for a more detailed account of the weighting behind the decisions, and he stated that several of the considerations which could be included pursuant to the preparatory works of the Aliens Act on the present basis must be in favour of granting the applicant a residence permit; thus, the authorities had, among other things, not denied matrimonial cohabitation.

The ministry reconsidered the case and subsequently found that the case did not contain the specific reasons given in the Aliens Act for assuming that the decisive purpose of the marriage had been to obtain a residence permit for the applicant. On this basis the ministry returned the case to the Danish Immigration Service which subsequently informed the Ombudsman that the applicant had received a residence permit with a view to settling in Denmark. (Case No. 2002-0588-643).

11-1. Compulsory electronic exam registration

The February 2001 edition of the newsletter "News from the Faculty of Law, University of Copenhagen" stated that registration for summer exams in 2001 could only be done via the Internet.

The Ombudsman obtained a statement from the University of Copenhagen concerning the matter and subsequently asked the Ministry of Science, Technology and Innovation for a statement with reference to Section 17, subsection (1) of the Ombudsman Act. The Ombudsman asked the ministry to inform him what it proposed to do in connection with

the requirement introduced by the university.

The ministry replied that the university had been advised that in the opinion of the ministry, it was necessary to have authority in law in order to impose on citizens a requirement to employ digital communication when addressing public authorities. The ministry had therefore asked the University of Copenhagen to change its compulsory requirement to a facultative arrangement.

Based on this, the Ombudsman stated that he would take no further action in the matter. (Case No. 2001-0653-712).

11-2. Refused dispensation for fourth attempt at passing exam

An attorney complained on behalf of a theology student about, among other things, a refusal to give dispensation to be registered for examination in the New Testament for the fourth time.

The teaching staff representatives on the board of studies had made a statement for the use of the faculty council's case investigation. The Ombudsman found that the statement contained information pertaining to the facts of the case, and that the information had to be considered material to the outcome of the case. In light of this, the Ombudsman was of the opinion that the faculty council was obligated to hear the student concerning the statement prior to making a decision. The Ombudsman therefore found it regrettable that a letter in the case was worded in such a way as to give the impression that the hearing initiated in the letter was without substance.

The Ombudsman agreed with the authorities that it would have accorded best with good administrative practice if the student had been informed about the fact that the case had been transferred for processing to the faculty council due to a tie in the board of studies.

The Ombudsman likewise agreed with the ministry that the refusal by the faculty council did not fulfil the giving of grounds requirements, and that the ministry's failure to notice the faults in the stated grounds for the decision was regrettable.

The Ombudsman had no comments concerning the fact that in their decision the authorities to a certain extent included information concerning the student's other exam results, nor did the Ombudsman find any grounds for setting aside the authorities' weighing of evidence in connection with a medical report or for criticising that the authorities had not attached any importance to the report. (Case No. 1999-2967-712 and Case No. 1999-3467-630).

12-1. Cancelling by Customs and Tax of two distraint levies on weekend cottage

On the request of Customs and Tax, the Customs and Tax Collector carried out three successive executions on a man's weekend cottage. The man put the weekend cottage on the market with, among other things, a view to reducing his remaining debt to Customs and Tax. Customs and Tax subsequently cancelled the two first executions on the cottage. This meant that Customs and Tax was downgraded in the order of priority of debts and therefore received DKK 41,600 less at the sale of the cottage. The man did not have the right of deduction for payment to the authorities of the debt's interest.

The Ombudsman found it regrettable that the tax authorities had, wrongfully, decided that the distribution of the proceeds had not had any financial effects for the man. Furthermore, the Ombudsman was of the opinion that it would have accorded best with good administrative practice if Customs and Tax had informed the man partly that the authority had reopened the question of the two executions on the cottage, and partly that the aut-

hority had found out that disregarding these two executions when distributing the proceeds would lead to a reduced coverage of the debt that the man owed to Customs and Tax. The Ombudsman stated that, as far as possible, public authorities must ensure optimal coverage of outstanding public debts wherefore Customs and Tax should not have cancelled the two executions. Finally, the Ombudsman found it regrettable that Customs and Tax had not already on the occasion of the man's first application considered whether this cancellation should take place, and he found that the Central Customs and Tax Administration should have reprimanded the local tax authorities for this. (Case No. 1999-2472-227).

12-2. Guidance on deadline for lawsuit in disclosure case

In connection with processing a complaint from a taxpayer concerning an application for disclosure pursuant to the provisions of the Public Administration Act in a case before the Assessment Council, the Ombudsman decided to institute a separate, own-initiative case towards the Central Customs and Tax Administration concerning the administration's guidance on the three months' deadline for bringing a decision before the courts, cf. section 31, subsection (3) of the Tax Administration Act.

