Foreword

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Parliamentary Ombudsman

When I took office as Parliamentary Ombudsman on 16 June 2014, I expressed a desire to continue developing the Ombudsman's important position in society. Now more than nine months into the job, I have observed up close the key role the Ombudsman plays in preserving the legal safeguards of Norway's citizens. I have also had time to form an understanding of what we must work on as we move forward. Although this is a report about the past year, I would like to express some views on the important tasks ahead.

The purpose of the Ombudsman's office is to prevent the authorities from acting unjustly towards individual citizens. This is accomplished primarily through the processing of complaints. For the Ombudsman to be able to fulfil his mission, however, citizens must be aware of their opportunity to file complaints. This requires active communication, and in recent years steps have been taken to improve the flow of information between the Ombudsman's office and the public. In addition to issuing press releases on certain opinions, the Ombudsman has used Twitter to call attention to published opinions and issues of current interest. Since 2011, the Ombudsman's website has allowed citizens to appeal for help by way of an online complaint form. In 2014, this form was used in approximately half of all incoming cases. Many people also visit the website to look up the Ombudsman's opinions.

My impression is that the Ombudsman scheme enjoys high public regard but should be made better known than it is today. As Ombudsman, my role is personal; contact with the media will and should be handled primarily by me. There is nevertheless a need to professionalise communications so that the Ombudsman's opinions reach more people in an appropriate manner. The appointment of a dedicated communications staff member in the autumn of 2014 was an important step in this regard.

In addition to processing complaints, the Ombudsman undertakes general and systematic investigations on his own initiative. These may stem from individual complaints or from issues the Ombudsman becomes aware of through other means, including the media. Such investigations can affect the legal status of

numerous citizens, and can therefore be highly influential – not only in rectifying injustices, but also in preventing them from being committed. More resources should therefore be invested in this area. What counts is not necessarily the number of cases taken up by the Ombudsman at his own initiative, but making sure the overall effect is positive.

It is also important that complaints be handled fairly quickly. Cases appealed to the Ombudsman have been through several administrative bodies already, and may have gone on for several years. The Ombudsman should not add to the burden that an unresolved case represents to the persons involved. A successful effort has therefore been made to reduce case-processing times, which have fallen steadily in recent years. This has occurred even though the office received more complaints in 2014 than in previous years and opened several major investigations on its own initiative. The number of open complaint cases has been reduced significantly over the past three years. This trend will be continued. Shorter processing times must not come at the expense of the quality and thoroughness that are necessary to the Ombudsman's work, but it would be beneficial if cases were handled somewhat more quickly than they are today.

Several of the objectives mentioned above cannot be achieved without quite strictly prioritising the resources to be expended on individual cases. Section 6, fourth paragraph, of the Parliamentary Ombudsman Act gives the Ombudsman such an opportunity, stating: "The Ombudsman will decide whether a complaint provides sufficient grounds for dealing with the matter." Citizens have no right, in other words, to have their complaints taken up by the Ombudsman. As I see it, one of my tasks is to be somewhat firmer in setting priorities to free up capacity for general investigations and reduce processing times further.

The Ombudsman's resources should be focused on highlighting important matters of principle. In addition to the gravity of individual cases, attention should be paid to whether the issues involved bear heavily on the legal protections and due process guarantees of many citizens. Cases that raise minor issues, or matters of little general interest, must receive lower priority. The same applies to cases better suited to the courts, such as complex commercial cases in which discretionary assessments based on specialised professional insight are a major factor. The point of prioritising more effectively is to become even better at protecting citizens against injustice.

The National Preventive Mechanism against Torture and Ill-Treatment (NPM) was established by the Ombudsman's office in the spring of 2014 as a consequence of Norway's ratification of the Optional Protocol to the Convention against Torture (OPCAT) in the summer of 2013. Information gained in 2014 suggests clearly that Norway, like other countries, needs a body whose specific function is to counter the risks of torture and ill-treatment for persons deprived of liberty. During the autumn, a number of recommendations were issued to prisons and police custody facilities as part of the NPM's work. Now that this unit is well established within the Ombudsman's office, it is both enriching, and being enric-

hed by, the other departments. The Ombudsman has issued a separate annual report on the NPM's activities, denoted document 4:1.

The Parliamentary Ombudsman's annual report for 2014 is divided into four chapters. Chapter I highlights three important topics that are believed to be especially worthy of the Storting's attention. All concern fundamental rights affecting the legal safeguards of our citizens. Chapter II follows with an overview of the Ombudsman's work in the field of human rights. In 2014, several opinions were issued in cases which primarily raised important human rights issues. Chapter III provides a list of general-interest cases that were processed in 2014, while chapter IV contains various statistics for the year. Information about the organisation may be found in the appendices to the report.

The Parliamentary Ombudsman's staff

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I. Selected topics from administrative oversight

1. Introduction

This chapter highlights three issues that the Parliamentary Ombudsman would like to call to the Storting's special attention. First, an account is given of two cases that the Ombudsman took up at his own initiative with the Norwegian Labour and Welfare Administration (NAV) and the Ministry of Labour and Social Affairs. One case concerns a lack of access to appeal when NAV has declined to place a user in one of its employment programmes, and the other case involves the National Insurance Court's limited review of cases relating to the work assessment allowance. Both cases focus attention on due process in cases involving activation measures and benefits intended to encourage users to obtain employment (the "work approach" policy). The subsequent case concerns problematic aspects of sanitary conditions in certain prisons. The persons exposed to such conditions are in difficult circumstances and lack a strong voice on the public stage. It was therefore deemed appropriate to discuss the matter here. Finally, consideration is given to the application of the public-access requirement to meetings of elected bodies. The principle of meeting in public is fundamental to open and democratic processes, yet our experience in dealing with these cases suggests that several municipalities are not following the regulations.

2. Due process under the "work approach" policy – placement in employment programmes and what it means for entitlement to the work assessment allowance

2.1 Preliminary comments

In 2014, the Ombudsman criticised the public administration in three cases involving legal protections and the "work approach" policy. Work approach refers to the portion of NAV regulations encompassing activation measures and benefits intended to maximise employment.

Two of the cases are discussed here. The first case concerned a lack of access to appeal for those denied participation in NAV's employment programmes (case 2013/1625). The second case involved the National Insurance Court's limited review of work assessment allowance cases (case 2014/1275). The third case (case 2014/2335), which will not be discussed further here, pertained to the right of appeal in connection with a renewed work capability assessment. The cases were taken up at the Ombudsman's initiative.

The cases stem from legislative amendments that followed in the wake of the NAV reform. Those amendments have gradually led to a practice by which users have lost the ability to challenge a denial by NAV of participation in an employment programme, and by which their ability to challenge a refusal to grant work assessment allowance in the National Insurance Court has become significantly limited. The Ombudsman examined whether NAV's refusal to place a user in an employment programme is an individual decision that should be appealable. In addition, the Ombudsman assessed the effects of the reforms on due process guarantees and explored whether the consequences of the legislative amendments had been discussed in the preparatory works to the amendments.

The NAV reform entailed a three-way merger that created a single agency out of the National Insurance Service, the Aetat employment services agency and the social welfare service, and was gradually implemented starting in 2006. Under the NAV reform, Aetat's responsibility to obtain or maintain employment for people was integrated with the National Insurance Service's income-support responsibility for people not participating in working life for health reasons. On 1 March 2010, the work assessment allowance (called AAP, or *arbeidsavklaringspenger*, in Norwegian) replaced the national insurance benefits known as the rehabilitation allowance, the rehabilitation benefit and the time-limited disability benefit. Hereafter in this report, this reform will be referred to as the AAP reform.

The overarching purpose of the NAV reform and the AAP reform was to increase labour participation, which previously had been the primary function of Aetat. In the AAP reform's preparatory works, specifically Proposition No. 4 (2008-2009) to the Odelsting, it was stated that regulations should "be designed to ensure that the agency's attention and resources are directed more towards follow-up efforts and that resources are freed up from administrative procedures such as calculations, disbursements, decision-making, etc."

As a result of the reforms, several decisions that substantially affect users' entitlement to the work assessment allowance are now made on the basis of rules and regulations other than the National Insurance Act, such as the rules for measures described in the Labour Market Act regulations and the provisions in the Labour and Welfare Administration Act (also called the NAV Act) covering systematic work capability assessments for all who need or desire assistance to obtain employment (or to return to it). Such assistance may consist of national insurance benefits and employment programmes (previously called labour market or rehabilitation measures). This regulatory framework is less rights-oriented than the National Insurance Act; moreover, the case-processing rules and administrative practices associated with this framework do not provide the same level of due process guarantees.

Increased employment and a reduction in the number of people on disability benefits are legitimate and important legislative goals. The Ombudsman should not re-examine political priorities. But if rule

reforms result in procedural approaches and practices that appear to compromise citizens' legal safeguards without the changes having an adequate basis in the new rules, it is the duty of the Ombudsman to point this out. This is also the case if the new rules have due-process consequences not considered by the Storting (the Norwegian parliament). Section 11 of the Ombudsman Act empowers the Ombudsman to point out shortcomings in laws and other regulations.

2.2 Inadequate access to appeal when user is denied participation in an employment programme – case 2013/1625

Since the AAP reform, the Ombudsman has received enquiries on a regular basis from users who have been barred from appealing NAV's refusal to place them in an employment programme. NAV's practice is to grant a right of appeal only when a programme or measure has actually been assigned. A denial is not regarded as an individual decision by NAV, and is therefore made without regard to form, without having to provide background information, and without a right of appeal. As a result of the enquiries received, it was determined that there were grounds to look into the legal basis for NAV's practice in this area.

Employment programmes or measures are issued to persons who are out of work and need help to return to work. This may include persons who have stopped working due to impaired work capability and who are receiving the work assessment allowance. The type of programme assigned should be "necessary and expedient to the participant's obtaining or retaining gainful employment"; see section 1-3 of the Regulations on employment measures. Examples of such measures include work assessment, vocational rehabilitation, work placement in ordinary businesses, wage subsidies, employment in sheltered workplaces and treatment programmes for persons with mild psychological disorders or complex medical conditions.

With the AAP reform, the regulation of all employment programmes – independent of any links with financial benefits under the National Insurance Act – was consolidated in a set of regulations issued pursuant to the Labour Market Act. Aetat's former practice of granting a right of appeal only for labour market measures that had been approved was continued by NAV for all measures covered by the new regulations.

The Public Administration Act applies to NAV's activities; see section 21-1 of the National Insurance Act. Under the Public Administration Act, all decisions regarded as individual decisions (see section 2 of the Public Administration Act) may be appealed as long as no exceptions apply under regulations issued pursuant to the Public Administration Act or a special law.

The Ministry of Labour and Social Affairs was of the belief that such exceptions existed, and sought to justify NAV's practice by reference to the case-processing rules in the Labour Market Act, among other factors. However, the rules in that act as well as the exceptions that appear in the Regulations on the Public Administration Act apply to certain types of programmes and to certain case-

processing rules, and cannot be considered grounds for NAV's general practice.

Declining to place a user in an employment programme can have major significance for someone with clear ideas on to how he or she should enter (or return to) the workplace. Yet the consequences of such a denial can be broader still. This is because taking part in a programme can be a decisive factor in obtaining the right to financial benefits – not least, to the work assessment allowance. Being turned down for placement in an employment programme can even mean that certain users are left with no income, and with the sole option of applying for social assistance benefits. In such cases, the practice of barring access to appeal is especially questionable. That is why the Ombudsman stated that in such cases there "is undoubtedly a clear need for the legal safeguards enshrined in the case-processing rules for individual decisions". It was concluded that whenever users are turned down for participation in employment programmes not encompassed by the statutory exceptions from the rules in the Public Administration Act, the denials constitute individual decisions that can be appealed. Also applicable will be the Public Administration Act's procedural rules governing information access for involved parties, decision-making grounds, communication in writing and coverage of legal costs.

The Ministry of Labour and Social Affairs announced on 14 November 2014 that the Ministry, in cooperation with the Directorate of Labour and Welfare, was considering ways to implement a right of appeal in connection with employment programmes. The practice has not yet been changed, and the Ministry has not issued new rules on exceptions.

2.3 The National Insurance Court's review of work assessment allowance cases – case 2014/1275

Since the AAP reform in 2010 and the change in eligibility conditions for the work assessment allowance dating from 1 January 2013, the National Insurance Court has in several rulings deemed the court's authority to review NAV's denials of the work assessment allowance to be limited in cases where NAV has not assigned the user to a programme. The reason is that all of NAV's decisions on employment-programme assignment now take place under rules spelled out in the Labour Market Regulations, which are exempt from review by the National Insurance Court.

In section 11-6, sub-paragraph b, of the National Insurance Act, the right to receive the work assessment allowance is tied to participation in employment programmes. Before the amendment of 1 January 2013, the provision read as follows:

"Section 11-6. Need for assistance in obtaining or retaining employment

A condition for the right to benefits under this chapter is that the member

b) has need for an employment programme, or "

After the legal amendment the provision reads this way:

"Section 11-6. Assistance in obtaining or retaining employment.

A condition for the right to benefits under this chapter is that the member, in order to obtain or retain employment which he or she can perform

b) participates in an employment programme, or "

In other words, the amendment altered the wording from "has need for an employment programme " to "participates in an employment programme ...".

In several rulings handed down after the amendment, but which concerned cases that were to be decided in accordance with the earlier wording, the National Insurance Court indicated that section 11-6, sub-paragraph b, means the user must actually participate in a programme in order to receive the work assessment allowance. Because the National Insurance Court can no longer review a NAV determination refusing to place a user in a programme, the court's handling of these cases has become very limited. The National Insurance Court made no determination on the requirement of reduced work capability given in section 11-5 of the National Insurance Act, but merely ascertained that the user was not taking part in a programme. This despite the fact that several of the appealed decisions were based on non-fulfilment of the reduced work capability requirement. The Ombudsman therefore examined the case law of the National Insurance Court both before and after the 1 January 2013 legislative amendment.

2.3.1 Review of cases prior to the legislative amendment of 1 January 2013

In a letter to the Ombudsman, the Ministry of Labour and Social Affairs indicated that the change of wording in section 11-6 did not entail a change in applicable law, in as much as the provision had always posed the requirement that the user actually participate in an employment programme.

The Ombudsman did not share this view. In the Ombudsman's view, the phrase "need for" meant that before the amendment of 1 January 2013 there was no requirement to actually participate in a programme. If NAV or the National Insurance Court concluded that a person had a need for such participation, then the condition given in section 11-6, sub-paragraph b, was met – even if NAV had not actually placed the person in a programme.

In addition to the clear wording of section 11-6, sub-paragraph b, the Ombudsman attached considerable importance to the preparatory works relating to the provision, which consistently use the statute's phrase "need for"; see Proposition No. 4 (2008-2009) to the Odelsting. Moreover, the proposition appears to presuppose that, during the processing of work assessment allowance cases, independent determinations are still to be made with regard to both the reduction in work capability (section 11-5) and the need for assistance (section 11-6); see following excerpt:

"The Ministry would emphasise that, as at present, an independent evaluation shall be made of whether the National Insurance Act's requirements that work

capability must be reduced and that the person must have an assistance need within the meaning of the National Insurance Act, are fulfilled."

In a number of rulings predating the amendment, the National Insurance Court, too, assumed that "the need" to participate in a programme was the essential factor. Without having conducted a systematic survey, the Ombudsman has found 16 such cases.

As mentioned above, however, some other National Insurance Court rulings – handed down after the amendment of 1 January 2013 but concerning cases to be determined according to the prior wording – rest on the assumption that actual participation in an employment programme was a condition even before the amendment.

The notion that a "need" for programme participation is not enough to entitle someone to the work assessment allowance, but that one must actually take part in a programme, is supported to some extent by the description of applicable law in the preparatory works relating to the 2013 amendment. In Proposition No. 118 L (2011–2012) to the Storting, the Ministry wrote that "(u)sers who are not placed in a programme will not satisfy the conditions in section 11-6 regarding need for a programme". In the proposition, the Ministry indicated that amending section 11-6 by changing "need" for a programme into a requirement for actual participation in a programme did not entail any change of practice, but was only "a clarification of the relationship among current rules".

However, the discussion of "applicable law" in that proposition is subsequent in time to the interpretation of earlier wording. The statements therefore carry limited weight, and cannot be considered essential to the interpretation. The description of applicable law given in the preparatory works would seem, moreover, to be out of step with the case law that appears to have predominated in the National Insurance Court before the amendment.

Having assessed all factors, the Ombudsman concluded that there was no basis for a narrow interpretation of the former wording of section 11-6, sub-paragraph b. In cases based on the former wording, therefore, NAV and the National Insurance Court were required to make an independent determination of the user's need to take part in an employment programme – even where NAV, at the local level, had denied such participation.

2.3.2 Review of cases after the legislative amendment of 1 January 2013

From the current wording of section 11-6, sub-paragraph b, of the National Insurance Act, it is clear that the work assessment allowance should not be granted to persons not taking part in an employment programme. As a consequence, in the rulings handed down after the amendment of 1 January 2013 and included in the Ombudsman's investigation, the National Insurance Court has not made a determination about the medical conditions bearing on a user's entitlement to the work assessment allowance. The National Insurance Court has instead been satisfied with determining that the user is not participating in an employment pro-

gramme. The Ombudsman's reasons for concluding that such a practice is questionable from a due-process point of view will be outlined below.

