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To the Storting

Pursuant to section 12 of the Act of 22 June 1962 No. 8 concerning the Storting's Ombudsman for Public Administration, see also section 12 of the Directive to the Storting's Ombudsman for Public Administration of 19 February 1980, I hereby submit to the Storting my report on activities in 2013.

Oslo, March 2014

Arne Fliflet

I. The Ombudsman's work in 2013

1. Mandate

As the Storting's representative, the Ombudsman is tasked with ensuring that "injustice is not committed against the individual citizen" by the public administration, and to help to ensure that the administration "respects and safeguards human rights", see section 3 of the Ombudsman Act. Section 10, first paragraph, of the Ombudsman Act states that the Ombudsman may "express his opinion on matters which come within his jurisdiction." The Ombudsman may point out that errors have been made in the processing of a case or the application of the law, and state that a decision must be regarded as invalid, clearly unreasonable or in contravention of good administrative practice.

The Ombudsman's mandate covers almost all parts of the public administration. Normally, investigations focus on individual administrative decisions; the Ombudsman does not conduct general supervision of the administration. However, the Ombudsman has power to launch investigations on his own initiative, and such investigations may examine the activities of the authorities at a more general level.

The Ombudsman also has a wider objective in the form of a preventive function. Through his consideration of individual cases, the Ombudsman can issue warnings and influence attitudes and practice. The relevance of the Ombudsman to citizens and his effectiveness vis-

à-vis the administration are highly dependent on his highlighting important matters of principle that may prevent injustice being done to many individuals. Among other things, this means focusing on the rule of law and general administrative law.

2. The Ombudsman in 2013

This annual report is based on the statistics for this year and published cases. Chapter II discusses statistical information on the processing of cases, while chapter IV contains an overview of cases of general interest dealt with in 2013, see section 12, second paragraph, of the Directive to the Storting's Ombudsman for Public Administration. The Ombudsman's statements are referred to only by case number and title. The full texts of all statements discussed in the annual report can be found on the Ombudsman's website or the Lovdata or Rettsdata websites, unless otherwise stated.

The number of complaints submitted to the Ombudsman has been relatively stable in recent years, with 2,987 cases being registered in 2013. Although complaints account for the vast majority of cases, this figure does not provide a complete picture of the true workload involved. It is the cases considered on their merits that demand the greatest effort, and these vary considerably in scope and degree of difficulty. The Ombudsman is also authorised to launch investigations

on his own initiative; see section 5 of the Ombudsman Act. In 2013, 45 such “own initiative” cases were opened.

The review of individual cases provides an overview of the Ombudsman’s activities in 2013, but is less suitable as a presentation of trends and analysis. Accordingly, in an attempt to provide a more coherent assessment than the one that can be derived from the individual cases, I have devoted chapter III of this year’s report to a discussion of cases at a more fundamental level. In this type of fundamental discussion, it is neither possible nor sensible to discuss in detail all of the administrative areas with which the Ombudsman engages. I have therefore selected four topics I consider to deserve more extensive treatment in this year’s report. I hope that this will stimulate further discussion of relevant problems and, perhaps, shed light on how the Ombudsman performs his functions.

The topics discussed at a more fundamental level in this report are case processing at the municipal level, whistleblowing and public employees’ freedom of expression, case-processing times in the public administration and compliance with the Ombudsman’s statements. A short summary of the topics and main conclusions is provided below. Chapter III also contains a brief account of the Ombudsman’s efforts to assist the public administration in respecting and safeguarding human rights.



Parliamentary Ombudsman Arne Fliflet.
Photo: Ingar Næss

3. Case processing at the municipal level

The discussion of case processing at the municipal level is based on the Ombudsman’s general experiences relating to how municipalities apply key case-processing rules under administrative law. My overall impression is that case processing at the municipal level is generally of a good standard; my aim here is to highlight the exceptions. The discussion is divided into two sub-sections, and covers matters such as the duty of municipalities to investigate, the duty to provide reasons, the application of impartiality rules and compliance with formal requirements. These topics are illustrated using examples from individual cases.

Case processing at the municipal level is a wide-ranging topic, and the conclusions should ideally be read in conjunction with the more extensive discussion in chapter III. In general, I have found that there is a need for greater legal expertise, and that small municipalities are particularly vulnerable. This impression reflects the conclusions drawn after a corresponding investigation in the annual report for 2007. In addition, it is not necessarily the case that any defects in administrative procedures will be resolved by increasing the number of staff. Municipalities are responsible for administering an extensive body of regulations, but it appears that much can be gained by raising awareness of training and procedures, as well as through increased cooperation. The ongoing debate regarding the municipal structure is relevant in this respect.

4. Whistleblowing and public employees' freedom of expression

In cases concerning working and service conditions, the interests of the complainant often indicate that highly confidential treatment is necessary, meaning that the Ombudsman's statement is not published. I therefore see a need to discuss more generally the Ombudsman's processing of cases concerning whistleblowing and public employees' freedom of expression. The final outcome of cases that result in criticism can vary. If an unlawful retaliatory measure has been implemented, for example in the form of a disciplinary penalty, the Ombudsman

will generally ask for it to be withdrawn. If the administration does not comply with the request, the Ombudsman's statement may be added to the complainant's personal file together with the disciplinary penalty.

In several cases I have dealt with that involve this area of the law, the administration has referred to internal guidelines and procedures that stipulate how employees are to deal with the media and external parties. The Ombudsman has long been aware of the risk of limitations on freedom of expression presented by such internal regulations. Such guidelines may easily become static and unable to keep up with legal developments. Accordingly, it appears that the stronger constitutional protection of freedom of expression has not yet had the desired impact in practice. This raises the question of whether steps should be taken to inform and achieve changes in attitudes among leaders in the public administration.

5. Case-processing times

When the Ombudsman receives a complaint relating to the time taken to process a case, it is often simple enough to find that the administration has taken too long. The question I have sought to address in chapter III is whether consequential delays can be pinpointed, and whether such delays have underlying administrative causes. The discussion relates primarily to the Norwegian Labour and Welfare Administration (Nav) and the immigration authorities. The case-processing times of Nav and the immi-

gration authorities have been discussed on several previous occasions, most recently in the annual report for 2012. My general impression from recent years is that the case-processing times of the immigration authorities have improved. For example, my office now receives fewer complaints relating to the case-processing times of the Norwegian Directorate of Immigration. However, certain types of cases do stand out in a negative sense, including family immigration and citizenship cases. A positive trend is also observable in Nav's case, although a clear potential for improvement remains with respect to many Nav units.

Many complaints concern not only the time spent by the administration, but also failure to reply and to give feedback on case status. Experience indicates that receiving sufficient information is important to citizens. This includes giving preliminary replies, responding to reminders and providing information about the delay when a case has not been processed within the specified period.

6. Compliance with the Ombudsman's statements

The Ombudsman's statements are not binding. Nevertheless, the review in

chapter III shows that the administration normally complies loyally with the Ombudsman's orders. This is also a prerequisite for an effective ombudsman function. However, in some cases, public officials continue to argue instead of accepting that a statement has not gone in the administration's favour. This approach appears rather inexpedient in view of the workload to be managed by the ombudsman scheme and the administration, which instead of focusing on new tasks ends up expending resources on a case on which the Ombudsman has made a final decision. Such cases are, however, fairly rare.