In an interim statement the Ombudsman stated among other things that, as in the case of administrative recourse, it must be generally presumed that stipulations on specific deadlines, or restrictions in the circle of those entitled to bring such an action, do not apply to the access to bring disclosure decisions before the courts. In consequence, as far as such stipulations are concerned, the actual stipulations or their preparatory works must state explicitly that they are also applicable to decisions on disclosure.

Following an overall assessment, and despite the wording of Section 31 of the Tax Administration Act, the Ombudsman found that the trial restrictions in Section 31 of the Tax Administration Act are not applicable to isolated disclosure decisions but are exclusively aimed at the material content of decisions within the subject area of taxes, duties and excise.

The Central Customs and Tax Administration subsequently stated that in accordance with the Ombudsman's suggestion, the administration was prepared to clarify the state of law by changing the guidelines entitled "Procedural rules for Customs and Excise". In addition, the Ministry of Taxation stated that, in connection with a revision of a ministerial order on division of authority and case interpretation, the ministry would consider the question of an annulment of the complaints deadline for administrative complaints about disclosure decisions. (Case No. 2002-0019-209).

13–1. Unintended disclosure of medical consultant's statement. Communication pursuant to principles in Section 7 of the Patients' Bill of Rights

Shortly after the birth of their daughter the parents were informed that she had a form of progressive muscular atrophy. The mother subsequently applied to the local authority for loss of earnings compensation. In connection with this application the local authority's medical consultant stated in a report among other things that the daughter would die within a period of approximately 20 years. The report stated that it was not to be open for disclosure. In connection with a complaint to the Social Tribunal concerning the decision on loss of earnings, the parents requested access to files and were sent a copy of the medical consultant's report. The parents subsequently complained to the Ombudsman about the medical consultant's report.

The Ombudsman referred to a fundamental principle in Danish administrative law

whereby a party in a case has the right to see all information and documentation related to the case. This principle is put into practice, partly through the rules governing right of access to files for parties in a case as stated in the Public Administration Act, partly through the regulations concerning own access in the Access to Public Administration Files Act, and now also in the regulations concerning access to personal data in the Act on Processing of Personal Data. Exemption from this fundamental principle requires overmastering reasons. According to circumstances, access should also be granted to medical consultant reports which have remained internal documents.

On the basis of this, the Ombudsman found it difficult to comprehend the remarks by the medical consultant that his report "under no circumstances are intended for others than the local authority's case workers …".

The Ombudsman stated that, like other consultants, medical consultants must be aware that their notes are often subject to disclosure pursuant to the aforementioned regulations. Furthermore, the medical consultants must be aware that the question of whether to allow access to files is not for themselves to decide, and that any statements they may make to this effect will not be binding for the decision-making authorities.

The Ombudsman further stated that it would have been advisable if the local authority had informed the tribunal that the case material that was sent to them contained sensitive information with which the parents were not familiar.

Finally, the Ombudsman agreed with the Social Tribunal in finding it regrettable that the tribunal had not noticed that the medical consultant's report contained sensitive information to which access had not previously been given, and that it was regrettable that the parents' access to the report had not been communicated in an especially considerate manner, pursuant to the principles laid down in Section 7 of the Patients' Rights Bill.

The Ombudsman noted that in order to avoid similar incidents in the future the tribunal would impress upon its staff that greater care be shown when sending case documents for hearing. (Case No. 2001-0897-409).

13-2. Sickness benefit. Complaint authority's obligation to check observance of guarantee stipulations

A local authority made a decision to discontinue the payment of sickness benefit to a woman. It was the authority's assessment, particularly on the basis of a report from the woman's GP, that employment rehabilitation was not very likely to be initiated.

The woman complained to the social tribunal about the local authority's decision to discontinue her sickness benefit, and the local authority subsequently obtained a supplementary statement from the GP in order to clarify the interpretation of the original report. On the basis of the new report, the local authority maintained its decision and returned the case to the social tribunal.

The Ombudsman criticised that the local authority had not heard the woman concerning her GP's medical reports.

Moreover, the Ombudsman agreed that the original report was ambiguous. In view of this ambiguity the Ombudsman did not think that the original report had given sufficient basis for an assessment as to whether or not the woman fulfilled the requirements for an extension of the sickness benefit period.

The woman had not in her complaint to the social tribunal complained about the fact that the local authority had neglected a number of case processing regulations.

The Ombudsman was of the opinion that social tribunals are obligated to check on their own initiative whether a local authority has observed those case processing regulations that are guarantee stipulations in nature. The Ombudsman agreed with the Social Appeals Board that the follow-up requirement in Section 24, subsection (1) and subsection (2) of

the Act on Sickness Benefit and the requirements in Sections 4–7 of the Law and Order Act are guarantee stipulations. In consequence, the Ombudsman found it regrettable that the social tribunal had not of its own accord assessed whether the local authority had complied with these stipulations in the case in question, and whether any consequences should follow from non-compliance. (Case No. 2000-2386-025).