The decision regarding whether to assign a user to an employment programme or measure is taken by the local NAV office. As mentioned above, a refusal is (still) not regarded as being an individual decision, and no opportunity is provided to appeal. Whether or not a person is assigned to a programme depends on NAV's perception of the user's need for assistance as determined by a work capability assessment and by the contents of an activity plan, if any. This is regulated in section 14a of the NAV Act. Decisions on work capability assessments may be appealed to NAV Appeals, but may not be appealed to the National Insurance Court. If the outcome of a NAV work capability assessment is that the user's work capability is not reduced, and that the user therefore has no need of special assistance to find work, the user will normally not be given space in an employment programme. Unlike the work assessment allowance, employment programmes are not a statutory entitlement. Although the Directorate of Labour and Welfare has stated that there is little risk of budgetary constraints playing a determining role in whether persons with reduced work capability are placed in programmes or not, such placement is dependent on the availability of budget resources.

Reduced work capability is a significant factor not only in assignment to employment programmes; it is also a key condition for awarding the work assessment allowance. According to section 11-5 of the National Insurance Act, "the member [must have] had his or her work capability reduced to such an extent, due to illness, injury or disability, that he or she is hindered in retaining or obtaining gainful employment". A work capability assessment in accordance with the NAV Act is very similar to the assessments that NAV and the National Insurance Court are supposed to conduct under the National Insurance Act. But the Insurance Court, in its assessment of the user's work capability pursuant to the National Insurance Act, may come to a different conclusion than NAV did in its work capability assessment under the NAV Act. This is because, under the National Insurance Act, the National Insurance Court can review all aspects of the case. A work capability assessment conducted pursuant to the NAV Act is an important factor in the evaluation of work capability under section 11-5 of the National Insurance Act, but is not essential.

If the work capability assessment conducted under section 14a of the NAV Act leads to the user not being placed in an employment programme, the condition in section 11-6, sub-paragraph b, for entitlement to the work assessment allowance will not be met. If the National Insurance Court were to follow the case law represented by the rulings previously mentioned, it would forgo, in such cases, examining the work capability condition in section 11-5 of the National Insurance Act. The work capability assessment conducted under the NAV Act would then become determinative not only for programme placement by NAV, but also for the National Insurance Court's handling of cases concerning the work assessment allowance under section 11-6, sub-

paragraph b. The result of such a practice is that the opportunity of appealing to the National Insurance Court becomes almost illusory in national insurance cases in which disagreement centres on the National Insurance Act's work capability condition and in which that condition was decisive for NAV's denial of the work assessment allowance.

In the preparatory works relating to the AAP reform, the Ministry does not seem to have considered whether the legislative amendments would lead to restrictions on the National Insurance Court's role in work assessment allowance cases. The proposition does indeed presume that decisions on programme participation will not be reviewable by the National Insurance Court after the provisions on employment measures are moved to the regulations under the Labour Market Act. However, possible limitations on the National Insurance Court's handling of work assessment allowance cases are not discussed.

The same preparatory works nevertheless appear to assume that, in social insurance cases, there were to be independent assessments of both the reduced work capability conditions (section 11-5) and the need for assistance (section 11-6); see Proposition No. 4 (2008–2009) to the Odelsting, section 4.4.4.

Nor does Proposition No. 118 L (2011–2012) to the Storting, on amending section 11-6 of the National Insurance Act (effective 1 January 2013), touch on possible consequences for the National Insurance Court's treatment of work assessment allowance cases. The amendment is presented as a simplification and clarification of the regulations – without consequence for practice. The Storting's Standing Committee on Labour and Social Affairs, in its deliberations, presumed that the amendment would not lead to any narrowing of eligibility for the work assessment allowance or to a change in practice by NAV. Both the Ministry and the committee thus seem to have taken for granted that the amendment was a clarification of previous law – and would not entail any substantive change. Nevertheless, the National Insurance Court's handling of several cases shows that the legislative amendment led in practice to a significant curtailment of users' opportunity to have the conditions for work assessment allowance reviewed by the National Insurance Court. The description of the amendment as a "clarification" arose from the Ministry's view of the statutory situation before the amendment entered into force on 1 January 2013. As detailed above, however, neither the wording nor the preparatory works nor the National Insurance Court's case law when the propositions were submitted called for section 11-6, sub-paragraph b, to be interpreted in such as way that the user must actually participate in a programme. Because the bill was presented as a clarification, the Storting had no reason to consider the circumscription of the National Insurance Court's authority in work assessment allowance cases that the amendment has since been shown to constitute in practice. The committee's statement that the changes would not entail restrictions on entitlement to the work assessment allowance or changes in practice demonstrate that the Storting is unlikely to have considered the amendment's effect on the National Insurance Court's authority in these cases.

Benefits under the National Insurance Act are statutory rights, financed in part by national insurance contributions. The work assessment allowance, sickness benefit and disability benefit are the three key subsistence benefits that the National Insurance Scheme can provide to members unable to work due to illness, injury or disability. In October 2014, there were 151,796 people receiving the work assessment allowance. This shows that the work assessment allowance is an important part of the income safety net that the National Insurance Scheme is intended to be for members.

It is clear that the National Insurance Court – like ordinary administrative appeals bodies – can review all aspects of the decisions submitted to it, including NAV's discretionary assessments. However, the National Insurance Court is under no obligation to decide on all the particulars of a specific appeal case. If the National Insurance Court concludes that an essential condition for benefit eligibility has not been met, it may restrict its review to that particular condition, as the courts have a tradition of doing. Nevertheless, the fact that the National Insurance Court has no general obligation to consider all the particulars of a case does not mean it should never consider more conditions than those that are essential to the result.

The National Insurance Court has a long tradition as the legal guarantor of due process protections in national insurance matters. It was established by special act in 1966, the same year the first National Insurance Act was passed. The objective was to strengthen legal safeguards in the realm of national insurance and pensions. The National Insurance Court includes specially appointed members with expertise in medicine and rehabilitation, and is therefore uniquely equipped to review professional judgment in these areas.

It is hard to imagine that, in matters relating to the work assessment allowance, the role of the National Insurance Court was intended to be as limited as it has proved to be in practice – seemingly without the Storting having been presented with, or given the opportunity to decide on, such a momentous change. The Ombudsman therefore stated that the National Insurance Court should use its authority to review NAV's assessments of work capability (National Insurance Act, section 11-5), even if the user in question has not been assigned to an employment programme. More generally, the Ombudsman was of the opinion that this would have particular application in cases where factors other than a lack of programme participation have led to NAV's denials in the decisions appealed. Although the National Insurance Court's review of other conditions will not serve as grounds for the court to grant the work assessment allowance, such a review may, depending on the circumstances, lead the court to return the case to NAV for reconsideration.

2.4 Summary

As shown in the account of the Ombudsman cases above, under current practice the user may end up in a situation in which he or she is refused employment measures and the work assessment allowance without having a genuine opportunity to challenge any of the denials. NAV's practice does not include a right

of appeal when programme participation is denied. Although denial of the work assessment allowance can be challenged, and thereafter appealed to the National Insurance Court, as long as the user has not been assigned to a programme NAV and the National Insurance Court may content themselves with noting that the condition in section 11-6, sub-paragraph b, of the National Insurance Act – on participation in an employment programme – has not been fulfilled. In several cases, the National Insurance Court has failed to consider whether a user's work capability was impaired due to illness, injury or disability; see section 11-5.

As long as the conditions are met, the user has a legal entitlement to the work assessment allowance. However, the grant of this allowance pursuant to section 11-6, sub-paragraph b, is dependent on whether the user is given a spot in an employment programme, something to which he or she has no legal entitlement. When, in addition, the local NAV office is permitted to take account of NAV's financial constraints in assessing whether placement in an employment programme should be granted, the user's legal entitlement to the work assessment allowance may be said to have little substance. When programme participation is withheld, the practice seems to lead to a situation in which the user's right to the work assessment allowance is in reality determined by NAV at the local level without a right of appeal. It is worrying that due process guarantees, which are otherwise so prominent in matters of welfare law, are quite restricted in this area.

In any case, there is reason to point out that the due process problems associated with the AAP reform and the subsequent amendment of section 11-6 of the National Insurance Act, as highlighted here, were little discussed in the Ministry's propositions to the Storting or in other preparatory works. This gives the Ombudsman cause to reiterate how important it is for the ministries to analyse in detail the effects of this type of bill on legal safeguards. Such analyses should be submitted to the Storting by including them with the relevant bills.

3. Sanitary conditions in prisons

Deprivation of liberty is the most intrusive form of punishment allowed under Norwegian law. Persons deprived of their liberty are more vulnerable to a variety of violations than the general population. For the Ombudsman, therefore, it is especially important to monitor how the legal rights of this group are safeguarded.

It is a fundamental principle of Norwegian sentence execution that the deprivation of liberty itself is what constitutes the punishment. Within that framework, life while serving a sentence is supposed to be much as it is elsewhere in society. A prison sentence should not, in other words, impose more of a burden than necessary. Everyday life and living conditions will nonetheless differ from prison to prison, depending on each institution's resources, organisation and other factors. Inmate conditions will therefore vary between prisons. One thing that can vary significantly from one prison to another is sanitation, including whether there are toilets in the cells and, if not, whether in-

mates have easy access to a shared toilet. In 2014, the Ombudsman issued two opinions criticising sanitary conditions in, respectively, Drammen prison (case 2013/1087) and Trondheim prison (case 2013/3200).

The Drammen prison case stemmed from a visit to the prison in the summer of 2013, during which it emerged that a majority of the cells lacked their own toilet and that the prison lacked the resources to escort inmates to a shared toilet in the evenings and at night. The inmates therefore had to use a bucket-style toilet for 10 to 13 hours a day.

The Trondheim prison case was opened on the basis of media reports that female inmates lacked access to a toilet for large parts of the day. Here too, the majority of cells were without a toilet, so inmates were dependent on being escorted by a prison officer in the evenings and at night. In a letter to the Ombudsman, the Correctional Services' northern Norway region stated that "[s]ome waiting time" had to be expected, including an hour or more at certain times. The region also stated that occasionally "queues and use of bags for storage of faeces" in the cell could be expected.

The Correctional Services have a duty to ensure that physical prison conditions are "satisfactory"; see section 2 of the Execution of Sentences Act and section 3-22 of the Execution of Sentences Regulations. The Norwegian legislation does not pose specific requirements for sanitary conditions. The issue is treated more fully in international sources of law, including the European Prison Rules. Article 19.3 of those rules states:

> "Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy."

The European Prison Rules are not legally binding, although member states are expected to strive to follow the principles set forth there.

During visits to the member states, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) examines such matters as how the various states treat inmates in prison in the light of Article 3 of the European Convention on Human Rights (ECHR). Opinions and recommendations issued by the CPT are not legally binding either, but Norwegian authorities should be sensitive to what is highlighted and recommended. On several occasions, the committee has addressed the matter of toilet facilities in prisons.

The CPT has developed standards for the treatment of persons deprived of their liberty. In its second general report (1991) the CPT stated the following:

> "Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment."

It was also stated that bucket-style toilets are not an acceptable arrangement. According to the committee, if a cell lacks its own toilet its occupant must be given access to a toilet without undue delay both day and night.

The committee has made similar statements after its visits to Norway. One of the prisons visited in 2005 was Trondheim prison. In its report, the committee recommended that Norwegian authorities immediately implement measures to ensure that female inmates have "unrestricted access to the lavatory at all times". After a visit in 2011, the committee again raised the importance of easy toilet access in prisons. This time, the recommendations were directed in particular at Bredtveit prison and Ila prison, but also more generally at other prisons that did not have a toilet in each cell. Ensuring that all prison cells have a toilet should be a long-term goal, the committee stated.

In its 10th general report (1999) the CPT made a special point of discussing conditions for women deprived of liberty. The committee stated, among other things, that "ready access" to sanitary facilities was particularly important for this group. Failure to meet a basic need, such as access to a toilet, could lead to degrading treatment pursuant to Article 3 of the ECHR, according to the committee.

In both of the Ombudsman cases discussed here, it was concluded that arrangements featuring bucket-style toilets and similar solutions do not satisfy the minimum physical standards for prisons. Long waits to use the toilet are not acceptable. The Ombudsman also stated that the alternative to having a toilet in each cell is to arrange for additional resources so that the inmates can be let out of their cells when the need arises. It was presumed that the responsible authorities are working actively to ensure that inmates have easy access to toilets of adequate standard.

Sanitary conditions can play a significant role in determining whether an inmate is able to maintain a sense of dignity and a certain degree of normality while serving his or her sentence. Poor toilet facilities can feel degrading, making the inmate's sentence heavier to bear than necessary. Bucket-style toilets and similar solutions may also represent a health risk. Such conditions are unfortunate for both the inmates and the prison staff. The responsible authorities should therefore make it high priority to ensure that all inmates have a toilet in their cell.

4. Access to public meetings – a prerequisite for democracy

Many important decisions in the public sector are prepared and taken in meetings of elected bodies. Decisions are often taken during the meeting itself after oral discussion.

The principle that meetings of elected bodies should be open to the public is enshrined in Article 100, fifth paragraph, of the Norwegian Constitution, and in sections 30 to 32 of the Regulations on access to public meetings issued pursuant to the Local Government Act. This opportunity to be present, whether exercised by private individuals or journalists, is crucial for participation in public discourse, and therefore also for democracy. Access to information – including information that is only discussed in

meetings – is necessary for the oversight of public administration and for ensuring transparency in decision-making. Several cases in the past year have made it evident to the Ombudsman that the rules on access to public meetings are not always practiced in accordance with applicable rules.

In case 2013/2672, a municipality held annual budget seminars for politicians and representatives of the municipal administration without the seminars being announced in advance and without the public otherwise being invited or informed that the seminars were to be conducted. During these meetings, the administrators and politicians negotiated and discussed the municipal budget, and laid down guidelines for further substantive budget discussions. The Ombudsman stated that the decisive factor when determining whether something is to be regarded as a meeting of an elected body is not whether the meeting is held in one of the municipality's formal bodies – a point which has also been made in previous opinions. In deciding whether the seminars were to be regarded as administrative meetings or meetings of an elected body, it was not of crucial importance that it was the administration which had initiated the seminars.

The decision regarding whether to grant public access to a meeting must be made on the basis of the meeting's purpose and in light of the intentions of the Local Government Act's provisions on open doors. Preparation of the budget is perhaps the most important matter elected officials must consider during the year. There is no doubt that the way in which budget proposals are presented, and the parts of a proposal that receive the most attention, may influence how representatives evaluate them.

In case 2013/1126, the municipal council meeting was under way with a discussion of the local school structure when journalists from a newspaper arrived at the meeting. The issue had been presented in advance in the lecture room of the local fire station, without this advance presentation having been announced or discussed on the municipality's website. Notice of the advance meeting had gone out by email to the committee on children's affairs and to seven other recipients. The issue was of great interest to many people in the municipality. The Ombudsman stated that while it is possible to have orientation meetings for elected officials that do not qualify as meetings in the sense covered by the Local Government Act, the meeting in question was not of such character. The purpose of the meeting was a shared run-through before the start of debate, and as such would also have been of great interest to members of the general public, who, like the public officials, needed to familiarise themselves with the issue in order to be able to contribute to the public debate and exercise the necessary oversight of elected officials.

Cases 2014/1950, 2014/2081 and 2014/2082 illustrate how important it is that local authorities also follow the procedural rules in the Local Government Act when closing meetings of elected bodies. One complainant made the Ombudsman aware that several municipalities in Nordland county had closed executive committee meetings and municipal council meetings. According to the complainant, the minutes of the meeting

did not make it clear enough which statutory authority in the Local Government Act was invoked. The cases demonstrate that, regardless of whether a municipality has legitimate occasion to close meetings of elected bodies in accordance with the Local Government Act, it is important for the public to ascertain whether there are issues of interest that will be dealt with, and to be able to verify that the rationale for the closure is correct.

Previous cases handled by the Ombudsman also demonstrate the importance of publicising the meetings of elected bodies in advance, even though there may be a legal basis for closing the doors to discuss one or more issues in a particular meeting. This follows from section 32, third paragraph, of the Local Government Act, and was the main topic in case 2010/2638, in which it was also stated that any closing of the doors must be decided separately for each issue, with the legal basis for the decision being recorded in the meeting book. The Ombudsman followed up on this subject in case 2011/79, in which the Ministry of Local Government and Regional Development was asked whether a clarification was needed of the provision pertaining to public notification of meetings of elected bodies, in order to prevent its being misinterpreted. The Ministry replied that it would consider this "on a suitable occasion".

The enquiries made to the Ombudsman regarding access to public meetings scarcely encompass all the challenges faced by individuals, journalists and others when they try to gain access to the decision-making processes of elected bodies. The cases discussed here also illustrate the challenges that elected bodies face in accommodating the right to public access to meetings and evaluating the scope of exceptions to that right.