If the administration fails to comply with the Ombudsman's statement, I can advise the citizen to institute proceedings before the courts. The citizen will then be entitled to free conduct of his or her case; see section 16, first paragraph, subparagraph 3, of the Legal Aid Act. A new development in 2013 is that a party also cannot be held liable for the legal costs of the opposing party – or rather of the public administration – if I have recommended legal proceedings that do not succeed.





Staff

7. The Ombudsman's organisation

At the end of 2013, my office had 38 legal case workers, spread across the five divisions that deal with complaints, and an administrative support apparatus totalling 13 persons. The divisional structure improves the technical expertise and the efficiency of the organisation, allows an overview to be maintained, and enables the prioritisation of particular fields. A detailed overview of the office's organisational structure and staff is provided in Appendices 1 and 3.

The Ombudsman decides independently whether a complaint provides sufficient grounds for consideration. Given the volume of cases and the consideration of case-processing times, I have found it appropriate to introduce prioritisation criteria for the processing of cases. The purpose of the prioritisation criteria is to provide guidance on the types of cases and individual cases to which the most resources should be devoted. The aim is to allow priority to be given to matters of principle and cases that help to prevent injustice to many individuals. The criteria are also intended to help ensure that the Ombudsman's resources are used in a manner that supports his mandate.

8. The Parliamentary Ombudsman as a national preventive mechanism

On 14 May 2013, the Storting approved Norway's accession to the Optional Protocol to the Convention against Torture (OPCAT). This decision also introduced an obligation to establish a new scheme of regular visits by an independent national body to prisons, police custody facilities, psychiatric institutions and other places where people are detained. On 21 June 2013, the Storting decided that the Ombudsman should be responsible for this visiting scheme, which is also referred to as the national preventive mechanism (NPM).

How we take care of detained people is a measure of the quality of Norwegian society. Accordingly, the task the Ombudsman has now been given is important.

OPCAT requires regular visits to be conducted. In the longer term, around 40 visits a year will be made across the country. As the NPM, the Ombudsman will obtain information on the situation of detained persons and make reports and recommendations to the authorities, including an annual report to the Storting and the UN Subcommittee on Prevention of Torture. The responsible authority will review the NPM's recommendations and initiate a dialogue with the Ombudsman on potential implementation measures.

A dedicated NPM division comprising a head of division and three staff members

has been established at the Ombudsman's office. The head of division and staff members were appointed at the end of 2013, and will join the Ombudsman's office in the spring of 2014. The Ombudsman will also establish an advisory committee tasked with contributing expertise, information, advice and feedback on NPM-related work. Efforts will be made to facilitate synergies between the NPM-related work and the Ombudsman's other work on complaints and own-initiative investigations. One objective going forward will be to combine the NPM division's proactive approach with the Ombudsman's reactive processing of cases in a way that strengthens the organisation. In my view, the changes made to the Ombudsman Act and the injection of additional resources will enable the Ombudsman to fulfil both the NPM mandate and protocol requirements satisfactorily.

9. External activities

The Parliamentary Ombudsman's human rights seminar 2013

The Parliamentary Ombudsman's human rights seminar took place on 31 October 2013. The topic was "Detention of minors", and the seminar focused on various problems relating to the detention of minors in police custody facilities, prisons and child welfare institutions. What rights do minors who commit crimes have under the UN Convention on the Rights of the Child? Do minors have sufficient legal safeguards? How are detained minors treated? What alternative measures are available? The seminar facilitated a wide-ranging debate between po-

liticians, public authorities and NGOs. The seminar was attended by around 210 persons from the public administration, NGOs, academia, the legal profession, the judiciary and the Storting. Further coverage of the seminar and the presentations given by the speakers can be found on the Ombudsman's website.

The Ombudsman's information activities

In connection with consideration of Recommendations to the Storting Innst. 287 S (2012–2013) and Innst. 10 S (2013–2014), the Storting urged the Ombudsman to take steps to boost public awareness of the Ombudsman. Accordingly, the Ombudsman has begun work on a new communications strategy.

It is vital that the Ombudsman's social mission is understood by those who may benefit from the scheme. A certain balance is required in this context between, on the one hand, making the ombudsman scheme publicly known and encouraging people to complain about injustice and, on the other hand, informing citizens when they cannot complain to the Ombudsman. Almost half of those who complain during the course of a year are told that the formal conditions for consideration of their complaint are not met. A potential measure for reducing the number of complaints that have to be dismissed is to ensure that the administration provides the best possible information about the Ombudsman when an administrative case ends with a dismissal. For example, certain administrative bodies long followed the practice of enclosing a standard form detailing various appeal mechanisms, including the Ombudsman.

This form no longer appears to be used as much. It is also unclear whether such a form is the most appropriate means of informing potential complainants. For example, it would be unfortunate if the Ombudsman were to be regarded as an ordinary appeal body for administrative decisions, since this is not the Ombudsman's mandate. In any event, there appears to be room for improving the information provided to the public in connection with the despatch of administrative decisions.

Further, an appeal to the Ombudsman is intended to be a simple, useful mechanism for securing a review of certain administrative-law aspects of a case. It is therefore important that individuals can complain to the Ombudsman independently, without requiring the assistance of a lawyer or other expert. Moreover, the statements and other work of the Ombudsman must be readily accessible and formulated in a manner that is meaningful to citizens, the administration and the Storting.

In 2013, the priorities were to improve the information on the Ombudsman's website relating to statements, consultation statements, organisational changes and other news. The media have been contacted to a greater extent than previously to focus attention on cases of great public interest, as well as cases of potential importance to individuals. This has increased media coverage somewhat. A further new development during the year was that the Ombudsman began to use Twitter as a channel for communications. Another communication measure to which I am giving priority is to highlight the presentation of trends and analysis in

the annual report. Together with the website, the annual report is an important part of the Ombudsman's public profile. The

final formulation of the communications strategy will be decided in consultation with the new ombudsman.



II. Statistics

1. Cases in 2013

In 2013, 2,942 cases were submitted to the Ombudsman's office. In addition, 45 cases were initiated on the Ombudsman's own initiative. Following a period of significant year-on-year growth in the number of new cases, the influx of new cases has remained stable at around 3,000 per year in the period 2010–2013, with a small decline in 2013 compared to the previous year (Table 1). The number of own-initiative cases increased from 35 in 2012 to 45 in 2013.

Table 2 shows how many cases were closed in 2013, and the number of open cases at the end of the year, compared to the previous year. For several years, the case backlog also grew as the number of complaints increased. However, this trend was reversed in 2012, when the number of open cases was reduced from 536 in 2011 to 419 in 2012. The case backlog has been further reduced in 2013, and the number of open cases at the end of the year was 329. This represents a reduction of approximately 21 per cent since 2012 and approximately 39 per cent since 2011 – a positive development.