13-3. The Social Appeals Board's ability to take up decisions for general or fundamental consideration

Based on an actual case the Ombudsman felt called upon to ask the Social Appeals Board to explain why the board did not feel able to take up for general or fundamental consideration decisions made by the social tribunals according to the Act on Recovery of Taxes. The Ombudsman listed a number of reasons why, in his opinion, the board was not precluded from considering such cases. The Social Appeals Board replied to the Ombudsman that the board was still of the opinion that it was unable to take up the cases for general or fundamental consideration.

The Ombudsman then presented the problem to the Ministry of Social Affairs with the request that the ministry would ask the opinion of the Ministry of Justice before giving a statement in the matter, as the Ministry of Justice is the relevant ministry for the Act on Recovery of Taxes, and as the Social Appeals Board had, among other things, referred to the ministry's guidelines.

In its subsequent statement the Ministry of Social Affairs gave a number of considerations why the Social Appeals Board is not precluded from taking up general or fundamental cases pursuant to the Act on Recovery of Taxes. The Ministry of Social Affairs stated that the ministry would, when an opportunity arose, clarify this in its guidelines to the Consolidation Act on Legal Rights and Administration in Social Matters.

On the current basis the Ombudsman did not proceed further in the matter. (Case No. 2000-0440-009).

13-4. Dispensation from deadline for submission of complaint. Duty to give guidance

At a few days' interval a woman received two decisions from a local authority on, respectively, early retirement pension and sickness benefits. The woman was dyslexic and had difficulty in, among other things, reading the local authority's decisions, and the local authority therefore provided her with assistance in framing a complaint. However, this complaint only concerned the sickness benefits case. When the woman later submitted a complaint about the decision in the early retirement pension case, the social tribunal refused the complaint with reference to the expired deadline for submission of a complaint.

The Ombudsman stated that Section 5 of the Act on Legal Protection implies that the authorities' common duty to give guidance is more stringent in social matters. The local authority's duty to give guidance was made even more stringent as a consequence of the woman's communication problem. Therefore, the Ombudsman found that the local authority should on its own initiative have asked the woman whether she wished to complain about the decision on early retirement pension.

In the Ombudsman's opinion the circumstances of the case gave grounds for dispensing with the deadline for submission of complaints, and he therefore recommended that the social tribunal reconsider the case. (Case No. 2000-2432-040).

13-5. Complaint refused due to expiry of deadline without regard to complainant's illness

On behalf of a woman and after the expiry of the deadline for complaints, an association submitted a complaint to a social tribunal concerning a local authority's refusal to grant remission of a so-called Section 42 loan. The association applied for dispensation for exceeding the deadline on the grounds that the woman had been unable to submit the complaint in time due to a sudden and grave illness during which she had also been hospitalized.

The social tribunal refused to consider the association's complaint on the grounds that the deadline for submitting the complaint had been exceeded and because the tribunal did not find that there was any particular reason to dispense from the exceeded deadline.

The Ombudsman stated that the tribunal had not had sufficient information about the case at the time of making the decision.

The Ombudsman found it a matter of criticism that the tribunal had obtained information on the woman's health from the hospital without first asking for permission to do so. It was a matter of severe criticism that the tribunal had informed the hospital that the woman had been told that the tribunal might obtain the information, and that the woman had had no objections to this.

Furthermore, the Ombudsman criticised the social tribunal's grounds and the fact that the tribunal had not provided all the documents in the case with the tribunal's statement. Finally, the Ombudsman found it a matter for criticism that, when asked expressly by one of the Ombudsman's staff, the tribunal stated that it did not have any more documents in the case. (Case No. 2000-2470-085).

13-6. Complaint concerning decision on disclosure in children's social security files. Right of access. Information principle

A father submitted a complaint to the Ombudsman that a local authority had refused him access to his children's social security files. The father did not share in the custody of the children.

The Ombudsman stated that the request for disclosure should be processed in accordance with the Access to Public Administration Files Act. Therefore, the father only had the right of access to the local authority's social security files for the children to the extent that the files contained information concerning his personal circumstances.

The Ombudsman criticised that, despite the father's denial, the social tribunal and the Social Appeals Board without closer examination took for its basis the local authority's statement that he had continually been sent all information concerning his personal circumstances.

The Ombudsman recommended that the Social Appeals Board reconsider the case. (Case No. 2000-2210-001).