Elected bodies have to recognise more fully that public access is the general rule when discussing issues in meetings. What determines whether the public should have access to the meetings is not the composition of the meetings or whether they are incorporated into an academic seminar, but whether they represent a step in the processing of an issue or case. If it is determined in advance that the members of an elected body will gather to negotiate, discuss, make decisions or otherwise deal with issues and questions that the body is assigned by law or regulation to deal with, there should generally be public access. If there are good reasons for closing the meeting, and if doing so is allowed under the Local Government Act's provisions on public access to meetings, then it is important to publicise the legal basis and rationale for the closure in a way that is understandable and appropriate.

II. The Ombudsman's work on human rights

1. General points

Pursuant to section 12, second paragraph, of the Instructions for the Parliamentary Ombudsman for Public Administration, the Parliamentary Ombudsman's annual report to the Storting must contain information on his supervision and control activities to ensure that the public administration "respects and safeguards human rights".

The Human Rights Act establishes that certain of the principal human rights conventions shall "take precedence over any other legislative provisions that conflict with them". When the Ombudsman investigates whether a citizen has suffered injustice, he also considers whether the citizen's human rights have been violated. Human rights issues are thus part of the Ombudsman's ongoing work, and the present report describes a number of cases that illustrate this. The presentation covers the following topics: case processing; deprivation of liberty; protection of the right to property; freedom of expression and the right to information; and the prohibition against double jeopardy. Two cases which also involve human rights are discussed in chapter I. These are case 2013/1087 regarding follow-up of the Ombudsman's visit to Drammen prison on 19 June 2013 and case 2013/3200 regarding a review of sanitary conditions at Trondheim prison.

Following Norway's ratification of the Optional Protocol to the Convention against Torture (OPCAT) in the summer of 2013, the National Preventive Mechanism against Torture and Ill-Treatment was established at the Ombudsman's office in the spring of 2014. With a view to preventing torture and other cruel, inhuman or degrading treatment or punishment, the National Preventive Mechanism (NPM) is authorised to visit all places where individuals have been deprived of their liberty. Such visits may be made with or without prior notice. The NPM does not process individual complaints, but submits a report with recommendations after each visit. Pursuant to section 12, fifth paragraph, of the Instructions for the Parliamentary Ombudsman for Public Administration, "a dedicated report on the Ombudsman's activities as national preventive mechanism" shall be produced. For a more detailed discussion of the NPM's activities in 2014, please refer to the Ombudsman's annual report on efforts to prevent torture and ill-treatment (document 4.1).

Jointly with the Ministry of Foreign Affairs, the Ombudsman organised a conference on human rights on 28 October 2014. The conference was titled "The Effects of International Monitoring Mechanisms to Prevent Torture and Ill-Treatment of Persons Deprived of Their Liberty" and marked the 25th anniversary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

The conference's objective was to learn from some of the world's leading experts on monitoring of detention conditions, and to discuss their work in the context of

detention in Norway. The conference shed light on a variety of issues, including: What would it take to translate criticism and recommendations issued by international monitoring bodies into genuine change for individuals deprived of their liberty? How can different monitoring bodies coordinate more closely to strengthen compliance with international human rights obligations at the national level? What impact have international recommendations had on detainees in Norway? What are the authorities doing to follow up on the recommendations? Of what benefit are the recommendations for NGOs and others who work with and for persons deprived of their liberty?

The conference provided an opportunity for extensive discussion among international experts, Norwegian official representatives, the Ombudsman, academics and NGO representatives. The conference had 170 registrants. A more detailed description of the conference, including the speakers' presentations, can be found on the Ombudsman's website.

The Ombudsman's other activities to promote human rights are listed in appendix 4 to this report, which contains an overview of lectures, meetings, visits and trips in 2014.

2. Cases raising procedural issues

2.1 Case-processing times

In case 2014/1947 the Ombudsman considered the question of whether long case-processing times constitute a breach of Article 6(1) of the European Convention of Human Rights (ECHR). The Norwegian Tax Administration's eastern regional office had spent more than five years on a case involving imposition of a tax surcharge; about three and a half years of that period had gone towards preparing a proposal for a Tax Appeal Board decision. Having performed an overall assessment, the Ombudsman concluded that the long case-processing time constituted a violation of the ECHR.

According to the Supreme Court's decision in Supreme Court Reports 2002, p. 509, along with Supreme Court Reports 2000, p. 996, it is evident that Article 6(1) of the ECHR, which states that a criminal charge shall be determined within reasonable time, also applies to the tax authorities' levying of ordinary surtax (30%). In the above-mentioned cases, the surtax notification was regarded as constituting the charge. At issue in the review was whether the final determinations on the surtax, which is to say the Tax Appeal Board's decision, were made within a "reasonable time" pursuant to Article 6(1) of the ECHR.

When applying the first paragraph of Article 6 in the ECHR (requiring a determination of charges within a reasonable time) to case processing by the tax authorities in a surtax case, one factor that must be taken into account is that the surtax decision is directly tied to the decision in the tax case. The surcharge can only be calculated once the tax has been assessed. If the tax matter is complicated, the complexity will affect how one views the amount of time spent by the tax authorities on the surcharge question. In addition, a separate assessment must be made

as to whether the taxpayer, or possibly the tax authorities, can be blamed for the fact that the matter has taken such a long time. In Supreme Court Reports 2004, p. 134, statement of reason 43, the Supreme Court observed that it "would be an especially weighty concern if the authorities have let the case lie without processing for a considerable time".

In the case before the Ombudsman there were no indications that the taxpayer was to blame for the prolonged period that the eastern regional tax office spent preparing the case for the Tax Appeal Board. The legal aspects of the matter were not especially extensive or complex. The tax office stated that "the overall resource situation" contributed to the long processing time. In the view of the Ombudsman, little importance could be given to such circumstances; see Supreme Court Reports 2000, p. 996, which raises a number of points, including the following on p. 1023:

> "The authorities' internal priorities and a difficult work situation usually cannot prevent an unduly long time period for the private party from being deemed a violation of Article 6(1)."

Furthermore, the eastern regional tax office's processing of the appeal was characterised by long periods of inactivity. Legal precedent makes this a weighty consideration in assessing whether the case-processing time has become unreasonably long pursuant to Article 6(1) of the ECHR; see Supreme Court Reports 2004, p. 134, statement of reason 43. Having concluded that Article 6(1) of the ECHR had been violated, the Ombudsman requested that the eastern regional tax office contact the Directorate of Taxes in order to have the Tax Appeal Board's two surcharge decisions reconsidered by the National Tax Appeal Board.

2.2 Notification when amending an administrative decision to the detriment of an appellant

On 24 March 2014 the Ombudsman issued an opinion on whether the appellate body is obligated to give advance notice of a change to an appealed decision when the change is to the detriment of the appellant (case 2013/2365). Having performed an inspection, Customs Region Oslo made an administrative decision to levy a surcharge. The imposition of the surcharge was appealed to the Directorate of Customs and Excise, which then increased the initial surcharge by a factor of 10.

Section 34 of the Public Administration Act lays down a time limit of three months for the appellate body's right to alter an appealed administrative decision to the detriment of the appellant. However, the Act does not stipulate any obligation to notify the appellant prior to the administrative decision. The appellant believed it was a contravention of sound administrative practice that no notice was given that the decision would be changed to the appellant's detriment. Also noted was the fact that surcharges are considered a penalty under Article 6 of the ECHR.

The Ombudsman stated that in the case at hand an argument could be made for regarding the surcharge, both before

and after the processing of the appeal, as a penalty under the ECHR.

That the surcharge can be regarded as a penalty gives rights to the taxpayer pursuant to the ECHR. The right to fair legal procedure is protected by Article 6 of the convention, whose third paragraph sets out certain requirements regarding the right to present an appropriate defence. However, in the view of the Ombudsman the surcharge's penalty status did not by itself mean the administration was obliged to send advance notice of a change unfavourable to the appellant in an administrative case lodged by the appellant. In this case what mattered was whether good administrative practice or the principles in Article 6 of the ECHR required that the complainant be given an opportunity to submit a statement.

The reason why section 34 of the Public Administration Act does not contain a rule requiring prior notice/notification is that parties who have appealed an administrative decision as a rule are already acquainted with the submissions and evidence in the case, and have had an opportunity to state their view on these in their appeal. There are no grounds for a general obligation not laid down in law to issue a special notice when the administration is considering altering an appealed decision to the detriment of the appellant. For such an obligation to arise there would have to be special circumstances indicating that the appellant could not attend to his interests without such notice. In the view of the Ombudsman, the Directorate of Customs and Excise was not required to give the appellant prior notice of its point of view or its interim assessments of the appeal or the case. The appellant was a professional actor. Following a concrete assessment of the case in question, the Ombudsman concluded that the right to present an appropriate defence had been safeguarded adequately, and that neither sound administrative practice nor the principles set out in Article 6 of the ECHR indicated a need for special notification in this case.

3. Deprivation of liberty

3.1. Breach of police custody holding-period time limit

For several years, the Ombudsman has monitored and responded to breaches of the general rule that detained persons shall be transferred from police custody to prison within two days. On 30 May 2014 the Ombudsman issued an opinion on the practice of transferring prisoners to Oslo prison and the Correctional Services' eastern Norway region (case 2011/2412). The statement followed a visit to the Oslo Police District's central custody facility in June 2011, when it was learned that the time limit was being exceeded more frequently.

The police and the Norwegian Correctional Services share responsibility for making sure all detainees in police custody are transferred to prison within two days. However, the Oslo Police District's annual report on the use of police custody indicated a rise in the number of times the time limit was breached in 2012 and 2013 as well. The Oslo Police District attributes the breaches entirely to capacity problems and lack of available spaces in the Correctional Services. This is borne out by the Correctional Services' annual

statistics for 2013, which showed that actual prison occupancy was very high in the eastern Norway region and that the waiting list to serve sentences had risen throughout the country from 2012 to 2013.

The Ombudsman found that the problem of exceeding the police custody holding-period time limit continues. This is certainly the case for Oslo Police District. As part of the mandate to prevent torture and ill-treatment given to the Ombudsman in 2013, visits were made in 2014 to two other police districts (Søndre Buskerud and Vestfold) where time-limit breaches were found to take place. Further information is provided in the separate annual report on the Ombudsman's NPM (document 4.1.). For years, prolonged stays in police custody have attracted attention and criticism from a range of organisations, including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) , and the responsible authorities are well aware of the situation. The Ministry of Justice and Public Security holds overall responsibility for the police and the Correctional Services. In his opinion, therefore, the Ombudsman emphasised that it was the Ministry, jointly with the agencies it oversees, that is responsible for resolving the challenges associated with long periods in police custody. The Ombudsman will continue to focus his attention on the problems associated with excessively long holding periods. This will include visits by the NPM. The Ombudsman asked to be kept informed about active steps being taken to reduce the number of time-limit breaches, especially in the Oslo region but also nationally.

3.2 The police immigration detention facility at Trandum

As part of the Ombudsman's work to follow up on previous visits in 2006 and 2008, the Ombudsman visited the police immigration detention facility at Trandum in the autumn of 2012. On 13 August 2014 the Ombudsman issued an opinion regarding the facility (case 2012/2408). The physical conditions there had been much improved in 2012 as a result of the construction of two new residential units, one of which had been completed at the time of the visit.

However, because of several serious incidents a substantial part of the facility's activities had been reorganised. The facility now appeared more prison-like than it had before. In some areas of the operation it seemed that control and security motives had been emphasised too strongly at the expense of concern for the detainees' privacy. Among other things, it was doubtful whether the detention facility's body-search procedures were in full regulatory compliance; full body searches that include examination of genital areas are a highly invasive measure. Unless the objective is to avert a serious incident, such measures may be regarded as "disproportionate"; see section 107 of the Immigration Act and sections 6 and 8 of the Immigration Centre Ordinance. An assessment must be performed of the circumstances surrounding the foreign national in question as well as the overall risk picture at that moment in time. The necessity of body searches must be weighed against other possible security measures and those already performed. Furthermore, the measure must be appropriate to the intended objective.

Legal precedent from the European Court of Human Rights (ECtHR) indicates that both routine and random body searches which include examination of the genital area may, depending on the circumstances, entail a violation of Article 3 of the ECHR, which prohibits inhuman or degrading treatment or punishment.

In order for a body search not to be considered a convention violation, it must serve a legitimate objective and be performed with sufficient respect for human dignity. In his opinion, the Ombudsman cited the case of *Frérot v. France* (70204/01), with further references. In the cases *Lorsé and others v. the Netherlands* (52750/99) and *Van der Ven v. the Netherlands* (50901/99) the ECtHR gave weight to the fact that the inmates were subjected to a number of other security measures, and that there was no convincing security requirement for the routine body searches that were conducted. In these cases the court concluded that routine body searches in combination with the other security measures constituted a violation of Article 3 of the ECHR.

The Ombudsman considered it a positive development that the National Police Immigration Service had amended its general instructions and internal guidelines for the body search of minors and was considering the introduction of a milder control regime for families. However, most detained persons were at risk of frequent routine body searches at unexpected times. There was no indication that concrete assessments had been made of the need for body searches on arrival, following visits, after contact with the outside world or in connection with random searches of living quarters in the detention facility. In assessing whether a body search is required, the Ombudsman was of the view that a number of factors should be considered, including the detained person's situation, the reason for his or her detention, the length of the stay, other security measures, possible familiarity with the detainee's visitors, and the number of visits taking place simultaneously in the visiting room. In addition, consideration would have to be given to whether the detained person's situation (his or her vulnerability in particular) may cause a full body search to be seen as disproportionate. The extent to which a body search represents a violation of individual integrity must be weighed against the seriousness of the unwanted incidents which the police are seeking to avert. In addition, the Ombudsman concluded that an individual and concrete assessment must be made to determine whether a less invasive type of search may be considered adequate in the specific instance, such as a general pat-down or a search with the detainee's underwear kept on. An additional conclusion was that the police must ensure that the control measure is performed as gently as circumstances permit.

In his opinion, the Ombudsman also found reason to comment on the wording of the internal guidelines on the frequency of observation in the detention facility's security section, on the detainees' access to mobile telephones, on the need to revise the internal guidelines and on the lack of information given to detainees regarding the immigration detention facility's supervisory board. In its response of January 2015, the Police Immigration

Service reported on its work to act on the Ombudsman's comments. The Ombudsman has not yet closed the matter, and new visits to Trandum may occur as part of the NPM's visiting activities.

4. Protection of the right to property

4.1 Order to reduce reindeer numbers

In his statement of 26 June 2014 relating to an order to reduce the number of reindeer (case 2013/2702), the Ombudsman discussed Protocol 1, Article 1, of the European Convention on Human Rights (ECHR P1-1) on the right to property.

The Norwegian state's Reindeer Husbandry Administration gave prior notice of an order to make a proportionate reduction in reindeer numbers under section 60, third paragraph, of the Reindeer Husbandry Act. In response, several reindeer herders stated that a proportionate reduction of reindeer numbers would deprive them of their livelihood, as the reduced number of reindeer would lead to economic unsustainability. In the view of the reindeer herders, the administrative decision to impose a proportionate reduction was an arbitrary exercise of governmental authority which would be detrimental to the reindeer herders, and which did not adequately take into account concerns for equal treatment. They stressed that a number of siida shares had expanded their flocks contrary to governmental demands and requests, so as to put themselves in an advantageous position prior to the Reindeer Husbandry Administration's decision. A siida is a reindeer herding unit that consists of several siida shares. When the order to proportionately reduce reindeer numbers was made, one of the reindeer herders lodged a complaint with the Ombudsman. The complaint reached the Ombudsman via the Reindeer Husbandry Board and the Ministry of Agriculture and Food. In processing the complaint, the Ministry of Agriculture and Food did not assess the complaint pursuant to ECHR P1-1.

The Ombudsman stated among other things that ECHR P1-1 forms part of Norwegian law, and shall take precedence over any other Norwegian legislation; see section 2, first paragraph, sub-paragraph a, and section 3 of the Human Rights Act. This entails that any administrative decision that contravenes ECHR P1-1 is not lawful. The Ministry therefore had to consider whether the decision in question contravened ECHR P1-1, even though it thought the decision was authorised under section 60 of the Reindeer Husbandry Act.

Legal precedent following from ECHR P1-1 indicates that a property interest must be infringed for the provision to be applicable. For such an infringement to be in accordance with ECHR P1-1 it must have legal authority in law, must have a legitimate objective and must be proportionate. The Ombudsman concluded that reindeer and siida shares constitute a "property interest" protected under the provision, and that an administrative decision ordering a proportionate reduction must be considered an infringement of such a property interest. In this case, however, the administrative decision ordering a proportionate reduction had a legal basis under national law, and

the infringement had a legitimate objective, namely sustainable reindeer husbandry over time.

The crux of the matter is thus whether the infringement was proportionate. The national government has broad discretionary scope in property-rights infringement cases, but it must also "strike a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights"; see the ECtHR's judgment of 6 October 2005 *Draon v. France*, paragraph 75. This is also the case if the infringement is covered by the "control rule" in ECHR P1-1, second paragraph. The question to be weighed is whether the person towards whom the decision is directed must be regarded, after an overall evaluation, as bearing an "individual and excessive burden"; see for instance the court's judgment of 13 February 2007 *Evaldsson and others v. Sweden*, paragraph 55.