Table 1 Number of new cases

| | 2012 | 2013 |
|----------------------------------|-------------|-------------|
| Complaints and written enquiries | 3,011 | 2,942 |
| Cases taken up on own initiative | 35 | 45 |
| Total | 3,046 | 2,987 |

Table 2 Closed and open cases

| | 2012 | 2013 |
|--|-------------|-------------|
| Cases closed during the course of the year | 3,167 | 3,076 |
| Open cases at the end of the year | 419 | 329 |

In 2013, 1,722 general telephone enquiries were registered. This figure is somewhat higher than in 2012, when 1,575 general enquiries were noted. In recent years, the number of registered telephone enquiries has totalled between 1,500 and 2,000.

Disclosure requests were made in relation to 1,208 documents in the possession of the Ombudsman in 2013. This is almost half the figure for 2012, when disclosure was requested to 2,383 documents. The Ombudsman granted full disclosure of 959 documents and partial disclosure of 65 documents, and refused disclosure of 184 documents. The re-

cusals primarily relate to documents containing confidential information. The Ombudsman does not grant disclosure of documents obtained from the administration. To some degree, the variation in the number of telephone enquiries and disclosure requests is influenced by the individuals concerned.

2. The Ombudsman's case-processing times

The time taken by the Ombudsman to deal with a case varies depending on the subject matter of the case, its scale and the kinds of investigations required to ensure that the matter is sufficiently clarified. In 2013, the case-processing time for closed cases was reduced after the issue was raised with the administration

following a slight increase in case-processing times in 2012 (Table 3).

It is important for the Ombudsman to be able to close cases within a reasonable period. In 2013, prioritisation criteria were introduced to reduce case-processing times; see further details in chapter I, section 7. The Ombudsman's aim is to make case processing even more efficient over the next few years. However, given the necessity of ensuring the proper treatment of each complainant's case, there are limits on how much effectivisation is justifiable. Both the adversarial principle and the consideration that every case must be clarified as thoroughly as possible mean that the case-processing times of cases raised with the administration may grow long. Confidence in the ombudsman scheme requires cases to be dealt with in a sufficiently thorough manner.

Table 3 Average case-processing time at the Ombudsman's office

| | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|----------|----------|----------|----------|----------|
| Dismissed cases | 18 days | 15 days | 17 days | 16 days | 14 days |
| Cases closed without being taken up with the administration | 41 days | 39 days | 47 days | 46 days | 36 days |
| Cases closed after being taken up with the administration | 197 days | 170 days | 183 days | 210 days | 189 days |

3. Case outcomes

The outcomes of the cases processed by the Ombudsman can be divided into two main categories: cases dismissed and cases considered on their merits. In 2013, 51 per cent of the enquiries submitted to the Ombudsman were dismissed, and 49 per cent were considered on their merits.

This distribution has remained stable for several years.

All cases that are not dismissed – for example because the complainant has failed to exhaust the appeal opportunities offered by the administration or because the complaint falls outside the scope of the Ombudsman's remit – are registered as cases considered on their merits. Ge-

neral enquiries unrelated to a 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. Cases are also so categorised if the Ombudsman has made a provisional enquiry as to whether there are "sufficient grounds" to consider the complaint, see section 6, fourth paragraph, of the Ombudsman Act, even if the case is later closed without further investigation. In such cases, limited consideration is given to the merits of the ad-

ministrative case to which the complaint relates.

Table 4 shows the breakdown of cases dismissed and cases considered on their merits in 2013, compared with the figures for 2012. With regard to the cases considered on their merits, the table also shows the result of the Ombudsman's consideration of the case. As the table shows, the number of dismissed cases has increased, while the number of cases considered on their merits has fallen. At the same time, the number of cases resulting in criticism or a recommendation to reconsider has remained stable.

Table 4 Distribution of cases dismissed and considered on their merits

| | 2012 | 2013 |
|--|-------------|-------------|
| Dismissed cases | 1,489 | 1,558 |
| Cases considered on their merits | 1,678 | 1,518 |
| 1. Unnecessary to obtain a written statement from the administration | | |
| a) Case resolved by means of a telephone call, etc. | 458 | 348 |
| b) The letter of complaint, possibly supplemented by case documents, showed that the complaint could not succeed | 862 | 866 |
| 2. Written statement obtained from the administration (submission) | | |
| a) Case resolved without the Ombudsman having to issue a final opinion | 67 | 41 |
| b) Case closed without criticism or recommendation, meaning that the complaint did not succeed | 109 | 80 |
| c) Case closed with criticism or recommendation to reconsider or to remedy harmful effects | 182 | 183 |

Figure 5 shows the reasons for dismissing cases and the percentage distribution of these reasons among the dismissed cases. As shown in the figure, the most common reason for dismissal is that the case is still being processed by the ad-

ministration. Figure 6 shows the percentage distribution of the outcomes of the cases considered on their merits. The figure shows that 62 per cent of the cases ended without criticism, while 12 per cent and 26 per cent, respectively, resulted in cri-

criticism or were resolved after the Ombudsman contacted the administrative body. Most of the cases that resulted in

criticism concerned the actual decision, i.e. the material content of the decision (Figure 7).

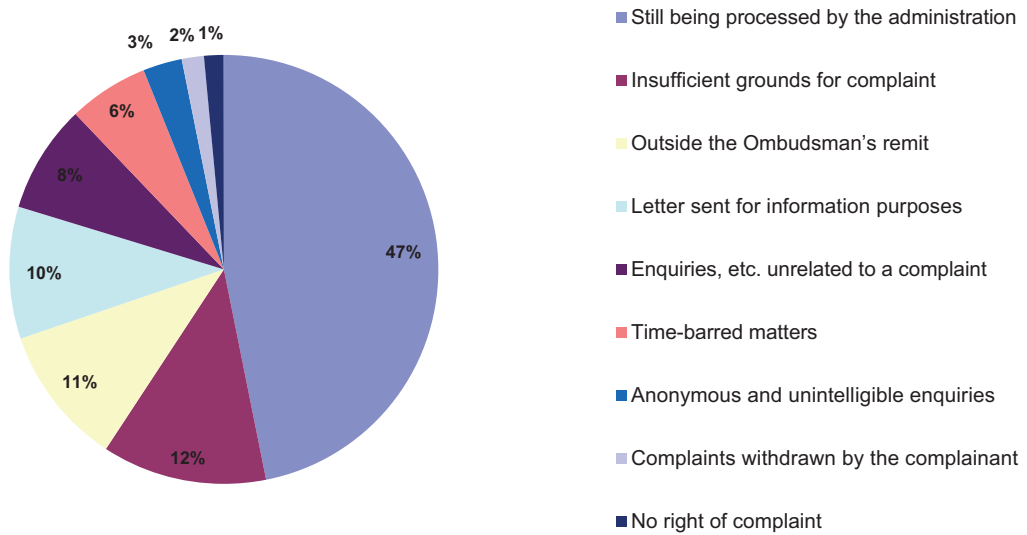


Figure 5 Dismissed cases (51%)

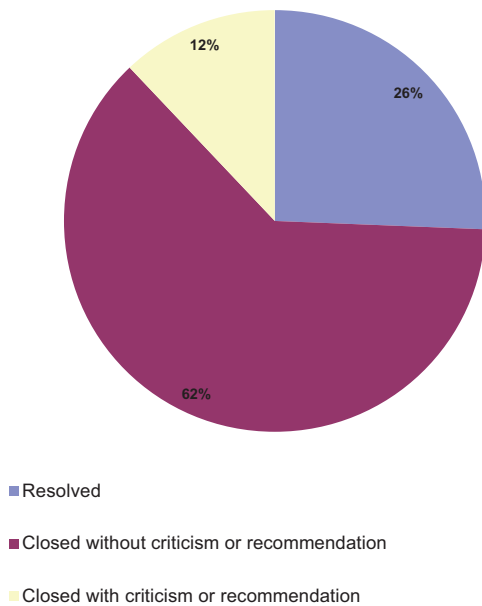


Figure 6 Cases considered on their merits (49%)