15-1. Expropriation for establishment of pathway. Insufficient case information. Mistake

A number of landowners complained about a decision of expropriation with a view to establishing a pathway. They were dissatisfied with the siting of the pathway. The starting point for the pathway was indicated in a district plan for the area whereas the actual siting of the path was not shown.

Though not at first in possession of the district plan, the Road Directorate attached fundamental importance to the fact that the siting of the pathway was included in the district plan. The Ombudsman stated that the directorate should have ensured that this was actually the case.

The directorate obtained a copy of the district plan but still maintained that the pathway project was included in the plan. The Ombudsman found it a matter for criticism that the directorate had not been sufficiently thorough when considering the issue.

In conclusion, the Ombudsman found that the Road Directorate's decisions had been made on wrongful grounds, and he recommended that the directorate make a new decision in the case. (Case No. 2000-3589-516).

15-2. Refusal of application for licence to set up a hot-dog stand. Inclusion of criteria. Balancing of discretion. Giving of grounds

A man had received a temporary licence to set up a hot-dog stand. Shortly afterwards he leased out the stand to somebody else. At the expiry of the licence the man applied for a permanent licence for the stand. The lessee also applied for a permanent licence. The local authority gave the licence to the lessee for a period of three years and wrote in its decision to the owner that there had been two applicants, and that the other applicant had received the licence. When the owner of the stand complained to the Road Directorate about the decision, the local authority informed the directorate that the decision had been made at random. The Road Directorate criticised the local authority's decision but did not think it possible to reverse the decision.

The Ombudsman stated that, pursuant to Section 24 of the Public Administration Act, the giving of grounds must be subjectively correct, in the sense that the content of the grounds must refer to those circumstances of a legal and factual nature, which were in actual fact considered of paramount importance when making the decision. This condition is valid regardless of whether the decision turns out to have been made without proper authority. Thus, the grounds given must be able to form the basis of an assessment with regard to the legal validity of the decision.

As the local authority had not contested that the decision was made randomly, the Ombudsman had to take this for his basis. The decision that was communicated to the hot-dog stand owner did not state that the decision was made at random. The Ombudsman found it regrettable that the local authority's decision did not conform with the requirements in Section 24, subsection (1) of the Public Administration Act.

The Ombudsman further stated that the local authority ought to have carried out a concrete assessment, including all relevant and objective criteria, in order to determine which of the two applicants were the most suitable candidate for running the hot-dog stand. It was regrettable that this concrete assessment was not carried out.

The Ombudsman recommended to the Road Directorate that the case be reopened. Finally, the Ombudsman stated that it was regrettable that the Road Directorate's communication of the decision to the owner and the directorate's statement to the Ombudsman demonstrated that the directorate confused the concepts of 'lack of authority' and 'lack of grounds'. (Case No. 2001-0154-516).

15-3. No Danish translation of technical requirements for fare meters. Notification

Two ministerial orders concerning special requirements for taxicabs, etc., stipulate the requirement that fare metres must fulfil the technical specifications of the European Standard EN 50148, which is only available in English. The standard has not been announced in the Danish Law Gazette.

The Ombudsman found it inadvisable that the two orders contained a requirement that electronic fare metres fulfil technical specifications laid down in the European Standard EN 50148, which is only available in an English version. The Ombudsman found that the

standard should have been available in a Danish authorised translation when the ministerial orders were announced. Reference to a prioritisation of resources and to the fact that enquiries from manufacturers had not touched on any language problems did not mean that a Danish translation could be omitted. This assessment would not be changed because of the Road Safety and Transport Agency's statement that, in the agency's opinion, a taxicab owner could not be punished if his fare meter failed to fulfil the technical specifications, as the taxicab owner's duty is limited to carrying the fare meter in the vehicle. Nor would the assessment be changed in the light of the Road Safety and Transport Agency's stated opinion that a common practice had evolved within the area of, among others, taxicab legislation with the effect that ministerial orders may contain a reference to foreign standards as long as the requirement is accompanied by a demand for tagging or the like which enables the citizen to assess whether the product adheres to existing legislation.

The Ombudsman found it regrettable that the notification requirement in the Danish Law Gazette had not previously been fulfilled as the two ministerial orders referred to a standard, which had not been notified. However, on the basis of the request by the Ministry of Transport to the Road Safety and Transport Agency for a draft for a royal decree authorizing exemption from a notification in the Danish Law Gazette, the Ombudsman did not investigate further in the matter. (Case No. 2000-2643-500).

15-4. Disclosure of documents concerning the Aircraft Accident Investigation Board. Identification. Guidance. Increased access in relation to the media

A journalist asked the Ministry of Transport for access to all documents concerning the Aircraft Accident Investigation Board for the period 1st January 1996 until 19th January 2001. The ministry granted him access to a concrete case concerning the board's organizational circumstances, which in the ministry's opinion was the relevant case. The ministry subsequently informed the journalist on the telephone that he could not have a list of the ministry's cases vis-à-vis the Aircraft Accident Investigation Board, and that he would have to specify which cases he required in more detail.