The complainant had submitted that he would not be able to make a living from reindeer husbandry owing to the administrative decision, and that he would be worse off than other reindeer owners. In the view of the Ombudsman these submissions called for an assessment of whether the Reindeer Husbandry Administration's decision in this specific instance was so burdensome as to contravene ECHR P1-1. The Ombudsman emphasised that his office had drawn no conclusion on this question, but that the Ministry should have considered it in processing the complaint.

Following the Ombudsman's statement, the Ministry reconsidered the case, and upheld its administrative decision. In the renewed case processing, however, the relationship to ECHR P1-1 was considered.

The Ombudsman later revisited the issue in two similar cases, sending letters to the Ministry of Agriculture and Food and requesting that these cases, too, be assessed under ECHR P1-1 (cases 2014/1881 and 2014/2113). The Ministry then examined the relationship to ECHR P1-1, and upheld the administrative decisions.

4.2 Spanish sailors on Norwegian vessels

From the 1960s to the 1980s approximately 12,000 Spanish sailors worked on Norwegian ships. They paid seamen's tax to Norway, but no national insurance contribution. Having reached pensionable age some of these sailors contacted the Norwegian authorities and the Ombudsman claiming pension payments from Norway on the basis of the seamen's tax they had paid; alternatively they requested a refund of the paid tax. The Ombudsman raised the matter with the Norwegian authorities for the first time in 2012, and concluded that the seafarers had not earned pension entitlements in Norway. Any requests for tax refunds were time-barred (case 2012/2293).

In 2013, representatives of the seaman asked the Ombudsman to assist in a request for a bilateral agreement between Norway and Spain. The Ombudsman raised this request with the Ministry of Foreign Affairs, the Ministry of Finance and the Ministry of Labour and Social Affairs. The Norwegian authorities decided that they did not wish to enter such an

agreement, and the Ombudsman closed the case.

In August 2014 one of the complainants raised the matter again, submitting an argument that the sailors' expectations of a Norwegian pension could be defensible under ECHR P1-1, and that failure to grant the Spanish sailors pension entitlements was discriminatory; see Article 14 of the ECHR. The Ombudsman raised the matter with the Ministry of Labour and Social Affairs, which among other things responded that it did not regard the Spanish seafarers as having a justifiable expectation of pension; see ECHR P1-1. A benefit can only be considered property in the sense covered by ECHR P1-1 if it has a basis in national law. Under EHCR P1-1, therefore, Norway's legal foundation is an essential criterion for determining whether any property is present. This standard applies to existing property as well as other assets to which a justifiable expectation adheres. In his concluding letter, the Ombudsman stated that he was unable – on the basis of the information presented in the case – to conclude that the Spanish sailors' pension claim had "sufficient basis in national law" to be covered by ECHR P1-1.

5. Freedom of expression and freedom of information

5.1 Employees' freedom of expression

Freedom of expression is a fundamental human right, protected by Article 100 of the Norwegian Constitution, Article 10 of the ECHR, and Article 19 of the United Nations' International Covenant on Civil and Political Rights.

The legal presupposition is that freedom of expression for employees is protected in the same way as that of any other citizen. While an employee's role is circumscribed in certain ways, Article 100 of the Constitution and Article 10 of the ECHR establish that limitations must have a basis in law. A limitation may be statutory (such as the duty of confidentiality) or it may take the form of a non-disclosure agreement or the duty of loyalty that characterises all employment relations. The duty of loyalty implies that employees have an obligation to act loyally toward the organisation in which they work; however, that does not empower the employer to use its own expectations of employee loyalty to regulate or sanction utterances made by employees on their own behalf. Access to information and well-informed public debate are important cornerstones of any working democracy. By virtue of being employed in an organisation, employees may possess special expertise, insights and experiences. It is their first-hand knowledge that invests their utterances in public debate with significance. Employees' freedom of expression can help counteract and reveal illegal or censurable conditions.

In the local newspaper, a nursing home doctor twice made critical statements about the municipal administration's cuts to a care-services budget and about the possibility that nursing home capacity could be reduced. The criticism appeared first in an interview, then in a letter to the editor. After publication, the

doctor was issued a written reprimand by his employer, the municipality.

In the Ombudsman's opinion of 25 September 2014 (case 2014/379), he found that the doctor's statements could not be regarded as being made on behalf of the municipality. The doctor's comments were therefore not in violation of the municipality's rules on communicating with the media which the municipality had referred to. The question remained as to whether the utterances breached the non-statutory duty of loyalty that applies to employees. The non-statutory duty of loyalty does not normally justify restrictions on employees' freedom of expression. Each case must be assessed individually, and as a rule it is the employer that must prove the utterances are harming, or may harm, the organisation. Statements that are not subject to the duty of confidentiality, and which mainly express the employee's own views, are usually permissible. This is the case even if the employer considers the statements unwelcome, unfortunate or unpleasant. Public-sector employees have wide latitude – in both form and content – to publicly express their views, even on their own area of work and workplace. Based on the information provided in this case, the doctor had not contravened his general duty of loyalty. There were therefore no grounds for the reprimand, and the Ombudsman concluded that it had to be regarded as an unlawful infringement of the doctor's freedom of expression. The municipality was asked to withdraw its reprimand.

Another opinion issued by the Ombudsman on the same day (case 2014/91) concerned the same municipality's internal set of rules on the employees' right to express their views in public. In response to a number of newspaper articles and opinion pieces on the issue of municipal employees' freedom of expression, the Ombudsman decided to investigate this municipality's set of rules on communicating with the media as well as its ethical guidelines.

Considering whether an utterance is disloyal in a manner that constitutes a breach of law involves a complex, discretionary evaluation whose outcome may vary in different situations. Such an evaluation may turn out differently for employees at different levels of the organisation, for example. Providing clear general guidelines delimiting what employees may or may not comment on is a highly complex matter. Public-sector employers must therefore endeavour to be precise and prudent in drawing up such regulations. Employees must be able to assume that whatever is directly inferable from the written regulations is in compliance with applicable law.

The internal regulations of the municipality in question went too far in limiting the employees' freedom of expression, and certain provisions were worded inappropriately. The municipality was therefore asked to amend these provisions, both in its rules on communication with the media and in its ethical guidelines. As a matter of form, it was pointed out that the Ombudsman's review did not amount to legal approval of the rules that did not attract any special comment. The Ombudsman's general inquiries, moreover, provided only limited opportunity to assess how the municipality enforced its

rules in practice. Such practice is best examined in specific, individual cases.

5.2 Access to voice logs

In 2014 the Norwegian Broadcasting Corporation (NRK) lodged several complaints with the Ombudsman over refusals to grant access to voice logs. The broadcaster made reference to Article 10 of the ECHR, which concerns freedom of expression and the right to information. A voice log is a chronological sound recording of telephone conversations, such as those that take place in emergency communications centres and operative emergency units. A voice log contains a number of conversations and calls, but may be divided into different sound files containing individual conversations or calls.

In some cases voice logs may contain confidential information which should be exempted from public disclosure pursuant to section 13 of the Freedom of Information Act. In many cases voice logs may also be exempted from public access under section 14 of the Freedom of Information Act relating to the internal documents of administrative agencies. If documents are exempted from public access pursuant to section 14, however, an assessment of enhanced access to information shall be performed in order to consider whether these documents should be released regardless, see section 11 of the Freedom of Information Act.

If certain conditions are fulfilled, access to voice logs can be authorised under Article 10 of the ECHR. In Supreme Court Reports 2013, p. 374, the Supreme Court found that the press's request for access to voice logs from the trial of Arne Treholt fell under Article 10(1) of the ECHR; however, the Court's decision also indicates that not all requests for access to documents or other informational material in the possession of the government are comprehended by this provision.

The Supreme Court observed that the ECtHR had applied the provision "in situations where the press applies for access in cases involving legitimate public interest, providing that the case concerns access to information that already exists". In addition, the Supreme Court stated that "Article 10 must be interpreted so as to apply to the press's request for access to the tape recordings ... However, legal precedent provides no grounds for concluding that such 'right of access' applies generally." On the other hand, the Supreme Court found that case law "in any case provides a basis for concluding that the press's requests for access in cases that are of great public interest may, depending on the circumstances, fall under Article 10(1)".

The decision emphasised that the question of whether a request for access is covered by Article 10(1) must be assessed in each specific instance. It stressed that the greater the public interest associated with a case, the greater is the need to accommodate the press's efforts to adequately fulfil its role.

In an opinion of 10 April 2014 (case 2013/106), the Ombudsman made a decision on a complaint from the NRK regarding the National Police Directorate's refusal to grant access to parts of the police voice logs from the terror attacks of 22

July 2011. The Ombudsman found that the voice logs in question were covered by the exemption from public access afforded to the internal documents of administrative agencies under section 14 of the Freedom of Information Act. However, the way the police handled the terror attacks was of great public interest, and the voice logs, excepting those that had previously been leaked, were not known outside of the police. After assessing the specific aspects of the case, the Ombudsman concluded that NRK's request for access could be said to fall under Article 10(1) of the ECHR. This in itself did not result in a right to access but meant that, in considering whether to grant access, special consideration had to be given to the press's function as a "public watch dog". The explicit assessment of the request for access to the voice logs was made on the basis of Article 10(2) of the ECHR, and the Freedom of Information Act's provision on enhanced public access. NRK had been given access to transcripts of the conversations in question, and was therefore acquainted with their content. The public's need to hear recordings of the conversations had to be balanced against the fact that access to the content had already been granted, and against the need for an exemption.

The National Police Directorate pointed to the burden that individual police employees would feel as the recorded conversations were played, and to the fact that releasing the recordings could impact negatively on the future work of the police emergency control centre. The police agreed that the matter was of great public interest, but maintained that the conversation transcripts that had been provided were sufficient to fulfil the press's needs. Following a specific assessment of the case, the Ombudsman concluded that the considerations emphasised by the police in their assessment of the request for access were both relevant and fair, and found no reason to criticise the National Police Directorate's assessments and conclusion.

In a letter of 31 July 2014 (case 2014/1565) the Ombudsman responded to a complaint from NRK concerning a refusal by the county governor of Sogn og Fjordane to grant access to parts of the Sogn og Fjordane intermunicipal emergency control centre's voice log from the triple murder on the Valdres Express bus on 4 November 2013. The voice log was exempted from public access with legal authority in section 14 of the Freedom of Information Act relating to an administrative agency's internal documents. NRK had been given access to a written log of the account, but not the voice log. The Ombudsman concluded that the county governor had considered, as required, whether the exemption provision in Article 10(2) of the ECHR should be applied. The Ombudsman therefore saw no reason to consider whether the request for access to the log fell under Article 10(1) of the ECHR.

The county governor acknowledged in writing that the public has a great interest in how the emergency services act and work together in emergency situations. Openness on such matters serves to strengthen confidence in public services and public control, in keeping with the objectives underlying the Freedom of Information Act. On the other hand, the information contained in the written log had been made public. The additional in-

formation available in the voice log was, in the view of the county governor, not of special interest to the general public. A well-working emergency communication centre requires that the emergency services and callers are able to communicate freely without having to worry about recordings of the calls potentially being released to the public. Access to the voice log was therefore not granted. The Ombudsman found that the issues to which the county governor had given importance were fair and relevant, and found no reason to conduct further inquiries in the matter.

The Ombudsman's opinion on 14 November 2014 (case 2014/127) concerned the Ministry of Health and Care Service's refusal of NRK's request for access to the voice log from Førde Health Trust's Emergency Medicine Communication Centre (EMCC) in connection with the triple murder on the Valdres Express. The Ministry acknowledged that the matter was of great public interest, and concluded that it could therefore grant partial access to the voice log. However, the Ministry exempted confidential information in the voice log from public access; see section 13 of the Freedom of Information Act and section 21 of the Health Personnel Act. As the health trust did not have the technology required to edit and redact confidential details from the sound files, the Ministry concluded that access could be given in the form of transcribed voice logs.

Since the Ministry had specifically considered granting enhanced access to information which it could hold back as exempt, and concluded it could grant partial access to the voice logs, the Ombudsman found no reason to look more closely into NRK's arguments in this case under Article 10 of the ECHR. Based on the information provided, the Ombudsman was not persuaded that the additional information contained in the sound files, when compared with the transcribed logs, was of sufficient general public interest for this provision to become applicable.

As regards the question of access to the sound files in the voice log, the Ombudsman concurred with the Ministry's assessment that the voice log contained certain details which must be considered confidential pursuant to section 21 of the Health Personnel Act, and which therefore should be exempted from access; see section 13 of the Freedom of Information Act. The issue at stake was whether extracting the confidential information from the sound files in the voice logs prior to granting access would be unreasonably labour-intensive. The Ombudsman concluded that the Ministry had not adequately substantiated that extracting this information would be so labour-intensive as to constitute an unreasonable request. The Ombudsman requested that the Ministry reconsider the case and look into whether technology existed to permit the sort of redaction that was envisaged, and how labour-intensive such a process would be.

6. The right not to be tried and convicted twice in the same matter (*ne bis in idem*)

6.1 Temporary withdrawal of a license to sell alcoholic beverages

Protocol 7, Article 4(1) of the ECHR (ECHR P7-4) establishes a prohibition against individuals being prosecuted multiple times for the same offence. The provision's more detailed content has evolved through extensive case law by the ECtHR. In Supreme Court Reports 2010, p. 1121, paragraph 22, the Norwegian Supreme Court states the following on interpretation of the provision:

> *"The ECtHR has established that several cumulative conditions must be met for a decision in one case to preclude a new case. Both cases must entail prosecution within in the meaning of P7-4. They must also concern the same criminal offence; the first decision must be final, and the proceedings in the second case must entail repetition of the prosecution. ... A fifth condition for application of the provision [is], that both cases concern the same legal person."*

The Ombudsman's opinion of 25 November 2014 (case 2014/682) concerned the question of whether imposition of a fine in lieu of prosecution for breach of the Alcohol Act precluded any subsequent administrative decision to temporarily withdraw a license to sell alcohol. Both the fine and the temporary license withdrawal were imposed on the same legal subject and concerned the same offence – the serving of alcohol to minors. The key questions were thus whether temporary withdrawal of the license to sell alcohol is to be considered a penalty and, if so, whether the temporary withdrawal was in contravention of the right not to be tried and convicted twice in the same matter (*ne bis in idem*); see P7-4-1 of the ECHR in this case.

Most decisions on the ECHR's notion of penalty concern Articles 6 and 7 of the convention. In case law from the European Court of Human Rights (ECtHR), both Article 6 of the ECHR and ECHR P7-4 contain the same notion of penalty. This makes the so-called Engel criteria, which were first established in the ECtHR's judgment *Engel and others v. the Netherlands* on 8 June 1976, decisive in determining whether temporary withdrawal of a license to serve alcohol is a penalty in the context of ECHR P7-4.

According to the Engel criteria, the question of whether a sanction is to be considered a penalty under the convention must be determined on the basis of (1) "the characterisation under national law", (2) "the nature of the offence" and (3) "the nature and degree of severity of the penalty". Generally, the criteria are alternative, "but a prosecution can also be considered criminal prosecution on the basis of the cumulative effect of multiple criteria"; see among other references Supreme Court Reports 2004, p. 1500, paragraph 38.

Following an overall assessment that took into account the objective underly-

ing the Alcohol Act's provision on withdrawal of a license to sell and serve alcoholic beverages, as well as whether the provision is of a penal nature, the Ombudsman found that the administrative decision to temporarily withdraw the license to sell alcohol owing to a violation of the age provisions in the Alcohol Act must be viewed as a penalty under the ECHR.

The next question was whether the administrative decision to withdraw the license amounted to repeated prosecution, or was a case of lawful parallel prosecution. The wording of the ECHR P7-4 states that the first instance of prosecution is concluded when the offender has been "finally acquitted or convicted". However, the provision contains no detailed rules for at what point a decision achieves such preclusionary effect. Because fines in lieu of prosecution may be appealed, because the time limit for such appeals is the same as for judgments of the court, and because the hearing of an appeal can lead to a fine being revoked, the Ombudsman found that the fine could scarcely be considered a final decision in the context of P7-4 of the ECHR at the time it was imposed. The fine in this case became final at the end of the term of appeal, which is to say on 13 May 2013. The company was given advance notice of the withdrawal of license to sell alcohol on 29 or 30 April 2013. The municipality made the administrative decision to withdraw the license on 4 June 2013, and the decision was affirmed by the county governor on 20 February 2014. The proceedings involving the fine and those involving the license-withdrawal case had therefore, to some extent, taken place in parallel.

On the basis of decisions by the ECtHR's to dismiss two cases – *R.T. v. Switzerland* on 30 May 2000 and *Nilsson v. Sweden* on 13 December 2005 – the Supreme Court has determined that a certain degree of authority exists to subject the same legal entity to parallel prosecution, specifically if there is "a sufficiently close connection between them, in substance and in time". However, in three judgments handed down against Finland on 20 May 2014, the ECtHR posed stiff requirements for the simultaneous conclusion of the legal actions in order for parallel prosecution to be permissible.