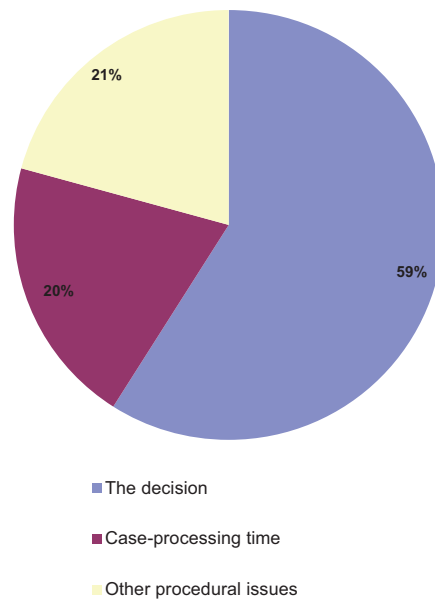


Figure 7 Details of the subject matter of the cases that resulted in criticism or a recommendation to reconsider (12%)

4. Distribution of closed cases by administrative body and subject matter – details of complaints against municipalities and county governors

Appendix 6 contains an overview of cases closed in 2013, distributed by administrative bodies and subject matter, respectively. Most of the complaints (75.5 per cent), related to state administrative bodies. Approximately a quarter of these were complaints against county go-

vernors. Complaints against municipal administrative bodies totalled 18.8 per cent, while complaints against county administrative bodies amounted to just 1.4 per cent. In 2013, welfare cases and planning and building cases dominated, and accounted for approximately one-third of all complaints closed in 2013. Relatively high complaint numbers were also recorded in the following areas: working life, health and care services, family and personal matters and the justice sector.

It is difficult to draw clear conclusions as to which administrative bodies receive the largest share of criticism in the cases submitted to the Ombudsman. The reason for this is that the number of cases considered on their merits varies, and the

figures available for certain bodies are insufficient to allow conclusive statements as to the relative criticism percentages. However, it is worth noting that, in 2013, the Ombudsman considered 277 complaints against Nav on their merits, and that 17 of these resulted in written criticism of the agency. This represents a criticism percentage (6 per cent), significantly below the average for all administrative bodies (12 per cent). Nav's low criticism percentage can perhaps be explained by the fact that the majority of cases concern long case-processing times. These cases are often resolved by means of a telephone call to the administrative body. It is also worth noting that the Ombudsman dealt with a relatively large number of complaints against municipal administrative bodies, and that the criticism percentage for that sector is considerably higher than the average; see section 4.1.

Together, the municipal administrative bodies and county governors make a large number of decisions every year. It is therefore natural for the Ombudsman to receive a number of complaints against them. The next two sections therefore discuss the complaints made against municipal administrative bodies and county governors. The figures have been aggregated for all of the municipalities and all of the county governors.

4.1 Municipal administrative bodies

In 2013, 578 cases involving municipalities were closed. Of these, 349 (60 per cent), were dismissed and 229 (40 per cent), were considered on their merits.

The cases covered a number of subject areas. Planning and building accounted for 194 cases (33 per cent), working life – particularly employment – for 95 cases (16 per cent) and health and care services for 59 cases (10 per cent). Smaller numbers of complaints related to subjects such as family and personal matters (including child welfare, day-care facilities and legal guardianship), education, resource and environmental management, and property tax.

Some 75 (33 per cent) of the cases considered on their merits concerned failure to respond and slow processing of cases. Of these, 56 (75 per cent) were resolved after the Ombudsman contacted the administrative body. Planning and building matters accounted for the largest number of complaints about case-processing times. Most of the other subject areas also featured complaints regarding case-processing times.

The cases considered on their merits resulted in criticism in 45 instances (20 per cent). The criticism percentage is thus significantly higher than the average for the administration as a whole (12 per cent). Of the criticism cases, 10 (22 per cent) concerned failure to respond and slow case processing, while 11 (24 per cent) concerned other case-processing issues. In the remaining 24 cases (53 per cent), the criticism related to the merits of the case. Working life – 12 cases (27 per cent) – and planning and building – nine cases (20 per cent) – accounted for the largest numbers of criticism cases.

Case processing in the municipal sector is discussed in greater detail in chapter III, section 1.

4.2 County governors

In total, 519 complaints against county governors were closed in 2013. Of these, 160 (31 per cent) were dismissed and 359 (69 per cent) were considered on their merits. The proportion of cases considered on their merits is significantly higher than among cases involving other administrative bodies (49 per cent).

In terms of subject areas, the most complaints were received in relation to planning and building matters. These cases accounted for approximately half of all complaints against county governors (251 cases). Other areas in which notable numbers of cases were dealt with are: health and care services – 39 cases (7 per cent) – child welfare – 34 cases (7 per cent) – and cases involving financial benefits – 22 cases (4 per cent).

The cases considered on their merits resulted in criticism in 37 cases (approximately 10 per cent). The criticism per-

centage is thus approximately equal to that of the administration as a whole. Of the criticism cases, three (8 per cent) concerned failure to respond and slow case processing, while two (5 per cent) concerned other case-processing issues. In the remaining 32 cases (86 per cent), the criticism related to the merits of the case. Planning and building – 23 cases (62 per cent) – accounted for the largest number of criticism cases. The criticism cases were otherwise evenly spread across the different subject areas.

5. The trend over the past 10 years

Figure 8 provides an overview of cases received and closed – and dismissed and considered on their merits – in the past 10 years. The graph shows that, in 2012 and 2013, the Ombudsman's office closed more cases than it received.

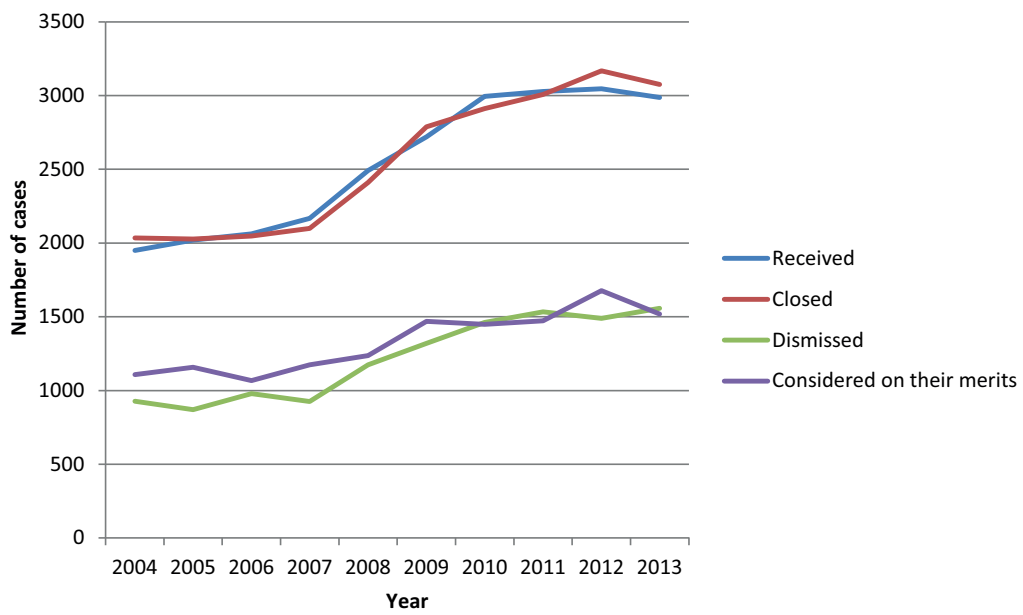


Figure 8 Cases received and closed and dismissed and considered on their merits (2004–2013)