The journalist then maintained that he wanted all documents concerning the Aircraft Accident Investigation Board for the period in question. At the same time he asked for access to the ministry's records list. The ministry refused the request for access, also with regard to access to the ministry's archive plan, with reference to the fact that the journalist had not specified which documents or which case he wished to have access to.

Considering the very broadly worded request and the long period which it covered, the Ombudsman could not criticise that the Ministry of Transport had asked the journalist to specify to which case and/or documents he wished to have access.

However, the Ombudsman found that the Ministry of Transport should have given guidance to the journalist regarding the type of cases which were included in the archive plan for the period in question, as this would have enabled him to pinpoint more precisely the types of cases he was interested in. If such guidance was not possible, the Ombudsman found it would have accorded best with good administrative practice if the ministry had given the journalist a list of cases with a view to specifying and narrowing down the disclosure request, in so far as the case list did not contain any confidential information. (Case No. 2001-0619-501).

15-5. Access to information concerning the transportation of dangerous goods across the Oresund Bridge

A journalist lodged a complaint that the Ministry of Transportation had approved a refusal by the Railway Inspectorate for access to a number of internal working documents.

In its statement to the Ombudsman the ministry regretted that not every single document had been considered before, and stated that the ministry had now done so. The Ministry of Transportation was subsequently of the opinion that the important information concerning the actual circumstances contained in the internal working documents appeared from other documents to which the journalist had been given access.

The Ombudsman agreed with the Ministry of Transportation that it was regrettable that the ministry had not carried out a concrete examination of the request for disclosure when confirming the inspectorate's refusal.

Furthermore, in the Ombudsman's immediate opinion the internal working documents to which access had not been granted did in fact contain important information concerning actual circumstances, which did not appear from the documents to which the journalist had been given access.

In addition, the Ombudsman commented that when granting access to files, the authorities must provide a list of their not commonly used abbreviations. (Case No. 2001-0470-501).

16-1. Dismissal of chief adviser from the Ministry of Foreign Affairs

A chief adviser employed by the Ministry of Foreign Affairs to head an environmental sector programme under the Danish Agency for Development Assistance (Danida) was dismissed on the grounds that he was uncooperative. The dismissal proceedings were instituted following only 4½ months' employment.

The Ombudsman took for his basis the fact that there were cooperative problems between the chief adviser and one or more of the Danish embassy staff at the time of the dismissal. However, in the Ombudsman's opinion it was not certain that the chief adviser was the sole cause of the problems. Furthermore, the Ombudsman found it doubtful whether the dismissal accorded with the principle of proportionality. Finally, in the Ombudsman's opinion, the Ministry of Foreign Affairs had neglected the non-statutory duty to carry out a hearing of parties.

The Ombudsman stated that the seriousness of a decision to dismiss someone implies that the evidential basis for the cooperative problems must be especially sound. The Ombudsman did not find that such a sound basis existed in the present case. On these grounds, and because of the ministry's disregard for the regulations on the hearing of parties, the Ombudsman recommended that the ministry reopen the case with a view to considering the consequences of his comments. (Case No. 2000-3382-804).

17-1. Refusal of application for supplementary student grant for training in Norway

A student lodged a complaint concerning the refusal by the State Education Grant and Loan Scheme Authority and the Board of Appeal for State Student Grants of his application for a supplementary grant for the purpose of commercial pilot training in Norway.

The Ombudsman criticised that, in their assessment of the application, the authorities used provisions in the State Education Grant and Loan Scheme Executive Order that did not contain any authority for the refusal. However, the Ombudsman found no basis for asking the authorities to reopen the case, as the refusal could have been given pursuant to another provision.

On the subject of the grounds given by the authorities for the refusal, the Ombudsman stated that when they made the decision the authorities were of the opinion that the said provisions gave them authority for the refusal. The requirements in Section 24 of the Public Administration Act concerning the wording of the giving of grounds could therefore not in themselves provide the Ombudsman with a basis for uttering criticism. (Case No. 2000-2845-730).

17-2. Dispensation for demand for repayment of student grant. Giving of grounds. Principle of two authorities

In 1998 a student was the victim of an assault, which caused him to be on sick leave for two months. He received sickness benefit during this period, but did not take leave from the university. Subsequent to the assault, he himself paid for treatment to improve his condition.

The following year the State Education Grant and Loan Scheme Authority presented the student with a demand to repayment of DKK 20,212 due to too high a private income in 1998. The student commented among other things that special considerations ought to be possible in a case of assault such as his. This argument was rejected by the State Education Grant and Loan Scheme Authority and by the Board of Appeal for State Student Grants.