The fine in lieu of prosecution and the license withdrawal were imposed by two different authorities, the prosecuting authority and the municipality respectively, and the two proceedings were in no way related. In addition, the cases were considered independently of each other, both as regards the actual circumstances and the sanctions to be imposed. Nor is withdrawal of a license to serve alcoholic beverages conditional on the existence of a legally binding ruling, fine or judgment establishing the facts of the matter. Although the municipality in this case based itself on a complaint, it carried out its own inquiries into the case; these included an advance notice in which the licensee was given an opportunity to comment. It cannot be said that the proceedings were substantively connected or coincident in time. The case surrounding the fine in lieu of prosecution and the license-withdrawal case therefore constituted two parallel and separate prosecutions. Since the license-withdrawal case had not been concluded at the point in time when the fine became final on 13 May 2013, the licensee was punished

twice for the same matter. The administrative decision to withdraw the license was therefore in breach of the right not to be tried and convicted twice in the same matter (*ne bis in idem*) set forth in ECHR P7-4.

The Ombudsman therefore asked the County Governor of Vest-Agder to review its administrative decision to withdraw the license to serve alcohol. The Ministry of Health and Care Services was asked to take note of the Ombudsman's view of the notion of penalty in its work on a consultation round regarding amendments to the alcohol regulations.

III. Overview of cases in 2014

1. Introduction

This chapter contains an overview of cases of general interest (section 2), cases taken up by the Ombudsman on his own initiative (section 3) and cases in which the Ombudsman has made the public administration aware of shortcomings in laws, regulations or administrative practice (section 4).

The cases below date from the times in office of both Arne Fliflet and Aage Thor Falkanger, who took up the post of Ombudsman on 16 June 2014. Cases are referred to by title and case number. Full-text versions of statements are published on the Ombudsman's website and the Lovdata and Gyldendal Rettsdata websites.

2. Cases of general interest

Pursuant to section 12 of the Instructions for the Parliamentary Ombudsman for Public Administration, the annual report must contain "a survey of the proceedings in the individual cases which the Ombudsman feels are of general interest". The guiding principles for the selection of cases for inclusion in the report are whether a case is considered representative of a certain type of case, whether it provides a relevant example of a procedural error, whether the case involves a matter of principle and clarifies the law, and whether the case concerns an issue affecting legal protections and due process rights. A summary of cases classified by legal area is provided below.

General administrative law

Case 2012/1896	Time-barring of claim concerning municipal charges
Case 2013/868	Question of whether dismissal of a complaint against a budget decision was an individual decision that could be appealed
Case 2013/1263	Question of legal competence in connection with the appointment of a municipal employee
Case 2013/1266	Government grants to belief communities – the public administration's duty to provide guidance
Case 2013/1384	Case concerning the allocation of a settlement municipality – deficient investigation and right to present an appropriate defence, etc.
Case 2013/1401	Appointment of adviser – requirement for written documentation, clarification of the facts and assessment of qualifications
Case 2013/1445	Reimbursement of legal costs in family immigration case under section 36 of the

Child support

The Correctional Services

Agriculture, forestry and reindeer husbandry

Commerce – authorisations, permits and licenses

Freedom of information and disclosure

Planning and building

The police and prosecuting authority

Case 2012/2431	Follow-up of visit to the central custody facility for Sør-Trøndelag Police District in Trondheim
Case 2014/409	Right to appeal against the police's decision to block an address in the National Population Register

Waste management, sweeping, water and drainage

Case 2013/1125	Refusal of application for a reduction in a water charge

Taxes, tax assessment, customs and excise, indirect taxes and property tax

Case 2012/783	Valuation for property tax purposes of an undeveloped plot in an LNFR (agricultural, nature, outdoor recreation and reindeer husbandry) area with a ban on construction
Case 2012/2650	National insurance contributions for pensioners who are voluntary members of the national insurance scheme
Case 2013/2029	Case concerning exit taxation and the calculation base for surtax on employer's national security contributions in connection with summary joint settlement
Case 2013/2126	Case concerning stamp duty – authority required to be able to make binding use of the sale value specified in a title declaration on behalf of persons who acquire title and are liable to tax
Case 2013/2835	Case concerning supplementary calculation of a one-off charge – the Directorate of Customs and Excise's interpretation of conditions relating to changes in tax status, etc.
Case 2013/2962	Case concerning NAV International's collection of outstanding national insurance contributions
Case 2014/284	Bodø tax collection office's sending of notices concerning enforcement proceedings and attachment of earnings before a deferred payment deadline had passed
Case 2014/1187	Application of section 14-6, second paragraph, of the Taxation Act on the limitation of the loss deduction when the taxpayer has been granted a debt settlement arrangement under the Debt Settlement Act
Case 2014/1947	Case concerning whether the time spent when levying surtax was contrary to Article 6(1) of the European Convention on Human Rights

Foreign nationals

Case 2012/1045 Expulsion of foreign nationals associated with the Hells Angels

Case 2012/2408 Visit to the police immigration detention facility at Trandum in the autumn of 2012

Choice of place name

Case 2014/433 A municipality's power to change the name of a town

3. Cases taken up by the Ombudsman on his own initiative

In addition to dealing with complaints from citizens, the Ombudsman may take up cases on his own initiative. In 2014, there were 35 new cases of this kind. In total, 48 such cases were closed in 2014. Nineteen of the cases have been published as cases of general interest.

Case 2011/2370 The police's handling of weapons cases concerning mental health problems – formulation of circulars, etc.

Case 2011/2412 Transfer of detainees from police custody facilities to prison within two days – practice at Oslo prison and by the Correctional Services' eastern Norway region

Case 2012/2408 Visit to the police immigration detention facility at Trandum in the autumn of 2012

Case 2012/2430 Follow-up of visit to Trondheim prison in December 2012

Case 2012/2431 Follow-up of visit to the central custody facility for Sør-Trøndelag Police District in Trondheim

Case 2012/2650 National insurance contributions for pensioners who are voluntary members of the national insurance scheme

Case 2013/1087 Follow-up of visit to Drammen prison on 19 June 2013

Case 2013/1625 Case concerning an individual decision and the right of appeal in connection with refusal of participation in an employment programme

Case 2013/2668 Practice of the Compensation Board for Victims of Violent Crime – time-barring and legal fees

Case 2013/2824 NAV International's case-processing times in cases concerning membership of the national insurance scheme

Case 2013/3200 Investigation of sanitary conditions at Trondheim prison

Case 2014/91 Regulation of employees' freedom of expression

Case 2014/108 Breach of the duty to announce the position of chief municipal executive externally

Case 2014/230 Question of whether section 2-7 of the Satisfaction of Claims

	Act applied analogically to deductions from a pension in connection with the recovery of excess payments under a contractual pension
Case 2014/409	Right to appeal against the police's decision to block an address in the National Population Register
Case 2014/587	Complaints against long case-processing times at NAV – procedures for sending delay notices
Case 2014/1240	Case-processing times in cases concerning sickness benefit
Case 2014/1275	The National Insurance Court's handling of cases concerning work assessment allowance
Case 2014/2335	Case concerning the right to appeal a renewed work capability assessment

4. Cases in which the Ombudsman has made the public administration aware of shortcomings in laws, regulations or administrative practice

In his work on complaints and cases taken up on his own initiative, the Ombudsman occasionally discovers shortcomings in laws, regulations or administrative practice. Section 11 of the Ombudsman Act states that the Ombudsman may notify the relevant ministry if he becomes aware of such shortcomings. The intention is that the ministry will respond to the Ombudsman's notification by beginning work on necessary changes to laws or regulations, or amending its practice. The cases in which the Ombudsman has made the public administration aware of such shortcomings must be mentioned in the annual report; see section 12, second paragraph, of the Instructions for the Parliamentary Ombudsman for Public Administration.

In 2014, the Ombudsman asked the public administration to consider changes or additions to laws and regulations, or to amend administrative practice, in 33 cases. An overview of these cases is provided below.

Case 2011/2370	The police's handling of weapons cases concerning mental health problems – formulation of circulars, etc.
Case 2012/783	Valuation for property tax purposes of an undeveloped plot in an LNFR (agricultural, nature, outdoor recreation and reindeer husbandry) area with a ban on construction
Case 2012/2408	Visit to the police immigration detention facility at Trandum in the autumn of 2012
Case 2012/2431	Follow-up of visit to the central custody facility for Sør-Trøn-

Case 2013/3075	Regulations on the adapted transport scheme
Case 2013/3177	Practice in connection with the despatch of case documents and processing of a party's applications for disclosure
Case 2013/3205	The duty of a tax board to give reasons in cases concerning limitation of tax claims in view of the debtor's circumstances
Case 2014/22	The Correctional Services' handling of health-related mail to inmates
Case 2014/91	Regulation of employees' freedom of expression
Case 2014/142	The Norwegian Public Service Pension Fund's procedure in a case concerning a claim for repayment of contractual pension – use of the *nynorsk* form of Norwegian in letter to members
Case 2014/157	Case concerning disclosure and registration of documents in a case concerning the construction of Lærdal Tunnel
Case 2014/284	Bodø tax collection office's sending of notices concerning enforcement proceedings and attachment of earnings before a deferred payment deadline had passed
Case 2014/409	Right to appeal against the police's decision to block an address in the National Population Register
Case 2014/587	Complaints against long case-processing times at NAV – procedures for sending delay notices
Case 2014/1275	The National Insurance Court's handling of cases concerning work assessment allowance
Case 2014/1521	Case concerning an order to keep a waste diary
Case 2014/1596	Disclosure of shareholder register returns submitted to the Norwegian Tax Administration
Case 2014/2335	Case concerning the right to appeal a renewed work capability assessment

IV. Statistics

This chapter contains an overview of cases processed by the Ombudsman's Office in 2014, the Ombudsman's case-processing times, case outcomes and the distribution of cases among administrative bodies. The figures are also available on the Ombudsman's website, together with an overview of the distribution of cases by subject area and an overview of the geographical distribution of cases opened in 2014.

1. Cases in 2014

Number of new cases		
	2013	**2014**
Complaints and written enquiries	2,942	3,109
Cases taken up on the Ombudsman's own initiative	45	35
Total	2,987	3,144

The number of new cases has been stable for the past four years, at around 3,000 cases per year. In 2014, 3,109 new cases were submitted to the Ombudsman's office, and 35 cases were initiated on the Ombudsman's own initiative. The reason for the decline in the number of own-initiative cases take from 2013 to 2014 is that the figure previously included the Ombudsman's visits to administrative bodies. In 2013, 11 such visits were recorded as own-initiative cases.

Closed and open cases		
	2013	**2014**
Cases closed during the course of the year	3,076	3,211
Open cases at the end of the year	329	260

The backlog of open cases was reduced by 69 in 2014, even though the number of received cases increased from 2013 to 2014.

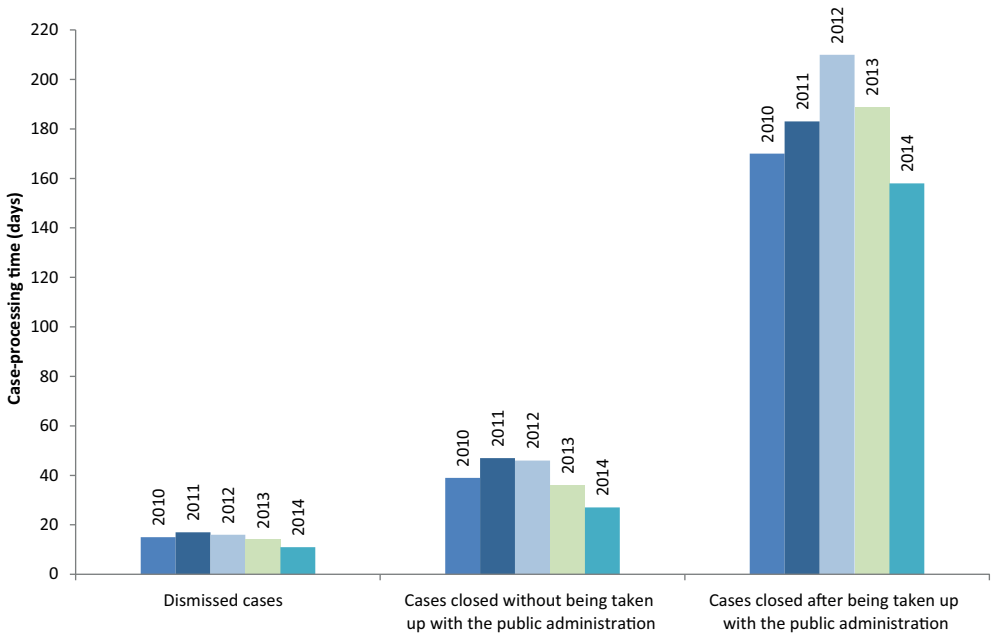
Telephone enquiries and disclosure requests		
	2013	**2014**
Telephone enquiries	1,722	2,041
Received disclosure requests	1,208	719
Full disclosure granted	959	493
Partial disclosure granted	65	56
Disclosure refused	184	170

Full disclosure means that the requested documents are sent in unedited form. Partial disclosure means that the documents are partially redacted. The drop in the number of disclosure requests may be linked to the fact that more documents are now published on the Ombudsman's website. The number of disclosure requests also varies according to the activity levels of certain individuals.

2. Case-processing times

The time taken by the Ombudsman to deal with cases has fallen. In 2013, a number of prioritisation criteria were adopted to reduce case-processing times. Times dropped in 2013, and were shortened further in 2014. In particular, processing times have improved for cases closed following discussion with the public administration.

Average case-processing time in number of days



Average case-processing time in number of days					
	2010	**2011**	**2012**	**2013**	**2014**
Dismissed cases	15	17	16	14	11
Cases closed without being taken up with the public administration	39	47	46	36	27
Cases closed after being taken up with the public administration	170	183	210	189	158

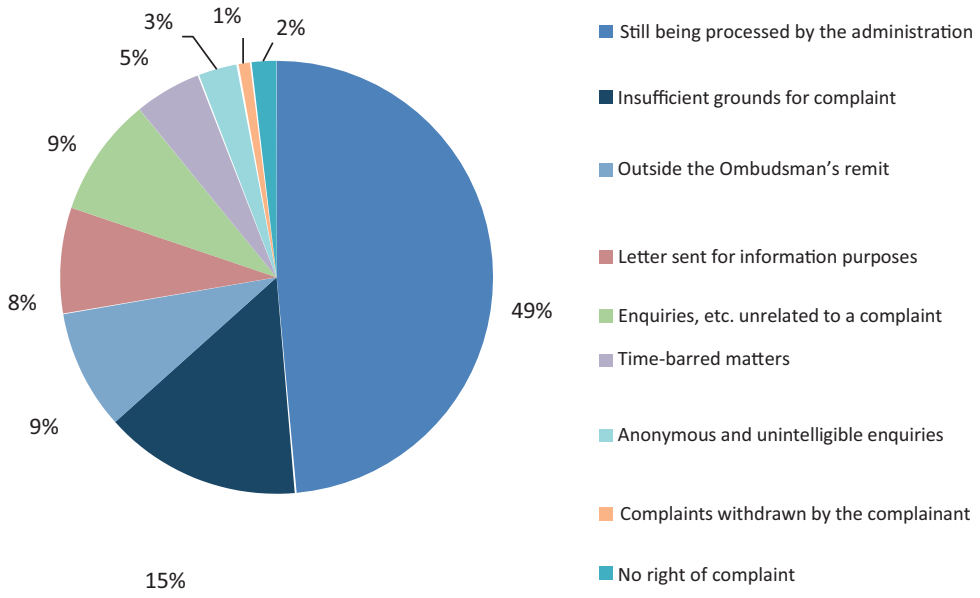
3. Case outcomes

The outcomes of the cases processed by the Ombudsman can be divided into two main categories: dismissed cases and cases considered on their merits. The table below compares the numbers of dismissed cases and cases considered on their merits in 2013 and 2014. The outcome of the Ombudsman's consideration is specified for the cases considered on their merits. In 2014, 54 per cent of the enquiries submitted to the Ombudsman were dismissed, and 46 per cent were considered on their merits. The dismissal percentage has increased, from 51 per cent in 2013 to 54 per cent in 2014. It should also be noted that – in line with the case-processing prioritisation criteria and on the basis of section 6, fourth paragraph, of the Ombudsman Act – the Ombudsman has dismissed more cases in the past two years than previously on the grounds that they were unsuitable for detailed consideration by the Ombudsman.