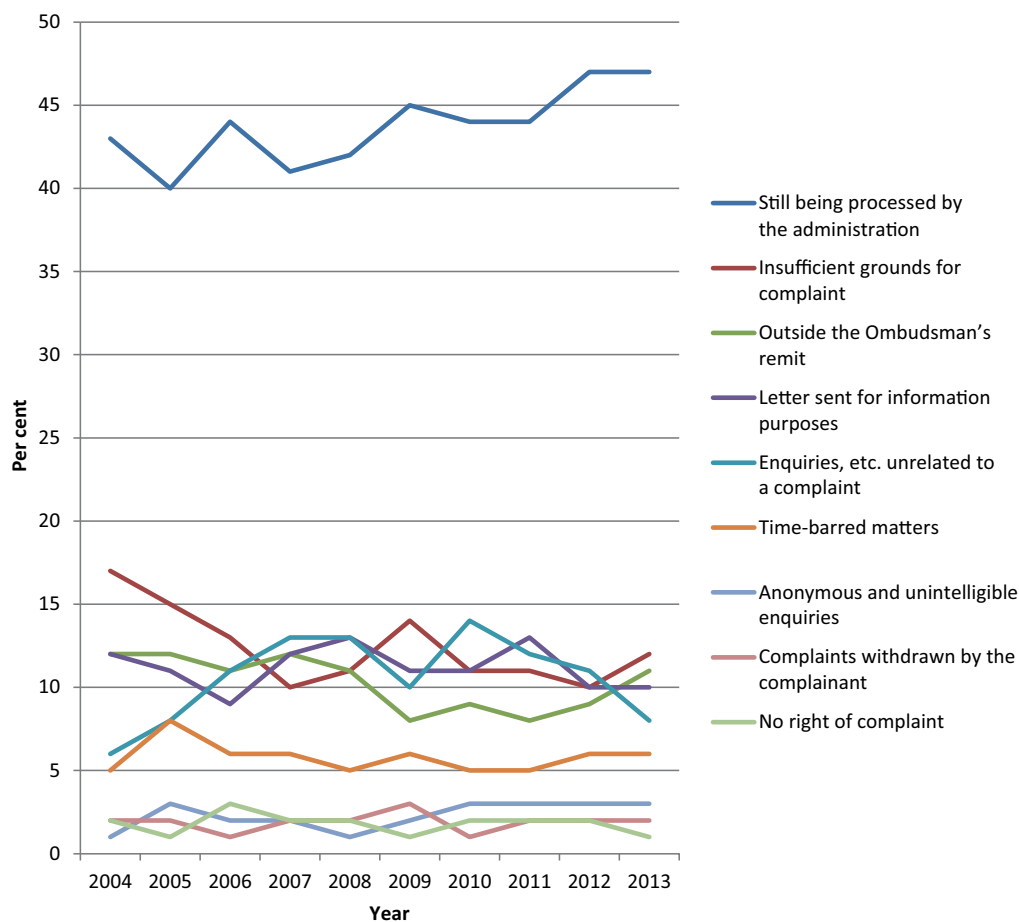


Figure 9 Cases dismissed (2004–2013)

Figures 9 to 11 show the outcomes of cases in the past 10 years. Figure 9 shows, among other things, that many cases were dismissed because the complaint to the Ombudsman was made too early, i.e. they had to be dismissed because the matter was still being processed by the administration. A rising trend can be ob-

served in relation to this dismissal factor. Other than this, the figures indicate relatively stable trends. However, note that the number of cases considered by the Ombudsman each year is too small to allow unambiguous conclusions to be drawn about trends over the past 10 years.

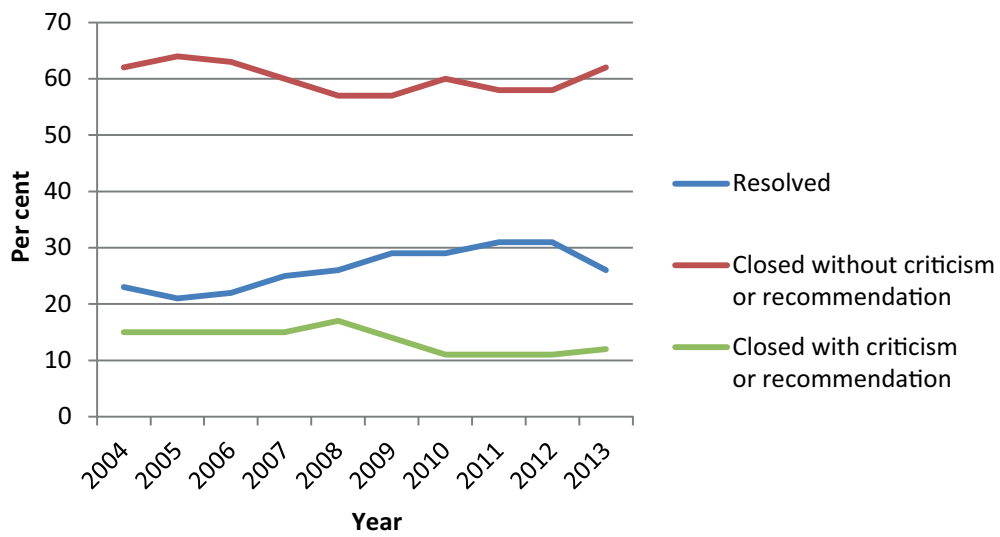


Figure 10 Cases considered on their merits (2004–2013)