In a statement to the Ombudsman the appeal board explained that prior to making the decision the board had considered whether to use a dispensation provision in the appropriate act according to which special deductions in a private income could be granted.

The Ombudsman stated among other things that it was a regrettable error that the authority had not made its decision according to the dispensation provision on the basis of the student's application. It was also a serious error that the board of appeal had decided that the dispensation provision could not be used without waiting for the authority to decide on the matter, as this deprived the citizen of the legal rights and protection which administrative recourse should provide.

Finally, the Ombudsman found that it should have appeared from the decision that the appeal board had in fact considered whether the dispensation provision was applicable, just as the appeal board should have provided more detailed grounds for deciding that the provision was inapplicable, pursuant to Section 24 of the Public Administration Act.

As the appeal board later decided to give the dispensation, the Ombudsman found no grounds for proceeding with the case. (Case No. 2001-0796-730).

17-3. Temporary suspension and subsequent expulsion of pupil at a private upper-secondary school

The parents of a pupil at a private upper-secondary school lodged a complaint with the Ombudsman concerning the suspension and subsequent expulsion of their son by the headmaster of the school, and concerning the failure by the Ministry of Education to change the headmaster's decisions. The parents also complained about the amount of time it had taken the ministry to process the complaint.

During the Ombudsman's investigation of the case the Ministry of Education stated that the regulations in the Executive Order on the Upper-Secondary School concerning the hearing of parties, giving of grounds and guidelines for complaints are applicable in cases concerning expulsion, and that the upper-secondary school had not fulfilled the regulations in connection with the expulsion of the son.

The ministry also later stated that there was no authority to exclude the son temporarily

pursuant to the regulations in the executive order, nor on any other grounds, or to subsequently expel him pursuant to the regulations in the executive order.

The Ombudsman informed the parents that he was precluded from taking direct action towards the school, as the upper-secondary school was private and therefore not part of the public administration. The Ombudsman further informed the parents that he had decided to end his investigation of the case without making an actual ombudsman statement. He referred to the fact that during the processing of the case the Ministry of Education had agreed with the parents on significant points in the complaint, and that he found no grounds for criticising the through-put time in the ministry.

The Ministry of Education had previously stated that, with specific reference to the amount of time that had passed since the school's decision, the ministry did not feel that the decision to expel the son should be changed to the effect that the son could continue at the school. The Ombudsman sent a copy of his final letter to the parents to the Ministry of Education as a request from the parents that the ministry consider whether to take further action towards the school on the basis of the ministry's most recent assessment of the errors surrounding the expulsion. The Ombudsman asked the Ministry of Education to inform him of the ministry's reply to the parents. (Case No. 2001-0762-711).

17-4. Warning to pupil at upper-secondary school for non-attendance

The headmaster of an upper-secondary school excluded a pupil for two days. The pupil's father complained to the Ministry of Education who confirmed that there was no authority for the exclusion.

The father submitted a new complaint to the ministry concerning the headmaster's conduct in the case. The headmaster had at first refused the pupil's wish to have his father present as an observer at the headmaster's office when the pupil was to receive and sign for a warning for non-attendance. The ministry did not agree with the father on this point, and he subsequently complained to the Ombudsman concerning the ministry's decision.

In the Ombudsman's opinion the warning given to the pupil in the headmaster's office in relation to the non-attendance was without question a part of a case decision within the meaning of the Public Administration Act.

In relation to the question of an observer, the Ombudsman stated that the principle of the right to representation on non-statutory grounds must be assumed to apply to a greater extent than provided in the provision of Section 8 of the Public Administration Act. If there is no decision case involved, or where this is doubtful, a person's right to representation and advice must be assessed on the basis of non-statutory principles and tenets.

The case also raised a fundamental question concerning the "time span" of a decision case. On this issue, the Ombudsman stated that the fact that an authority has made a decision in a case does not cause the termination of the legal effects, which are attendant on the case as a decision case within the meaning of the Public Administration Act. (Case No. 2001-1292-711).

19-1. Removal of tarpaulin covering woodshed

Following a complaint from a neighbour, a local authority wrote to a landowner that his woodshed, which was located in the property line, did not fulfil the regulations of the building code. The landowner replied that he would dismantle part of the roof, and that the woodshed would then be within the legal limits. The local authority subsequently inspected the woodshed and observed that part of the fixed roof had been replaced by a tarpaulin. At the inspection the local authority informed the landowner that the authority

would be in touch within two weeks if there were any problems. The authority did not get back to the landowner within the 2-week deadline, but it later reopened the case on the basis of a renewed complaint. The local authority did not inform the landowner of the new complaint before making the decision that the landowner should make his woodshed legal. The local authority's grounds for the decision were that the woodshed did not conform with the registration, and that the woodshed, even with a tarpaulin as roof, must be considered to be a building within the meaning of the Building Act. The Regional State Authority confirmed the local authority's decision.