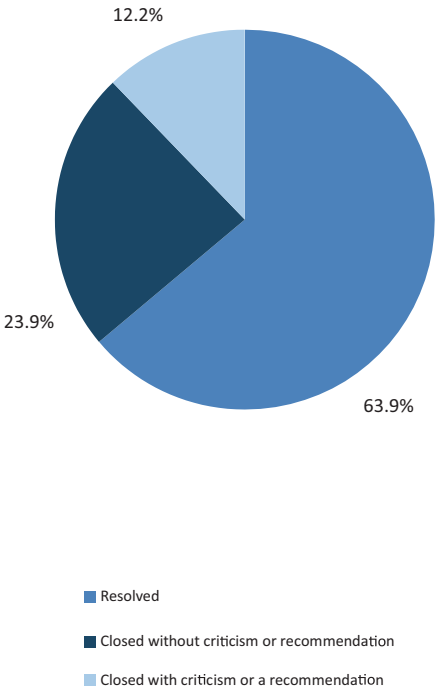
All cases that are not dismissed are registered as cases considered on their merits. Cases are also so categorised if the Ombudsman has undertaken a provisional assessment as to whether there are sufficient grounds to consider the complaint but the case is closed without having been taken up with the administration. In such cases, limited consideration is given to the merits of the administrative case. General enquiries unrelated to a specific complaint, and enquiries sent to the Ombudsman for information purposes, are counted as dismissed cases. On the other hand, cases in which the complainant's problem has been solved, for example by placing a telephone call to the administrative body in question, are registered as having been considered on their merits. In 2014, 309 cases fell into this category. Cases classified as "resolved" may include criticism of the relevant administrative body.

Distribution of cases dismissed and considered on their merits		
	2013	**2014**
Dismissed cases	1,558	1,721
Cases considered on their merits	1,518	1,490
1. No need to obtain a written statement from the administration		
a) Case resolved by means of a telephone call, etc.	348	309
b) The letter of complaint, in some instances supplemented by case documents, showed that the complaint could not succeed	866	881
2. Written statement obtained from the administration (submission)		
a) Case resolved without the Ombudsman having to issue a final opinion	41	47
b) Case closed without criticism or recommendation, meaning that the complaint did not succeed	80	71
c) Case closed with criticism or a recommendation to reconsider	183	182

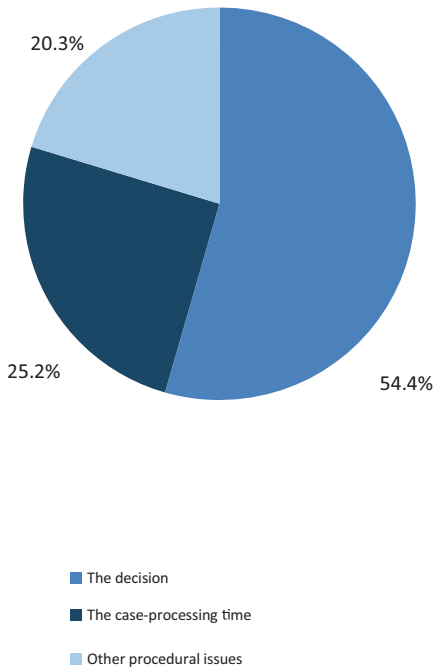
Dismissed cases (54 per cent of the total number of closed cases)



Cases considered on their merits
(46 per cent of the total number of closed cases)



Details of the subject matter of the cases that resulted in criticism or a recommendation
(12 per cent of cases considered on their merits)



4. Distribution of closed cases by administrative body

The table below shows all cases closed in 2014, by administrative body. As the table shows, the complaints came from all sectors of the public administration, encompassing administrative bodies at the state, county and municipal levels.

The majority of the complaints (around 75 per cent) related to state administrative bodies. Most of these complaints concerned NAV and the county governors, which accounted for just under a quarter of complaints each.

Complaints against municipal administrative bodies totalled 19.8 per cent, while complaints against county administrative bodies amounted to just 1.5 per cent. In terms of subject matter, complaints relating to employment, health and welfare services, the justice sector and planning and building dominated.

Distribution of cases by administrative body

	Total	Dismissed	Considered	Criticism
Office of the Prime Minister	5	2	3	1
Ministry of Labour and Social Affairs	12	6	6	2
Norwegian Labour and Welfare Administration (NAV)	561	343	218	23
Norwegian Labour Inspection Authority	4	-	4	-
Norwegian Public Service Pension Fund	15	6	9	2
National Insurance Court	53	22	31	1
Norwegian Pension Insurance for Seamen	1	1	-	-
Ministry of Children, Equality and Social Inclusion	2	1	1	-
Office for Children, Youth and Family Affairs	2	2	-	-
County social welfare boards	1	1	-	-
Consumer Disputes Commission	1	1	-	-
Equality and Anti-Discrimination Ombudsman, Equality and Anti-discrimination Tribunal	8	3	5	-
Directorate of Integration and Diversity	3	-	3	1
Ministry of Finance	21	4	17	8
Financial Supervisory Authority of Norway	3	3	-	-
Norwegian Tax Administration	128	60	68	7
Customs and Excise Authorities	27	15	12	3
Norwegian National Collection Agency	11	5	6	-
Norwegian Financial Services Complaints Board	3	3	-	-
Complaints board for auditor and accountant matters	1	-	1	-
Norges Bank (central bank of Norway)	1	1	-	-
Ministry of Defence	4	3	1	-
Norwegian Defence Estates Agency	2	1	1	-
Norwegian Armed Forces	5	2	3	-
Norwegian National Security Authority	1	1	-	-
Ministry of Health and Care Services	17	11	6	2
Norwegian System of Patient Compensation/ Patient Injury Compensation Board	20	10	10	-
Norwegian Directorate of Health	10	5	5	-

Distribution of cases by administrative body

	Total	Dismissed	Considered	Criticism
Norwegian Board of Health Supervision	9	6	3	-
Hospitals and health institutions	29	22	7	-
Supervisory commissions	2	-	2	-
Regional health authorities	3	3	-	-
Norwegian Appeal Board for Health Personnel	3	-	3	-
Norwegian Health Economics Administration (HELFO)	5	2	3	-
Norwegian Registration Authority for Health Personnel	9	6	3	-
Patient travel	5	5	-	-
Norwegian Radiation Protection Authority	1	1	-	-
Norwegian Governmental Appeal Board regarding medical treatment abroad	3	2	1	-
Ministry of Justice and Public Security	16	7	9	3
National Police Directorate	62	16	46	9
Norwegian Directorate of Immigration	83	51	32	7
Immigration Appeals Board	86	24	62	7
Norwegian Correctional Services	98	57	41	9
Police and prosecuting authority	118	78	40	2
Enforcement officers	11	10	1	-
Courts	38	38	-	-
Assessment board for compensation claims following prosecution	2	2	-	-
Norwegian Civil Affairs Authority	27	7	20	-
Norwegian Criminal Cases Review Commission	3	2	1	-
Supervisory Council for Legal Practice	6	6	-	-
Compensation Board for Victims of Violent Crime/Norwegian Criminal Injuries Compensation Board	7	2	5	1
Norwegian Directorate for Civil Protection	4	3	1	-
The Norwegian Bar Association's Disciplinary Committee	1	-	1	-
Supervisory Council for Legal Practice	1	1	-	-
Communications surveillance supervisory board	1	-	1	
Ministry of Local Government and Modernisation	20	4	16	2
Norwegian State Housing Bank	4	2	2	-

Distribution of cases by administrative body

	Total	Dismissed	Considered	Criticism
Norwegian Mapping Authority	4	3	1	-
Norwegian Data Protection Authority	1	1	-	-
Ministry of Culture	7	3	4	2
Norwegian Broadcasting Corporation	5	5	-	-
Norwegian Gaming and Foundation Authority	1	-	1	-
Norwegian Media Authority	1	-	1	-
Arts Council Norway	1	1	-	-
The National Archives	1	1	-	-
Place names complaints board	1	-	1	1
Church of Norway	7	3	4	-
Ministry of Education and Research	7	1	6	-
Norwegian State Educational Loan Fund	22	15	7	-
Universities and university colleges	44	21	23	2
Ministry of Agriculture and Food	4	1	3	2
Norwegian Agriculture Agency	6	1	5	1
Norwegian Food Safety Authority	30	19	11	-
Norwegian Reindeer Husbandry Administration	5	2	3	1
Norwegian National Fund for Natural Damage Assistance	2	-	2	-
Veterinarian legal advice board	1	1	-	-
Ministry of Climate and Environment	13	4	9	2
Norwegian Environment Agency	4	-	4	-
Directorate for Cultural Heritage	2	2	-	-
Ministry of Trade, Industry and Fisheries	10	2	8	1
Innovation Norway	1	-	1	-
Norwegian Maritime Authority	1	-	1	-
Brønnøysund Register Centre	4	3	1	-
Norwegian Industrial Property Office	1	-	1	-
Directorate of Fisheries	3	2	1	-
Directorate of Mining	2	1	1	-

Distribution of cases by administrative body

	Total	Dismissed	Considered	Criticism
Ministry of Petroleum and Energy	14	8	6	1
Norwegian Water Resources and Energy Directorate	3	1	2	1
Statnett	2	2	-	-
Ministry of Transport and Communications	8	3	5	-
Norwegian National Rail Administration	5	4	1	-
Norwegian State Railways (NSB)	1	1	-	-
Norwegian Public Roads Administration	33	19	14	1
Norwegian Coastal Administration	3	1	2	-
Avinor AS	2	2	-	-
Consumer Complaints Board for Electronic Communications	1	1	-	-
Posten Norge AS	3	2	1	-
Ministry of Foreign Affairs	7	2	5	1
County governors	546	192	354	28
County administrative bodies	49	18	31	7
Municipal administrative bodies	637	379	258	41
Other	127	125	2	-
Total	**3,211**	**1,721**	**1,490**	**182**

Appendix 1

The Ombudsman's office – staff list

As per 31 December 2014, the Ombudsman's office had the following divisional structure and comprised the following staff. The specialist subject areas for the divisions are set out in Appendix 3.

Division 1:

Head of Division:	Bjørn Dæhlin
Deputy Head of Division:	Annicken Sogn
Senior Adviser:	Heidi Quamme Kittilsen
Senior Adviser:	Solveig Moe
Adviser:	Martine Refsland Kaspersen
Adviser:	Harald Ankerstad
Administrative officer:	Law student Maren Folkestad
Administrative officer:	Law student Kirsten Vikesland Mæhle
Administrative officer:	Law student Olav Haukeli

Division 2:

Head of Division:	Eivind Sveum Brattegard
Deputy Head of Division:	Jostein Løvoll
Senior Adviser:	Kjetil Fredvik
Senior Adviser:	Eirik Namli
Senior Adviser:	Lindy Ulltveit-Moe
Adviser:	Stine Elde
Adviser:	Signe Christophersen
Adviser:	Lene Stivi

Division 3:

Head of Division:	Berit Sollie
Deputy Head of Division:	Bente Kristiansen
Senior Adviser:	Marianne Lie Løwe
Senior Adviser:	Torbjørn Hagerup Nagelhus
Adviser:	Johan Vorland Wibye

Division 4:

Acting Head of Division:	Øystein Nore Nyhus
Acting Deputy Head of Division:	Ingeborg M. Nakken Sæveraas

Senior Adviser:	Sigrid M. Fæhn Oftebro
Senior Adviser:	Kari Rørstad
Senior Adviser:	Janicke Wiggen
Adviser:	André Klakegg
Adviser:	André Ueland
Higher Executive Officer:	Ingrid Jerve Aanstad

Division 5:

Head of Division:	Annette Dahl
Deputy Head of Division:	Ingeborg Skonnord
Senior Adviser:	Karen Haug Aronsen
Senior Adviser:	Siv Nylenna
Senior Adviser:	Therese Fuglesang
Senior Adviser:	Kari Bjella Unneberg
Senior Adviser:	May-Britt Mori Seim
Adviser:	Maria Bakke

National Preventive Mechanism:

Head of Division:	Helga Fastrup Ervik
Senior Adviser:	Ingvild Lovise Bartels
Senior Adviser:	Knut Evensen
Senior Adviser:	Kristina Baker Sole
Adviser:	Johannes Flisnes Nilsen
Adviser:	Caroline Klæth Eriksen[1]

Others

Head of Division:	Harald Gram
Special Adviser:	Yeung Fong Cheung[2]
Administration	
Head of Administration:	Solveig Antila

Finance, personnel, operational support:

Senior Adviser:	Einar Fiskvik
Senior Adviser:	Marianne Guettler Monrad[3]
Adviser:	Mette Bech Hansen

A senior communications adviser was appointed but did not take up the post in 2014.

Office and switchboard services:

Senior Executive Officer:	Mary Anita Borge
Senior Executive Officer:	Torill H. Carlsen
Senior Executive Officer:	Nina Olafsen
Senior Executive Officer:	Mette Stenwig

Archives, library and internet:

Head of Archives:	Annika Båshus
Adviser:	Liv Jakobsen Føyn
Adviser:	Elisabeth Nordby
Adviser	Anne-Marie Sviggum
Senior Executive Officer:	Anne Kristin Larsen
Senior Executive Officer:	Kari Partyka

IT, security and reception services:

External personnel.

The following members of staff were on leave as per 31 December 2014:

Head of Division:	Lisa Vogt-Lorentzen
Senior Adviser:	Thea Jåtog Trygstad
Senior Adviser:	Marianne Aasland Kortner
Senior Adviser:	Elisabeth Fougner
Senior Adviser:	Edvard Aspelund
Adviser:	Harald Søndenå Jacobsen
Adviser:	Mathias Emil Hager

[1] This employee is also a member of the administration division.
[2] This employee is funded by the Ministry of Foreign Affairs, but employed by the Ombudsman.
[3] Secondment from Division 4.

Appendix 2

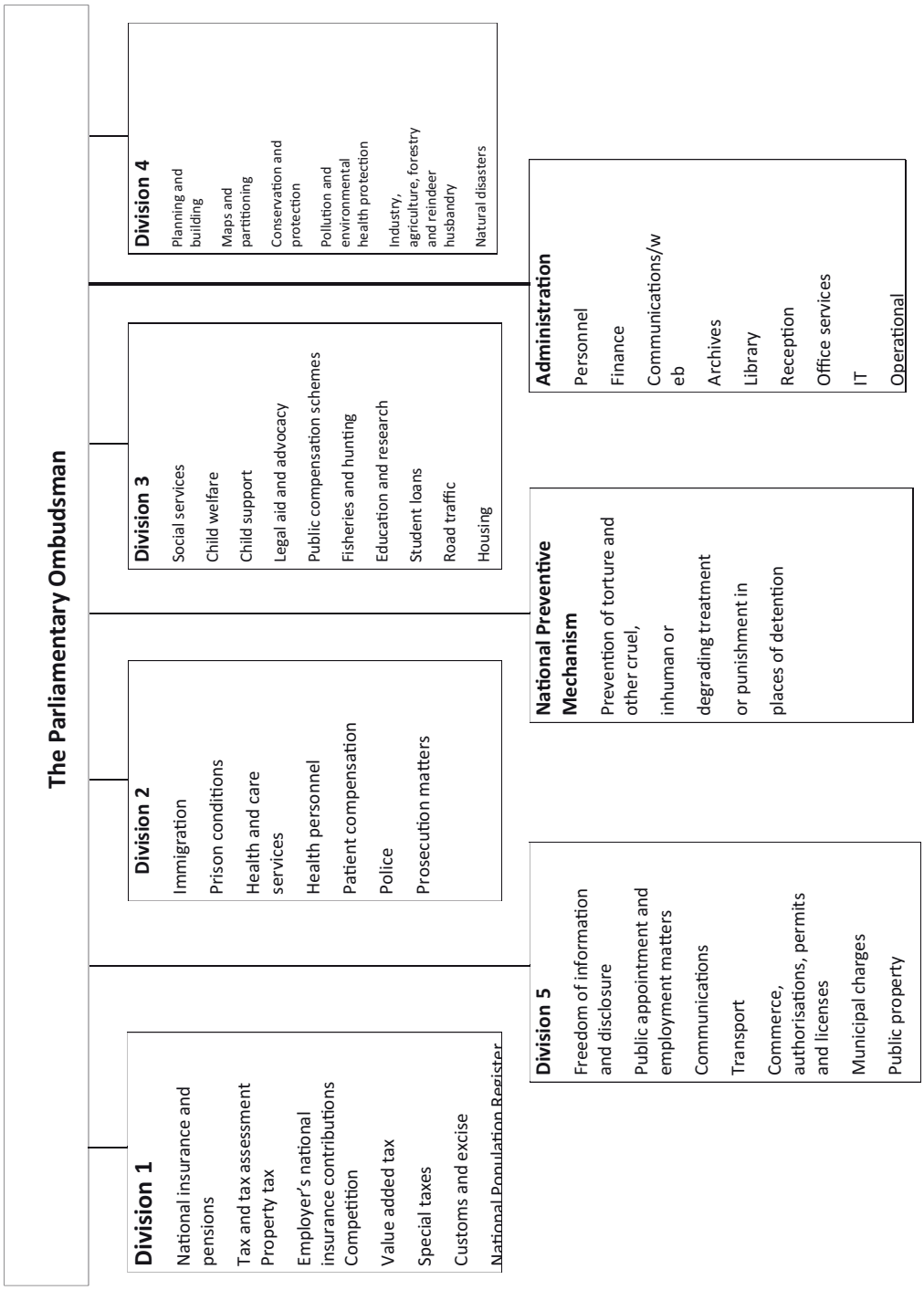
Gender equality summary

				Pay	
		Men %	**Women %**	**Men average per month**	**Women average per month**
Total in workforce	2014	28%	72%	51,681	51,936
	2013	27%	73%	54,392	51,012
Executive management*	2014	43%	57%	88,366	85,808
	2013	43%	57%	84,883	81,965
Senior Advisers	2014	25%	75%	51,742	51,498
	2013	18%	82%	50,083	51,674
Advisers	2014	41%	59%	42,202	42,337
	2013	29%	71%	43,473	44,225
Higher Executive Officers	2014		100%		38,875
	2013	100%		39,112	
Senior Executive Officers	2014		100%		42,181
	2013		100%		39,701
Paid by the hour	2014	33%	67%		
	2013		100%		
Part-time**	2014	10%	14%		
	2013		8%		
Medically certified sick leave	2014	0.8%	4.4%		
	2013	1.6%	4.8%		

* The Ombudsman is not included in these statistics.
** The proportion of each gender working part-time

Appendix 3

Overview of divisional structure and specialist subject areas



Appendix 4

Lectures, meetings, visits and trips in 2014

This overview details the activities of the Ombudsman and/or staff from the Ombudsman's office. Activities in which the Ombudsman participated personally are marked with an asterisk (*). Aage Thor Falkanger took over as Parliamentary Ombudsman on 16 June 2014, replacing Arne Fliflet.