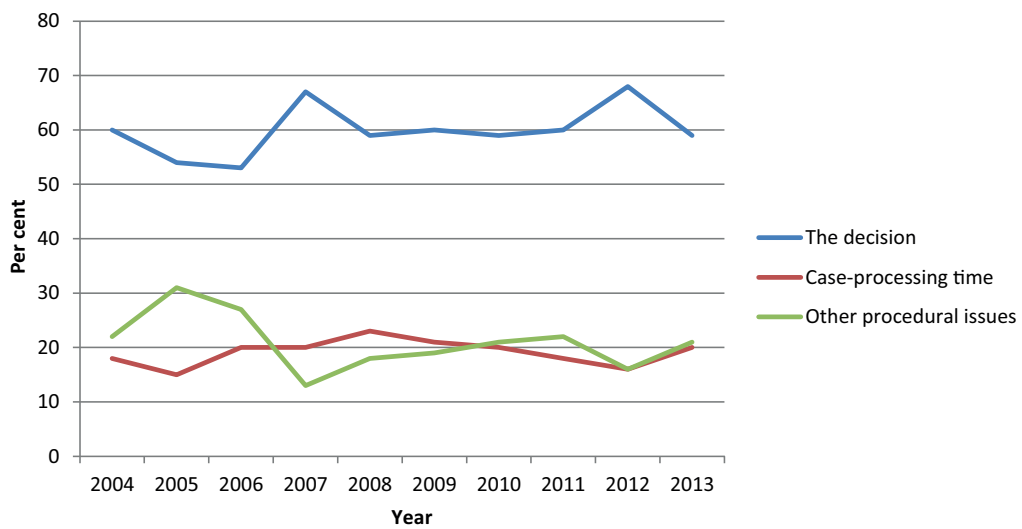


Figure 11 Details of the subject matter of the cases that resulted in criticism or a recommendation to reconsider (2004–2013)

III. Individual topics raised in investigations focusing on the public administration

1. Case processing at the municipal level

1.1 Introduction

A considerable proportion of the complaints received by the Ombudsman concern municipal administrative bodies. Of a total of 3,076 cases considered in 2013, 578 – or around 19 per cent – related to municipal bodies. This figure does not include instances where a higher, non-municipal administrative (state) body also considered the case, for example where an appeal body reviewed a municipal decision.

In general, case processing at the municipal level appears to be relatively sound, although there is room for improvement. Through his consideration of complaints against municipalities, the Ombudsman has gained a general impression of deficient compliance with key case-processing rules. Notable topics in this regard include what is encompassed by the term “individual decision”, formal requirements and the provision of information about rights of appeal, the rules relating to written documentation and notoriety (i.e. that a decision must be based on correct information and contain sufficient evidence of relevant facts), the duty to give reasons, the duty to ensure that the matter is clarified, impartiality and preliminary replies. A matter worth mentioning separately is that many municipalities apparently find it difficult to follow

the rules in the Local Government Act on the organisation of complaints processing. Several relevant topics are discussed below by reference to cases from 2013, and some cases from previous years, which support the overall impression. As shown below, in some cases multiple provisions of the Public Administration Act have been breached.

Various types of cases involve a municipality as the first instance and a right of appeal to a state administrative body – in practice a county governor. Examples of subject areas organised in this manner include planning and building cases, pollution cases, cases concerning motorised traffic on uncultivated land and waterways, certain licensing cases, various permits under business legislation, health and care services, child welfare, schools and day care, and cases concerning disclosure of documents. Together, these account for a large number – and a considerable proportion – of cases falling within the remit of municipalities. The Ombudsman’s supervision of municipalities in such cases is less direct, since the principle of subsequent review generally requires the Ombudsman to concentrate any investigation on the state appeal body. Nevertheless, the cases are mentioned because they illustrate the scope of municipalities’ responsibility for dealing with cases of great importance to citizens’ legal safeguards. In addition, complaints relating to these subject areas give the Ombudsman insight into how

municipalities apply key administrative-law principles.

The further discussion of case processing at the municipal level is based on the complaints against municipal bodies received by the Ombudsman that have not been considered by a state administrative body acting as an appeal body or supervisory body. Such municipal decisions are primarily reviewed by municipal appeal boards. These cases are special, since the reality is that the Ombudsman is often the only external review body. The rules in the Public Administration Act on the processing of cases by the public administration apply to municipalities, just as to other administrative bodies. The rules in the Local Government Act on municipal case processing also apply. The rules are general, and the same for all municipalities, whether small or large.

1.2 General experiences

1.2.1 The term “individual decision”

Section 2, first paragraph, sub-paragraph b, of the Public Administration Act defines the term “individual decision” as a “decision relating to the rights or duties of one or more specified persons”. The term is absolutely key in decisions by the administration, since it determines whether the rules on case preparation, the decision and appeal and reversal in chapters IV–VI of the Public Administration Act apply. Moreover, some principles on which these rules are based may also apply to decisions exempted from the provisions, such as appointments. Relevant examples include certain formal requirements relating to the decision and case processing, since these are partly based

on non-statutory requirements applicable to the public administration. This will be discussed in section 1.2.2.

Every year, the Ombudsman deals with cases showing that it can be difficult to define what constitutes an individual decision. The resulting errors are serious, since they mean that decisions are made without the legal safeguards provided by correct processing in accordance with the rules.

One consequence of a lack of knowledge about when a decision must be deemed an individual decision is that the appeal process is not notified or facilitated. Several complaints have related to this topic. A citizen has received a negative reply and wishes to appeal, but is told that there is no right of appeal. In an unpublished case, 2012/3284, concerning the calculation of water and wastewater discharge fees, the municipal executive board rejected an appeal by the subscriber, referring to the fact that the setting of the fee followed directly from the municipal regulation. The municipality was therefore of the opinion that no individual decision had been made. In my view, the complaint concerned how the regulation was applied, not the content of the regulation. The rejection of the appeal was therefore based on an incorrect interpretation of the rules, and the municipality was asked to reconsider the matter.

In case 2013/949 on adapted examination arrangements for a private candidate, the municipality assumed that refusal to process a late application for adaptation was not an individual decision. It was pointed out that the private candidate is re-

sponsible for applying for adaptation, that the applicant had been informed that the consequence of applying late would be that the application would not be processed, and that the matter involved mass administration. In my view, this was a rejection, and therefore an individual decision; see section 2, third paragraph, of the Public Administration Act. The municipality was asked to re-evaluate the practice, and to discuss any need for changes to the rules with the responsible ministry.

A further example concerned the issue of a “TT” (adapted transport) card. The municipality had approved an individual as an ordinary TT user, but the individual considered himself entitled to a TT card for users with special needs; see case 2012/1871. The application was refused. The user was unable to appeal the decision, since the municipality took the view that it was an organisational, rather than individual, decision. In my opinion, both approval as a TT user and the issue of different cards concerned a type of right that must be subject to appeal. The municipality complied.

1.2.2 Written documentation and notoriety

Chapter V of the Public Administration Act contains rules on the form and content of administrative decisions. Section 23, first paragraph, states that individual decisions must be made in writing unless this will be particularly burdensome to the administrative body for practical reasons. The rules in section 27 on notification of the decision and information on the right of appeal are closely related to section 23 of the Public Administration

Act. In addition to the statutory provisions, the requirement of proper case processing imposes a requirement for written proceedings. The clear general rule is therefore that written documentation is required. Nevertheless, the Ombudsman regularly observes a lack of written documentation in the complaints he considers.

The requirement for written documentation is linked, among other things, to the principle that it must be possible to check, after the fact, whether a process has been objective and proper, something that is also important for ensuring that the Ombudsman’s supervision of the administration is effective. One type of case worth a particular mention is appointments. The rules on statement of grounds in sections 24 to 25 of the Public Administration Act, on appeals in sections 28 to 34, and on reversal in section 35, third paragraph, do not apply in such cases; see section 3, second paragraph, of the Public Administration Act. Most often, the only opportunity to secure a review in these cases will be the one offered by the Ombudsman. The rules in the Public Administration Act on the giving of reasons to the parties do not apply. A written case-processing record is particularly important, to allow checks to be carried out. A satisfactory statement of grounds will enable review of whether the decision of the appointing authority is based on objective grounds and whether relevant factors have been considered.