The Ombudsman criticised several matters in connection with the case: that the original approval of the woodshed had not been in accordance with the building code, that the landowner had not been informed and heard in connection with the reopening of the case, and that the giving of grounds were not correct and sufficient.

Furthermore, the Ombudsman was of the opinion that the Regional State Authority ought to have criticised the local authority's case processing errors. However, based on a weighing of the neighbour's opposite interests in the case, the Ombudsman did not find that he was able to criticise that, pursuant to Section 17 of the Building Act, the Regional State Authority had confirmed the local authority's revocation of its previous decision. (Case No. 2000-2475-160).

19-2. Dismissal as a consequence of wrongful information during job interview concerning absence due to illness. Principle of proportionality. Retrieval, forwarding and use of health information

During the job interview an assistant at a county council 24-hour care centre gave incorrect information concerning previous absence due to illness and was therefore subsequently dismissed.

The Ombudsman stated that it was a violation of Section 2, subsection (1) and (3) of the Health Information Act that the employer had asked the assistant generally whether she was in good health.

It was a further violation of the Act that the employer had retrieved information about the number of days lost due to sickness when it did not concern absence due to specific diseases that might influence the employee's work performance.

It was furthermore a violation of the Act that the county council's central human resources secretariat had forwarded the information to the care centre.

The Ombudsman stated that involving general information concerning the amount of absence due to illness in an employment decision does not constitute objective grounds. Therefore, the fact that the assistant had given incorrect information should be considered of minor importance for the employment. As a consequence the dismissal violated the principle of proportionality. The Ombudsman recommended that the case be reopened. (Case No. 2001-2410-813).

19-3. Part-time employee not offered flexi job on full time

A woman complained that a local authority did not offer her a full-time flexi job until approximately 18 months after such regulations had come into force. Prior to the regulations coming into force, she had been employed in sheltered employment with a subsidised salary, and she wished to be employed full time but had throughout this period only been employed on a part-time basis.

The woman now wanted the local authority to reimburse her for the difference in pay.

The Ombudsman found it a matter for severe criticism that the local authority only of-

fered the woman full-time employment more than 18 months after the introduction of the regulations concerning flexi jobs. The Ombudsman also found that the local authority to a considerable extent had neglected its duty to give guidance by not informing the woman of the new regulations or following up on her case in any other way. The Ombudsman found that on these grounds, it could not be excluded that the woman should be placed as if she had been offered, and started, a full-time flexi job. He therefore recommended that the local authority reconsider the case with a view to clarifying the extent to which the authority was obligated to provide the woman with a financial reimbursement. (Case No. 2000-1718-059).

19-4. Case worker's note in a pension scheme case file

A caseworker employed by a local authority received a written warning after her immediate line manager had made critical statements about her in a memo to the local authority's head of department. The cause of the report was partly a note written by the caseworker in a pension scheme case file, and partly that the caseworker had described a rule in the same note that might give the impression that certain cases were to be advanced at any cost so as to give the local authority an economic advantage. Furthermore, in the note the caseworker had stated that the case was not yet duly investigated and therefore not ready for a decision. The note caused the Social Tribunal to subsequently revoke the decision and refer it for reconsideration. The local authority was of the opinion that the caseworker's note not only violated the rules concerning record keeping but was also an expression of disloyalty.

Prior to the warning, the caseworker was summoned to a meeting during which she was told that her case processing was open to criticism, that several citizens had lodged complaints about her, that she had disputed managerial rights and that she lacked loyalty, cooperativeness and interpersonal skills.

The Ombudsman did not find any grounds for reproaching the caseworker for the case notes, and neither did he find any grounds for giving her a warning. Furthermore, in the Ombudsman's opinion the local authority had not carried out a correct party hearing procedure or given adequate and sufficiently clear grounds. (Case No. 2000-2142-812).

19-5. The legal basis for admission to upper-secondary school and higher preparatory examination courses

A father complained that his son had been refused admission at the upper-secondary school to which he had applied, and instead been admitted to another school.

The Ombudsman did not investigate the case as the son subsequently was admitted to the desired school, but the complaint gave the Ombudsman occasion to make a general statement concerning the legal basis for admission to upper-secondary schools and higher preparatory examination schools.

Neither the headmaster, the allocation committee, nor the Ministry of Education agreed with the Ombudsman's immediate interpretation of the legal basis. The Ministry of Education referred among other things to a parliamentary committee report, and to the statements of two party spokespersons and descriptions of the negotiation results, and to the fact that the Act on Upper-Secondary Schools was based on a broad political compromise.