Date	Event
1. Lectures by the Ombudsman in Norway	
4 January	Lecture at the Wadahl Seminar 2014, seminar for law students*
22 January	Lecture in Lillehammer at a human resources conference for the public sector hosted by HR Norge*
13 February	Opening speaker at a seminar on human rights in the Norwegian Constitution*
19 February	Participation in debate – Symposium on the Constitution 2014*
26 February	Lecture on good administrative practice, University of Bergen*
28 March	Lecture at the anniversary conference of the planning and building law forum, Geilo. *Nytt fra Sivilombudsmannen* [News from the Ombudsman]
31 April	Presentation of annual report for 2013 to the Storting's Standing Committee on Scrutiny and Constitutional Affairs*
7 April	Lecture on licenses for the sale of alcoholic beverages at the FKAAS founding conference, Gardermoen
5 May	Lecture on the Norwegian parliament's control function – briefing on the Parliamentary Ombudsman for new members of parliament*
23 May	Lecture on the Norwegian Constitution, University of Tromsø*
27 May	Comments at a breakfast seminar hosted by the law firm Advokatfirmaet Hjort DA, *Habilitet i en moderne offentlig sector* [Legal competence in the modern public sector] *
6 June	Lecture to the Norwegian parliament's constitutional department – lessons learned while serving as Parliamentary Ombudsman*
26 August	Comments on employees' freedom of expression at a seminar hosted by the International Law and Policy Institute (ILPI)
4 September	Comments at a conference for county governors hosted by the Ministry of Local Government and Modernisation, Hamar*
11 September	Lecture to the Ministry of Finance's financial markets department on the Parliamentary Ombudsman's responsibilities and activities

8 October	Comments on the National Preventive Mechanism at a gathering of county governors hosted by the Ministry of Local Government and Modernisation*
28 October	Comments on preventive work at a human rights seminar hosted by the Parliamentary Ombudsman*
6 November	Comments at a seminar for public-sector employees hosted by the law firm Advokatfirmaet Kluge*
27 November	Lecture at an event hosted by Oppland County Governor, *Forholdet mellom forvaltninga sitt frie skjønn og kommunalt sjølvstyre i klagebehandlinga* [The relationship between the public administration's free exercise of discretion and local self-governance in the context of complaints processing.]
2. The Ombudsman's meetings and visits in Norway	
9–12 January	Participation in KROM conference
14 January	Liaison meeting with the Ombudsman for Children
27 January	Meeting hosted by Nordisk administrativt forbund [Nordic administrative association], focusing on the topic of *Statsministerens kontor – en styrket maktens høyborg* [The Office of the Prime Minister – a stronger bastion of power]*
10 February	Meeting with Nora Sveaass, the Norwegian Psychological Association's human rights committee
11 February	Meeting with Thomas Horn, the Norwegian Bar Association's human rights committee
11 February	Meeting of the advisory committee to the national institution for human rights
13 February	Closed seminar with the Storting's Standing Committee on Scrutiny and Constitutional Affairs on human rights in the Norwegian Constitution
14 February	Open meeting on the government's human rights focus with Minister of Foreign Affairs Børge Brende
14 February	Visit from Aage Thor Falkanger, who took up the post of Parliamentary Ombudsman on 16 June*
19 February	Open hearing on the language of the Norwegian Constitution, the Storting's Standing Committee on Scrutiny and Constitutional Affairs*
19–20 February	Constitutional Symposium at the Faculty of Law, University of Bergen*
21 February	Seminar: *1814–2014 Statsmakt, folkekirke, livssynsåpent samfunn* [1814–2014 Government, the Church of Norway, religiously neutral society]*
25 February	Visit from Roald Linaker, new Ombudsman for the Norwegian Armed Forces*

26 February	Liaison meeting with representatives from the national institution for human rights, the Ombudsman for Children and the Equality and Anti-Discrimination Ombudsman
28 February	Open meeting at the Norwegian parliament on human rights in the Norwegian Constitution*
14 March	Meeting with the Auditor General of Norway*
25 March	Presentation of the annual report for 2013 to the President of the Norwegian parliament*
26 March	Launch of the Yearbook for human rights in Norway 2013
26 March	Meeting with representatives from the Ministry of Foreign Affairs, the Ministry of Justice and Public Security and the European Committee for the Prevention of Torture (CPT) on potential cooperation in connection with the Parliamentary Ombudsman's human rights seminar 2014*
27 March	Lecture at the anniversary conference of the planning and building law forum, co-hosted by the Parliamentary Ombudsman*
1 April	Seminar and dinner at Gamle Logen, farewell event for Arne Fliflet*
9 April	Open meeting on the national institution for human rights organised by the Norwegian Centre for Human Rights
29 April	Open hearing organised by the President of the Norwegian parliament on the new national institution for human rights*
6 May	Meeting of the advisory committee to the national institution for human rights
8 May	Liaison meeting between the national institution for human rights and the various ombudsmen, hosted by the Ombudsman for Children
12 May	Dinner at the Royal Palace in connection with a state visit by the President of Israel, H.E. Shimon Peres*
20 May	Meeting with the Office of the Auditor General of Norway*
11 June	Dinner at the Royal Palace in connection with a state visit from Germany*
12 June	Meeting about a new parliamentary white paper on human rights in the foreign and development policy context, hosted by the Ministry of Foreign Affairs
18 June	Meeting with the Norwegian Press Association's freedom of information committee *
21–22 August	Participation in the 40th meeting of Nordic lawyers*
1–3 September	Office seminar
3–4 September	County governor conference 2014, planning and building law*
9 September	Meeting of the advisory committee to the national institution for human rights

2 October	159th official opening of the Storting (the Norwegian parliament)*
10 October	Participation in seminar on capital punishment and isolation, University of Oslo
13 October	Dinner at the Royal Palace in connection with a state visit by the President of India, H.E.Pranab Mukherjee*
16 October	Dinner at the Royal Palace for members of the Storting (the Norwegian parliament)*
22 October	Visit to the Immigration Appeals Board*
22 October	Meeting with the head of the dispute resolution board, Advocate Henning Harborg
28 October	The Parliamentary Ombudsman's human rights seminar 2014*
31 October	Visit to NAV International
8 November	Meeting of the advisory committee to the national institution for human rights
18 November	Meeting of the advisory committee to the national institution for human rights
20 November	Participation in a panel debate on freedom of expression at a legal conference in Lillestrøm*
20–22 November	Supervisory Commission Conference 2014
26 November	Meeting with the Norwegian Directorate of Labour and Welfare and the Ministry of Labour and Social Affairs*
28 November	Participation in the Torkel Opsahl Memorial Lecture by Iceland's judge at the European Court of Human Rights, Robert Spano: "The European Court of Human Rights and National Courts – A Constructive Conversation or A Dialogue of Disrespect?"
2 December	Visit to the Norwegian Registration Authority for Health Personnel
4 December	Liaison meeting between the national institution for human rights and the ombudsmen
12 December	Follow-up meeting with Minister of Foreign Affairs Børge Brende on human rights in foreign and development policy
18 December	Meeting with the ambassador of the Netherlands,H.E. Ms Bea ten Tusscher*
4. International meetings and visits to the Parliamentary Ombudsman	
9 May	Visit by a Spanish delegation organised by the Equality and Anti-Discrimination Ombudsman
5 June	Meeting with guest researchers from China, Vietnam and Indonesia hosted by the Norwegian Centre for Human Rights
2 July	Visit by party secretary from Renmin Law School organised by the Norwegian Centre for Human Rights
25 August	Visit by delegation led by the Angolan Minister of Justice*

26 August	Visit by delegation from the Nigerian Federal High Court*
26 August	Visit by the Ombudsman of Guatemala*
5 September	Visit by delegation from Angola in connection with the human rights dialogue between Norway and Angola
10 September	Visit by delegation from the Council of Europe's Congress of Local and Regional Authorities, meeting on local self-government, etc.*
17 September	Visit by representatives from the Hong Kong Legislative Council*
2 October	Meeting with parliamentary delegation from Vietnam*
7–9.oktober	Study visit from the Ombudsman of Lithuania concerning OPCAT/torture prevention *
7 October	Visit by delegation from the Ombudsman of Estonia*
10 November	Visit by delegation from the Anti-Corruption and Civil Rights Commission in South Korea
5. The Ombudsman's meetings and visits abroad, participation in international conferences, etc.	
2–4 March	West Nordic ombudsmen's meeting*
27–29 April	Seminar in Strasbourg for liaison officers in the EU ombudsman network
7–8 May	Open Government Partnership Regional Meeting*
8 May	Participation in hearing on China, UN Committee on Economic, Social and Cultural Rights
9 May	Meeting with Tom Frawley, Ombudsman for Northern Ireland*
2–5 June	Meeting of Nordic ombudsmen in Ystad, hosted by the Parliamentary Ombudsmen in Sweden*
23–24 June	Comments at the International Ombudsman Institute's symposium – "The Parliamentary Ombudsman – A Useful Tool for Improving Public Administration in Norway"
15–17 July	Comments at the IAACA annual seminar – "Anti-Corruption Agencies in a Changing World: Independence, Accountability and Transparency"
19 August	Visit to the Danish Parliamentary Ombudsman, Jørgen Steen Sørensen*
17–19 September	European conference of the International Ombudsman Institute (IOI), Estonia
4–5 November	Participation in the Information Commissioner's European Conference in Edinburgh
15–16 December	West Nordic ombudsmen's meeting*
6. Lectures by the National Preventive Mechanism in Norway	

24 February	Lecture to trainees at the Norwegian Correctional Services' training centre
7 May	Comments at an evening seminar on isolation organised by the legal support group Wayback at the University of Bergen
2 June	Lecture, Norwegian Correctional Services' eastern Norway region, specialist meeting for lawyers
22 August	Participation in teaching at the Norwegian Correctional Services' training centre
26 September	Lecture to exchange students at Oslo University College on the Parliamentary Ombudsman's human rights mandate
30 October	Comments at an ICJ seminar on policy custody
7. The National Preventive Mechanism's meetings and visits	
20–22 January	Dialogue meeting with Russian authorities on supervision of deprivation of liberty, with the Ministry of Justice, the National Police Directorate and the Office of the Attorney General of Norway
31 January	Lunch reception at the House of Literature, hosted by the Ministry of Foreign Affairs' Section for Human Rights and Democracy
10 March	Meeting with the Ombudsman for Children on the use of coercion in the child welfare service
17 March	Meeting with the Norwegian Board of Health Supervision
26 March	Meeting with the Norwegian member of the European Committee for the Prevention of Torture, Professor Georg Høyer
27 March	Meeting with the Norwegian Helsinki Committee
31 March	Meeting with the chair of the central supervisory committee on police custody
2 April	Meeting with the Ministry of Justice and Public Security
3 April	Meeting with the Ministry of Defence
3 April	Meeting with the Directorate of Norwegian Correctional Service
4 April	Meeting with the Norwegian Directorate for Children, Youth and Family Affairs
24 April	Open meeting in Oslo on the mandate and work of the National Preventive Mechanism*
25 April	Meeting with the Judge Advocate General, Norwegian Armed Forces
25 April	Meeting with the Ministry of Children, Equality and Social Inclusion
28 April	Meeting with the Norwegian Directorate of Health
5 May	Meeting with the Norwegian Organisation for Asylum Seekers (NOAS)
7 May	Meeting with the Ministry of Health and Care Services
7 May	Meeting with the Parliamentary Commissioner for the Armed Forces

12 May	Meeting with the Ministry of Local Government and Modernisation
13 May	Meeting with representatives of the Østfold County Governor
21 May	Meeting with the Norwegian Directorate for Children, Youth and Family Affairs
26–27 May	Participation in joint conference with the Directorate of Norwegian Correctional Service and the Norwegian Directorate of Health on prison health services
28 May	Meeting with the National Association for Public Health on the use of coercion against persons suffering from dementia
16 June	Meeting with the Norwegian Prison and Probation Officers Union
17 June	Meeting with the National Preventive Mechanism's advisory committee
18 June	Meeting with Kriminalomsorgens yrkesforbund (Correctional Services staff union)
18–21 August	Participation in seminar on security detention at the Norwegian Defence University College
25 August	Meeting with the Association of Child Welfare Children
26 August	Meeting with the Oslo og Akershus County Governor
28 August	Meeting with the supervisory council for southern Norway
29 August	Meeting with the supervisory council for eastern Norway
29 August	Meeting with the Norwegian Union of Social Educators and Social Workers
10 September	Open meeting in Tromsø on the mandate and work of the National Preventive Mechanism
10–12 September	Visit to Tromsø prison
15 September	Meeting with the Directorate of Norwegian Correctional Service's working group on isolation
24 September	Meeting with the National Preventive Mechanism's advisory committee
10 October	Participation in seminar on isolation at the University of Oslo
13 October	Participation in conference on human rights teaching hosted by the Ministry of Education and Research
13 October	Meeting with the National Police Directorate
14 October	Visit to Tønsberg police custody facility
17 October	Meeting with the Norwegian Bureau for the Investigation of Police Affairs
20 October	Meeting with the Norwegian Union of Social Educators and Social Workers
20 October	Unannounced visit to Tønsberg police custody facility
22 October	Visit to Drammen police custody facility

30 October	Visit to the Childrens House Oslo
4–6 November	Visit to Bergen prison
12–13 November	National conference on developments relating to measures for persons with severe learning difficulties/developmental disabilities in the context of criminal prosecution and service provision
26 November	Conference in Hamar on the use of coercion, human rights and ethics
26 November	Meeting with the Norwegian Correctional Services' training centre
27–28 November	Nordic conference on isolation in prison hosted by the University of Oslo
5 December	Meeting with the supervisory commission for Dikemark regional secure psychiatric hospital
17 December	Meeting with the National Preventive Mechanism's advisory committee
8. International meetings and visits to the National Preventive Mechanism	
26 August	Workshop with Mari Amos from the UN Subcommittee on Prevention of Torture
10 October	Visit to the National Preventive Mechanism by a Russian delegation of supervisory officers
10 October	Tour of Oslo prison by a delegation from the Ombudsman of Lithuania and the National Preventive Mechanism
29 October	Meeting with two representatives from the Association for the Prevention of Torture (APT) and the Parliamentary Ombudsman in Sweden
9. The National Preventive Mechanism's meetings and visits abroad, participation in international conferences, etc.	
11 March	Study trip by the National Preventive Mechanism to the Parliamentary Ombudsmen in Sweden
8 April	Study trip by the National Preventive Mechanism to the Danish Parliamentary Ombudsman and the Danish Institute for Human Rights, Copenhagen
9–11 April	Meeting in Wien organised by the Association for the Prevention of Torture and the OSCE – "On Police and the Prevention of Torture"
3–5 June	Study trip by the National Preventive Mechanism to Geneva
12–13 June	Nordic-Baltic seminar on OPCAT/torture prevention hosted by the Ombudsman of Lithuania
23–27 June	Participation in "Health in Prison" course hosted by Johns Hopkins Bloomberg School of Public Health in cooperation with the International Committee of the Red Cross
27–28 October	Lecture on "Health, Human Rights and Detention" at Weill Cornell Medical College in New York City

24–26 November	Participation in the course “Prevention of Mental Health Disorders: Public Health Interventions” hosted by John Hopkins University in Barcelona
8–12 December	Participation in “Healthcare in Detention Workshop” hosted by the International Committee of the Red Cross in Geneva

Appendix 5

Budget and accounts for 2014

(NOK '000)

Chap./ item	Text	Approved budget 2014	Available budget[1]	Accounts 2014
4301	Salaries and benefits	43,300	43,300	42,409
4301	Goods and services	20,000	20,409	20,901
	Total expenditure	**63,300**	**63,709**	**63,310**
304316	Reimbursement of parental allowance			965
304318	Reimbursement of sickness benefit			688
	Total income			**1,653**

1 Including transfers from 2013.
The accounts of the Parliamentary Ombudsman are audited by the Office of the Auditor General of Norway.