In several appointment cases, the Ombudsman has criticised municipalities for the absence of a written record, pointing out that this may indicate that the matter was not clarified sufficiently well and

thus weaken confidence that the decision is based on objective considerations; see case 2007/1486, referred to on page 96 of the annual report for 2008 (SOMB-2008-22). During the Ombudsman's processing of case 2012/2044, information emerged about cooperation problems between the most senior leader and the complainant. The lack of a written record of the case meant that it was uncertain whether these matters had influenced the qualification assessment. Further, the lack raised doubt as to whether the applicant had been given an opportunity, during the interview, to present his view on the cooperation, and as to its relevance to the position. It was also pointed out that, although there is no absolute requirement for an interview and a written record of the interview, the position may be different in cases where personal suitability is decisive. I concluded that the absence of a written record meant that the case could not be deemed sufficiently well clarified with respect to the applicant's personal suitability, and that the possibility therefore could not be excluded that subjective considerations had been decisive in the decision not to recommend the applicant for the position.

Case 2013/335 is a further, unpublished case in which no written minutes were kept of interviews or contact with reference persons. I found that this practice was insufficient in terms of safeguarding the considerations behind the written-documentation requirement and the Ombudsman's opportunity to conduct subsequent control, since the interviewers for a position kept individual notes. Decisive weight appeared to have been given to personal attributes and information that emerged during the interviews. Moreo-

ver, although the employee representative had disagreed with the qualification assessment, this was not recorded in the written recommendation. Another case in which it was pointed out that written documentation was particularly important was an appointment case in which temporary teachers without documented formal qualifications were appointed ahead of formally qualified applicants; see case 2011/2624.

The absence of written documentation may also be due to deficient knowledge of the rules in the Public Administration Act. The Ombudsman receives a number of complaints about the award of municipal operating grants for physiotherapists. These decisions are individual decisions with respect to the individual applicants, and the rules in the Public Administration Act apply. Nevertheless, the Ombudsman sees examples where such cases are treated like appointments. For instance, decisions are not always recorded in written, and deficient knowledge of other parts of general administrative law causes breaches of the written-documentation requirement during case processing. Cases 2012/1960 and 2011/501 are relevant examples.

1.2.3 The clarification of the case

Before a decision is made, the administration must ensure that the case has been clarified as thoroughly as possible; see section 17 of the Public Administration Act. Breach of this principle frequently occasions criticism from the Ombudsman.

Deficient case clarification occurs in most legal areas. As with the written-do-

cumentation requirement, this principle is illustrated by cases concerning the award of operating grants for physiotherapists and cases concerning appointments. In such cases, a comparative qualification assessment must be undertaken to identify the best-qualified person. This means that, depending on circumstances, investigations may have to be conducted over and above a review of the applications. Typical investigative steps will include conducting interviews and/or obtaining references. If special qualifications are specified in the announcement text, it may be necessary to clarify whether applicants have these qualifications.

Further, those involved must be given the opportunity to make corrections and address concerns (the adversarial principle). The requirement that a case must be sufficiently clarified also applies to any appeal body, which has an independent duty to ensure this. Cases 2012/1960 and 2011/501 on the award of operating grants to physiotherapists also illustrate the principle that the case must be clarified as thoroughly as possible. As regards appointment cases, reference is made to unpublished cases 2012/2416 and 2011/2656, in which a failure to conduct interviews and obtain references meant that the cases could not be deemed sufficiently clarified.

Errors in a municipality's processing of a case may, in some cases, trigger liability in damages. In case 2004/3371, which also concerned operating grants for physiotherapists and was referred to on page 139 of the annual report for 2006 (SOMB-2006-33), the municipality was criticised, among other things, for deficient investigation of the case. The case

was later brought before the courts, and a Supreme Court judgment dated 22 October 2009 found in the complainant's favour. The Supreme Court considered it sufficiently substantiated that the complainant would have been awarded the practice licence in question if the municipality had not made the error, and the municipality was ordered to pay damages; see Supreme Court Reports 2009, page 1319.

1.2.4 Failure to give reasons

Reasons must generally be given for individual decisions, and this duty is regulated in detail in sections 24, 25 and 27 of the Public Administration Act. One important principle is that the reasons must be given at the same time as the decision is made. The duty is intended to address several concerns, including the interests of the person to whom the decision relates. A statement of reasons gives the party a better basis for understanding the outcome, and a basis for assessing whether the decision should be accepted or whether there are reasons to take the matter further. Another important consideration is the impact on case processing by the administration. The requirement to give reasons heightens the attention paid by the administration, and improves case processing. Cases that are exempt from the duty to give reasons laid down in the Public Administration Act, such as appointment cases, are nevertheless subject to the requirement that there must be objective grounds for the decision.

The requirements applicable to the statement of reasons may vary from case to case. The Ombudsman has on several occasions pointed out that the statement of

reasons must meet the need of the parties to understand the content of the decision, ensure that the adversarial principle is safeguarded and enable the parties to verify that the duty to clarify the case has been met. Depending on the circumstances, a statement of reasons may be too general. Moreover, the requirement to give reasons applies not only to the first-instance decision, but also to the appeal body. The Ombudsman regularly observes cases where the appeal body simply refers to the administration's decision and statement of reasons. Although this may be sufficient in principle, it is not automatically so. It must always be clearly stated that the reasons for the appeal body's decision are the same as those given by the administration.

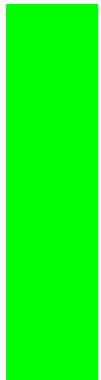
An example of a case in which the statement of reasons was insufficiently specific to enable the party to understand the content of the decision, etc. is case 2012/1960 on the award of operating grants to physiotherapists. In cases 2012/2566 (unpublished) and 2011/1369 on parking permits for mobility-impaired persons, the applicants had not received a detailed explanation of why their applications had been refused. In addition, in the first case, the applicant had already held such a parking permit for two years prior to making the application. Moreover, since the appellant's situation was largely the same as when the parking permit was first issued, stricter requirements applied as to the giving of reasons. The appeal body had not provided its own statement of reasons in any of the cases, and had simply referred to the administration's presentation of the matter in each decision. In an unpublished case (2012/975), concerning a start-up loan, the municipality conclu-

ded – after the matter had been taken up by the Ombudsman – that it would be correct to include the administration's statement of reasons in the appeal decision.

1.2.5 Impartiality

It is important that citizens have confidence in the decisions of the administration. Section 6 of the Public Administration Act lays down impartiality rules to ensure that decisions that are made are objectively correct and not influenced by arbitrary or external factors. Breach of the impartiality rules may easily result in a decision being declared invalid.