In his final statement the Ombudsman maintained his judicial opinion. Among other things, the Ombudsman stressed that the preparatory works of an act cannot ordinarily lead to a result that contravenes the wording of the act. The Ombudsman therefore asked

the Ministry of Education to bring the existing discrepancy between the legal basis and practice to an end. (Case No. 2000-2371-711).

19-6. Local authority's duty to give correct and adequate information to regulatory bodies

An organisation applied to a local authority for access to contracts and agreements that the local authority had entered into with private companies. The local authority refused the disclosure application, and the organisation brought the case before the supervisory board. In a statement to the supervisory board the local authority said, among other things, that there were no written agreements with the private companies, and that agreements were concluded verbally from task to task.

The supervisory board, and later the Ministry of the Interior, took this statement for their basis in considering the case of refused disclosure.

The organisation applied to the Ombudsman, asking him to assess whether it accorded with the regulations on the duty to take notes and on good administrative practice that a local authority only entered into verbal agreements with private companies concerning the execution of municipal tasks, and that the local authority did not take note of the contents of these agreements.

In this connection the Ombudsman asked the local authority to answer a series of questions, including whether the authority's internal documents contained information on the contents of the verbal agreements.

The local authority did not reply fully, and the Ombudsman then referred the authority to Section 19 of the Ombudsman Act concerning authorities' obligation to furnish the Ombudsman with such information and to produce such documents as the Ombudsman demands. He then repeated the questions to which he had received no reply.

Subsequently, the local authority did provide additional information and invited the Ombudsman to a meeting to discuss the questions in greater detail.

During this meeting the local authority stated that it did not run a completely paperless administration. The local authority also stated that, while there were no actual contracts between the authority and the companies in question, the authority did take certain internal notes when concluding the individual agreements. These notes later formed part of the basis for the final accounts settlement.

Viewed in the light of this information the Ombudsman stated that it must have been clear to the local authority that the information the authority had provided prior to the meeting was inadequate and partly misleading.

The Ombudsman found it a matter for severe criticism that the local authority had given the organisation in question, the supervisory board, the Ministry of the Interior and, most recently, the Ombudsman the impression that the authority did not have any written material concerning the contents of the agreements entered into. (Case No. 2001-0163-001).

19-7. Verbal exchange of information between two hospitals with a view to possible implementation of special measures

A remand prisoner attempted suicide in prison. During the hours immediately following the attempt, the remand prisoner was brought to three different hospitals, partly due to the hospitals' non-compliance with internal visitation guidelines, and partly due to an error concerning which catchment area the remand prisoner belonged to. During an unobserved moment at the psychiatric unit of the last hospital, the remand prisoner caused such

injuries to himself that he died six days later.

The Ombudsman stated that it was highly regrettable that, following the suicide attempt and contrary to guidelines, the remand prisoner was passed around between the three hospitals, and that at the time of inflicting the additional injuries to himself he had not yet been hospitalised and physically placed in a ward. The Ombudsman took note of the fact that the management had stated that the visitation regulations would be tightened. The Ombudsman also presumed that the case had caused the management to consider whether the existing rules were sufficiently clear.

The Ombudsman stated that in his opinion it may be necessary to forward information concerning a patient not only in writing (as in an accompanying patient file) but also verbally in connection with a transfer from one hospital to another. In this connection the Ombudsman referred to information that the receiving medical staff needs in order to make an immediate assessment as to whether special measures should be implemented in relation to the patient in question. In the actual case the information would pertain to the fact that the remand prisoner was suicidal. (Case No. 2002-0261-626).

19-8. A county first did not reply to the Ombudsman's request for a statement, and gave wrongful information to the Ombudsman

Following a citizen's complaint about a county's case processing time, the Ombudsman approached the county. The county stated over the telephone that the citizen had received a reply, a statement that later turned out to be wrong, as the county only subsequently made a decision in the case. The Ombudsman asked the county for the documents in the case and a statement. In reply to several inquiries over the telephone the county stated several times that the statement had been sent, which turned out not to be the case. Not until the Ombudsman had approached the county mayor, did the county send the statement.

The Ombudsman referred to the fundamental principle that public servants shall not pass on erroneous information. Authorities included under the Ombudsman's jurisdiction are obligated to pass on the information and documents, etc., which the Ombudsman demands. In addition, the Ombudsman may demand written statements.

The Ombudsman found it regrettable that the county had not replied immediately to his request for a written statement. Furthermore, the Ombudsman found it very regrettable that the county had given outright wrongful information to the ombudsman institution.

The Ombudsman asked the county for a statement on the measures the county would take to avoid similar situations in the future. (Case No. 2002-1087-509).