Appendix 6

The Constitution of the Kingdom of Norway

Article 75 litra 1:

It devolves upon the Storting to appoint a person, not a member of the Storting, in a manner prescribed by law, to supervise the public administration and all who work in its service, to assure that no injustice is done against the individual citizen.[1]

1. Addendum by Constitutional provision dated 23 June 1995 no. 567.

Appendix 7

The Parliamentary Ombudsman Act

Act relating to the Parliamentary Ombudsman for Public Administration (the Parliamentary Ombudsman Act)

Act of 22 June 1962 No. 8 as subsequently amended, most recently by Act of 21 June 2013 No. 89.

Section 1. *Election of the Ombudsman*

After each general election, the Storting elects a Parliamentary Ombudsman for Public Administration, the Parliamentary Ombudsman. The Ombudsman is elected for a term of four years reckoned from 1 January of the year following the general election.

The Ombudsman must satisfy the conditions for appointment as a Supreme Court Judge. He must not be a member of the Storting.

If the Ombudsman dies or becomes unable to discharge his duties, the Storting will elect a new Ombudsman for the remainder of the term of office. The same applies if the Ombudsman relinquishes his office, or if the Storting decides by a majority of at least two thirds of the votes cast to deprive him of his office.

If the Ombudsman is temporarily unable to discharge his duties because of illness or for other reasons, the Storting may elect a person to act in his place during his absence. In the event of absence for a period of up to three months, the Ombudsman may authorise the Head of Division to act in his place.

If the Presidium of the Storting finds that the Ombudsman is disqualified to deal with a particular matter, it will elect a substitute Ombudsman to deal with the matter in question.

Section 2. *Instructions*

The Storting will issue general instructions for the activities of the Ombudsman. Apart from this the Ombudsman is to discharge his duties autonomously and independently of the Storting.

Section 3. *Purpose*

As the Storting's representative, the Ombudsman shall, as prescribed in this Act and in his instructions, endeavour to ensure that individual citizens are not unjustly treated by the public administration and help to ensure that the public administration respects and safeguards human rights.

Section 3a. *National preventive mechanism*

The Ombudsman is the national preventive mechanism as described in Article 3 of the Optional Protocol of 18 December 2002 to the UN Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Ombudsman shall establish an advisory committee for its function as the national preventive mechanism.

Section 4. *Sphere of responsibility*

The Ombudsman's sphere of responsibility encompasses the public administration and all persons engaged in its service. It also encompasses the conditions of detention for persons deprived of their liberty in private institutions when the deprivation of liberty is based on an order given by a public authority or takes place at the instigation of a public authority or with its consent or acquiescence.

The sphere of responsibility of the Ombudsman does not include:

a) matters on which the Storting has reached a decision,
b) decisions adopted by the King in Council,
c) the activities of the courts of law,
d) the activities of the Auditor General,
e) matters that, as prescribed by the Storting, come under the Ombudsman's Committee or the Parliamentary Ombudsman for the Norwegian Armed Forces,
f) decisions that as provided by statute may only be made by a municipal council, county council or cooperative municipal council itself, unless the decision is made by a municipal executive board, a county executive board, a standing committee, or a city or county government under section 13 of the Act of 25 September 1992 No. 107 concerning municipalities and county authorities. The Ombudsman may nevertheless investigate any such decision on his own initiative if he considers that it is required in the interests of due process of law or for other special reasons.

In its instructions for the Ombudsman, the Storting may establish:

a) whether specific public institutions or enterprises shall be regarded as belonging to the public administration or a part of the services of the state, the municipalities or the county authorities under this Act,
b) that certain parts of the activity of a public agency or a public institution shall fall outside the sphere of the Ombudsman's responsibility.

Section 5. *Basis for action*

The Ombudsman may consider cases either in response to a complaint or on his own initiative.

Section 6. *Further provisions regarding complaints and time limits for complaints.*

Any person who believes he has been subjected to injustice by the public administration may bring a complaint to the Ombudsman.

Any person who is deprived of his personal freedom is entitled to complain to the Ombudsman in a sealed letter.

A complaint shall state the name of the complainant and must be submitted not later than one year after the administrative action or matter complained of was committed or ceased. If the complainant has brought the matter before a higher administrative agency, the time limit runs from the date on which this authority renders its decision.

The Ombudsman will decide whether a complaint provides sufficient grounds for dealing with the matter.

Section 7. *Right to information*

The Ombudsman may require public officials and all others engaged in the service of the public administration to provide him with such information as he needs to discharge his duties. As the national preventive mechanism, the Ombudsman has a corresponding right to require information from persons in the service of private institutions such as are mentioned in section 4, first paragraph, second sentence. To the same extent he may require that minutes/records and other documents are produced.

The Ombudsman may require the taking of evidence by the courts of law, in accordance with the provisions of section 43, second paragraph, of the Courts of Justice Act. The court hearings are not open to the public.

Section 8. *Access to premises, places of service, etc*

The Ombudsman is entitled to access to places of service, offices and other premises of any administrative agency and any enterprise that comes within his sphere of responsibility.

Section 9. *Access to documents and duty of confidentiality*

The Ombudsman's case documents are public. The Ombudsman will make the final decision on whether a document is to be wholly or partially exempt from access. Further rules, including on the right to exempt documents from access, will be provided in the instructions to the Ombudsman.

The Ombudsman has a duty of confidentiality as regards information concerning matters of a personal nature to which he becomes party to during the course of his duties. The duty of confidentiality also applies to information concerning operational and commercial secrets, and information that is classified under the Security Act or the Protection Instructions. The duty of confidentiality continues to apply after the Ombudsman has left his position. The same duty of confidentiality applies to his staff and others who provide assistance.

Section 10. *Completion of the Ombudsman's procedures in a case*

The Ombudsman is entitled to express his opinion on matters within his sphere of responsibility.

The Ombudsman may call attention to errors that have been committed or negligence that has been shown in the public administration. If he finds sufficient reason for so doing, he may inform the prosecuting authority or appointments authority of what action he believes should be taken in this connection against the official concerned. If the Ombudsman concludes that a decision must be considered invalid or clearly unreasonable or that it clearly conflicts with good administrative practice, he may express this opinion. If the Ombudsman believes that there is reasonable doubt relating to factors of importance in the case, he may make the appropriate administrative agency aware of this.

If the Ombudsman finds that there are circumstances that may entail liability to pay compensation, he may, depending on the situation, suggest that compensation should be paid.

The Ombudsman may let a case rest when the error has been rectified or with the explanation that has been given.

The Ombudsman shall notify the complainant and others involved in a case of the outcome of his handling of the case. He may also notify the superior administrative agency concerned.

The Ombudsman himself will decide whether, and if so in what manner, he will inform the public of his handling of a case.

As the national preventive mechanism, the Ombudsman may make recommendations with the aim of improving the treatment and the conditions of persons deprived of their liberty and of preventing torture and other cruel, inhuman or degrading treatment or punishment. The competent authority shall examine the recommendations and enter into a dialogue with the Ombudsman on possible implementation measures.

Section 11. *Notification of shortcomings in legislation and in administrative practice*
If the Ombudsman becomes aware of shortcomings in acts, regulations or administrative practice, he may notify the ministry concerned to this effect.

Section 12. *Reporting to the Storting*
The Ombudsman shall submit an annual report on his activities to the Storting. A report shall be prepared on the Ombudsman's activities as the national preventive mechanism. The reports will be printed and published.

The Ombudsman may when he considers it appropriate submit special reports to the Storting and the relevant administrative agency.

Section 13. *Pay, pension, other duties*
The Ombudsman's salary is fixed by the Storting or the agency so authorised by the Storting. The same applies to remuneration for a person appointed to act in his place under section 1, fourth paragraph, first sentence. The remuneration for a person appointed pursuant to the fourth paragraph, second sentence, may be determined by the Storting's Presidium. The Ombudsman's pension will be determined by law.

The Ombudsman may not hold any other public or private appointment or office without the consent of the Storting or the agency so authorised by the Storting.

Section 14. *Employees*
Employees at the Ombudsman's office will be appointed by the Presidium of the Storting on the recommendation of the Ombudsman or, in accordance with a decision of the Presidium, by an appointments board. Temporary appointments for up to six months will be made by the Ombudsman. The Presidium will lay down further rules regarding the appointments procedure and regarding the composition of the board.

The salary, pension and working conditions of employees will be fixed in accordance with the agreements and provisions that apply to employees in the central government administration.

Section 15.

1. This Act enters into force on 1 October 1962.

2. --.

Appendix 8

Instructions for the Parliamentary Ombudsman for Public Administration

Implementing legislation: Adopted by the Storting on 19 February 1980 under section 2 of the Act of 22 June 1962 No. 8 relating to the Parliamentary Ombudsman for Public Administration.

Amendments: Amended by administrative decisions of 22 October 1996 No. 1479, 14 June 2000 No. 1712, 2 December 2003 No. 1898, 12 June 2007 No. 1101 and 17 June 2013 No. 1251.

Section 1. Purpose
(See section 3 of the Parliamentary Ombudsman Act)

The Parliamentary Ombudsman for Public Administration shall seek to ensure that individual citizens are not unjustly treated by the public administration and that senior officials, officials and others engaged in the service of the public administration do not make errors or neglect their duties.

Section 2. Sphere of responsibility
(See section 4 of the Parliamentary Ombudsman Act)

The Norwegian Parliamentary Intelligence Oversight Committee shall not be considered as part of the public administration for the purposes of the Parliamentary Ombudsman Act. The Ombudsman shall not consider complaints concerning the intelligence, surveillance and security services that the Committee has already considered.

The Ombudsman shall not consider complaints about cases dealt with by the Storting's ex gratia payments committee.

The exception for the activities of the courts of law under section 4, first paragraph, c), also includes decisions that may be brought before a court by means of a complaint, appeal or other judicial remedy.

0 Amended by Storting decisions of 22 October 1996 No. 1479, 2 December 2003 No. 1898 (in force from 1 January 2004), 17 June 2013 No. 1251 (in force from 1 July 2013).

Section 3. Formulating and substantiating complaints
(See section 6 of the Parliamentary Ombudsman Act)

Complaints may be submitted directly to the Ombudsman. A complaint should be made in writing and be signed by the complainant or a person acting on their behalf. In the event that the Ombudsman receives an oral complaint, he shall ensure that it is immediately recor-

ded in writing and signed by the complainant.

As far as possible, the complainant should provide an account of the grounds for the complaint and present evidence and other documents in the case.

Section 4. Exceeding the time limit for complaints.
(See section 6 of the Parliamentary Ombudsman Act)

If the time limit for a complaint under section 6 of the Act – 1 (one) year – has been exceeded, this does not prevent the Ombudsman from taking up the matter on his own initiative.

Section 5. Conditions for considering a complaint.

If a complaint is made concerning a decision that the complainant is entitled to have reviewed by a higher administrative body, the Ombudsman shall not deal with the complaint unless he finds that there are special grounds for considering it immediately. The Ombudsman shall give the complainant advice on their right to have the decision reviewed through administrative channels. If the complainant is unable to have the decision reviewed because the time limit for complaints has been exceeded, the Ombudsman shall decide whether the circumstances indicate that he should nevertheless consider the case.

If a complaint concerns other matters that can be brought before a higher administrative authority or specific regulatory body, the Ombudsman should direct the complainant to take up the case with the competent authority or to submit the case to the authority in question, unless the Ombudsman finds special grounds for considering the case immediately himself.

The provisions of the first and second paragraphs do not apply if the King is the only complaints body available.

Section 6. Investigating complaints
(See sections 7 and 8 of the Parliamentary Ombudsman Act)

Complaints which the Ombudsman considers further should as a general rule be presented to the administrative body or official concerned. The same applies to subsequent statements and information from the complainant. The administrative body or official concerned must always be given the opportunity to comment before the Ombudsman issues an opinion as set out in section 10, second and third paragraphs, of the Parliamentary Ombudsman Act.

The Ombudsman will decide what measures should be taken in order to clarify the circumstances of the case. He may obtain the information he considers necessary in accordance with the provisions of section 7 of the Parliamentary Ombudsman Act, and may set a deadline for complying with an order to provide information or submit documents, etc. He may also make further inquiries of the administrative body or enterprise to which the complaint applies, see section 8 of the Parliamentary Ombudsman Act.

The complainant is entitled to familiarise himself with the statements and

information provided in the case, unless he is not entitled to do so under the rules applicable to the administrative body involved.

If he for special reasons finds it necessary, the Parliamentary Ombudsman can obtain an expert opinion.

Section 7. Notifying a complainant when a complaint is not investigated
(See section 6, fourth paragraph, of the Parliamentary Ombudsman Act)

If the Parliamentary Ombudsman finds that there are no grounds for dealing with a complaint, the complainant shall be notified immediately. In such cases, the Ombudsman should, as far as possible, advise the complainant of any other legal avenues that may exist or forward the case to the appropriate authority himself.

Section 8. Cases considered on the Ombudsman's own initiative
(See section 5 of the Parliamentary Ombudsman Act)

If the Ombudsman finds reason to do so, he may further investigate proceedings, decisions or other matters on his own initiative. The provisions of section 6, first, second and fourth paragraphs, shall apply correspondingly to such investigations.

Section 8a. Special provisions relating to the Parliamentary Ombudsman as national preventive mechanism

The Ombudsman may receive assistance from persons with specific expertise in connection with its function as the national preventive mechanism in accordance with section 3a of the Parliamentary Ombudsman Act.

The Ombudsman shall establish an advisory committee to provide expertise, information, advice and input in connection with its function as the national preventive mechanism.

The advisory committee shall include members with expertise on children, human rights and psychiatry. The committee must have a good gender balance and each sex shall be represented by a minimum of 40 % of the membership. The committee may include both Norwegian and foreign members.

0 Added by Storting decision of 17 June 2013 No. 1251 (in force from 1 July 2013).

Section 9. Completion of the Ombudsman's procedures in a case
(See section 10 of the Parliamentary Ombudsman Act)

The Ombudsman shall personally make a decision in all cases that are accepted following a complaint or that he has considered on his own initiative. He may nevertheless give specific members of staff the authority to complete cases that clearly must be rejected or that clearly do not provide sufficient grounds for further consideration.

The Ombudsman's decision is issued in a statement in which he gives his opinion on the questions that apply in the case and that come within his sphere of responsibility, see section 10 of the Parliamentary Ombudsman Act.

0 Amended by Storting decision of 2 December 2003 No. 1898 (in force from 1 January 2004).

Section 10. Instructions for employees at the Ombudsman's office

(See section 2 of the Parliamentary Ombudsman Act)

The Ombudsman will issue out further instructions for his staff. He may give the employees the authority to make the necessary preparations for cases that are dealt with by the Ombudsman.

Section 11. Access to the Parliamentary Ombudsman's case documents

1. The Ombudsman's case documents are public unless otherwise provided by the duty of confidentiality or the exceptions listed in subsections 2, 3 and 4 below. The term 'the Ombudsman's case documents' means documents prepared in connection with the Ombudsman's handling of a case. Case documents prepared or obtained during the public administration's handling of the case are not publicly available through the Ombudsman.

2. Case documents from the Ombudsman may be exempted from public disclosure when special reasons so indicate.

3. The Parliamentary Ombudsman's internal case documents may be exempted from public disclosure.

4. Documents exchanged between the Storting and the Ombudsman and that concern the Ombudsman's budget and internal administration may be exempted from public disclosure.

5. Access may be requested to the public content of the records the Ombudsman maintains for registering documents in cases that are opened. The Archives Act of 4 December 1992 No. 126 and the Archives Regulations of 11 December 1998 No. 1193 apply correspondingly to the Ombudsman's activities to the extent they are appropriate.

0 Amended by Storting decision of 14 June 2000 No. 1712 (in force from 1 January 2001).

Section 12. Annual report to the Storting

(See section 12 of the Parliamentary Ombudsman Act)

The Ombudsman's annual report to the Storting shall be submitted by 1 April each year and shall cover the Ombudsman's activities in the period 1 January–31 December of the previous year.

The report shall contain a summary of procedures in cases which the Ombudsman considers to be of general interest, and shall mention those cases in which he has called attention to shortcomings in acts, regulations or administrative practice, or has issued a special report under section 12, second paragraph, of the Parliamentary Ombudsman Act. In the annual report, the Ombudsman shall also provide information on activities to oversee and monitor that the public administration respects and safeguards human rights.

If the Ombudsman finds reason to do so, he may refrain from mentioning names in the report. The report shall in

any case not include information that is subject to the duty of confidentiality.

The account of cases where the Ombudsman has expressed an opinion as mentioned in section 10, second, third and fourth paragraphs, of the Parliamentary Ombudsman Act, shall summarise any response by the relevant administrative body or official about the complaint, see section 6, first paragraph, third sentence.

A report concerning the Ombudsman's activities as the national preventive mechanism shall be issued before 1 April each year. This report shall cover the period 1 January–31 December of the previous year.

0 Amended by Storting decision of 14 June 2000 No. 1712 (in force from 1 January 2001), 12 June 2007 No. 1101 (in force from 1 July 2007), 17 June 2013 No. 1251 (in force from 1 July 2013).

Section 13. Entry into force

These instructions enter into force on 1 March 1980. From the same date, the Storting's Instructions to the Parliamentary Ombudsman of 8 June 1968 are repealed.