Section 40 of the Local Government Act also contains rules on impartiality, in addition to the rules in the Public Administration Act. Section 40(3)(c) of the Local Government Act concerns impartiality in connection with appeals against decisions made by the municipality in the first instance. The first paragraph of the provision states that, “[w]here any administrative appeal is being heard pursuant to the second paragraph of section 28 of the Public Administration Act, employees or popularly elected representatives who were involved in the making of the decision against which an administrative appeal is being brought, or who assisted in the preparation of the basis for the decision, are disabled in respect of the hearing of the case by the administrative appeal body and in respect of the preparation of the case for the administrative appeal body.” Further, the second paragraph of the provision states that, “[i]f a superior employee is disabled in a matter, an immediately subordinate employee may not participate in the hearing of the case by the administrative appeal body or in the



preparation of the case for the administrative appeal body.” These strict rules were introduced to ensure independent consideration by the appeal body, which is generally part of the same administrative agency as the subordinate body, i.e. the municipality.

In practice, the rules in the Local Government Act present challenges in connection with the requirement that there must be a clear distinction between the complaints processing of the subordinate body and the complaints processing of the appeal body. This applies particularly to the preparation of the case for the appeal body. The rules mean that the first-instance administrative official may not be involved in preparing the basis for the deliberations of the appeal body. This means that the administrative official may not draft a written recommendation to the appeal body, and may only participate orally to a limited degree, for example at meetings of the appeal board. Moreover, if a superior was involved in making the decision or participated in the case preparations, the subordinate may not prepare the basis for the deliberations of the appeal body. The cases considered by the Ombudsman include several examples of breaches of the impartiality provisions in the Local Government Act. In case 2012/1978 (unpublished) on housing grants and case 2012/1960 on physiotherapy operating grants, the administrative officials had participated in the meetings of the appeal boards and given case briefings. In the latter case, the written statement of case also included an assessment of whether the errors that had been committed could be regarded as having influenced the result. I took the view that such preparations were contra-

ry to the requirements in section 40(3)(c) of the Local Government Act. In an unpublished case (2013/1064) concerning adapted work for a disabled person, the statement of case presented to the municipality’s appeal board was drafted by an official from the municipal administration. The official’s superior lacked impartiality due to involvement with the original decision. Accordingly, the subordinate was also barred from participating in the preparation of the basis for the appeal body’s deliberations.

1.2.6 Preliminary replies

Section 11 a of the Public Administration Act provides that the administration must prepare and decide a given case without undue delay. If it must be anticipated that a disproportionately long period of time will pass before an enquiry can be responded to, the administrative body that received the enquiry must provide a preliminary reply as soon as possible. If an individual decision is involved, a preliminary reply must be given if the enquiry cannot be responded to within one month of receipt. Breach of the rule that a preliminary reply must be given is a frequent ground of complaint to the Ombudsman.

The Ombudsman regularly takes up cases on his own initiative. Cases 2012/2632, 2013/815 (unpublished), 2013/964 and 2013/1686 (unpublished), concerned the use of preliminary replies by and case-processing times in several municipalities. The cases related to real estate matters. Failures to provide preliminary replies were identified in all of the cases; see section 11 a, second paragraph, of the Public Administration Act. It was also pointed out that the requirement to provi-

de a preliminary reply also applies in appeal cases. Since case-processing times in the public administration are discussed separately in section 3 of this chapter, this topic will not be discussed further in connection with municipal case processing.

1.3 Summary

As illustrated by the cited examples, the Ombudsman's experience indicates that challenges remain in the municipal sector with respect to breaches of key case-processing rules under administrative law. It is logical to assume that this is due to a lack of knowledge of the rules and unclear and deficient procedures.

The need of municipalities for legal expertise was discussed on page 32 of the annual report for 2007. It was pointed out that several cases in recent years had generated uncertainty as to whether municipalities – and small municipalities in particular – were addressing the challenges presented by increased regulation and the enshrinement of rights in law appropriately. With respect to lack of legal expertise, it was pointed out that this can weaken legal safeguards for citizens, and that it is important for municipalities to be aware of the importance of utilising such expertise. It is not always sufficient to engage legal expertise when needed, since it is often unclear when such a need applies. Employees do not always have to hold full legal qualifications, and much can be achieved through internal training. It was also envisaged that cooperation between municipalities could assist in the development of good solutions in the legal field. The processing of cases in recent years does not pro-

vide grounds for concluding that the situation has changed to any notable degree. My encouragement to small municipalities in particular to consider what can be done to boost legal expertise continues to apply.

Although municipalities process a large number of cases, very few are the subject of a complaint to the Ombudsman. The municipalities involved in complaints vary from year to year. Accordingly, the Ombudsman has limited opportunities to help improve legal expertise through his activities.

As stated, the Ombudsman may take up cases on his own initiative. This allows legal issues to be taken up on a general basis, independently of any specific complaint. Such own-initiative cases are often occasioned by experiences made by the Ombudsman when considering individual cases, for example the observation of certain recurring errors. This also applies to municipalities. As described above, it must be assumed that the opportunity to exert influence is greater when cases are taken up on a general basis than in the consideration of individual cases.

Investigations into individual cases focus on case processing. When the Ombudsman observes that the correctness of case processing may be doubtful, he will often raise the issues in question with the municipality, even if the actual decision does not appear to be incorrect. This allows the Ombudsman to direct attention to the case-processing rules and their importance, and to spread knowledge about them. Sometimes, the Ombudsman may also remind the administration of case-processing rules in individual cases, even

though no further investigative steps are taken in the specific case. For example, he may point out the requirement for written documentation in appointment cases, or the requirement regarding rapid processing of disclosure requests pursuant to the Freedom of Information Act.

The Ombudsman makes regular visits to different parts of the public administration, including municipalities. Such visits may be used to raise issues relating to case-processing rules. In relevant cases, the Ombudsman may also contact the Norwegian Association of Local and Regional Authorities (KS) to discuss issues of a more general nature.

2. Cases concerning whistleblowing and public employees' freedom of expression

The freedom of expression of employees working for the public administration is important. Freedom of expression is a fundamental right for individual employees, and is important for social development. In an employment relationship, the duty of loyalty may generate uncertainty as to the scope of freedom of expression. The Ombudsman regularly receives complaints relating to penalties and reactions that are claimed to be unlawful retaliation in response to whistleblowing. Such complaints may also concern other reactions that are regarded as unacceptable limitation of freedom of expression.

In cases concerning employment and service relationships, the interests of the

complainant will often indicate confidential treatment of the case. The risk that a complainant may be identified may mean that the Ombudsman's statement is not published. This applies, for example, in whistleblowing cases in which the identity of the whistleblower has not been made public.

Like other employees, public employees have freedom of expression as protected by Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights. This freedom of expression also encompasses statements about matters falling within the employee's functions and touching on the relationship with the employer. The interests of public debate and the democratic system of government indicate that public employee should be permitted to comment on matters falling within their own functions. The legal limits of freedom of expression were developed through amendment of Article 100 of the Constitution in 2004 and the enshrining in law of the right to report censurable conditions in undertakings in sections 2-4 and 2-5 of the Working Environment Act. These rules entered into force on 1 January 2007. The Ombudsman's consultation statement on the 2005 report "Freedom of expression for employees", which contained proposals for new statutory rules, was included in the annual report for 2006, on pages 77 to 79.

Previously, complaints concerning reactions by employers to statements by employees were considered by reference to Article 100 of the Constitution and the employee's duty of loyalty. The whistleblowing rules in the Working Environment Act have led to an increase in the

number of statements claimed to constitute a report of censurable conditions in an undertaking. Such reports confer statutory protection against retaliation that is additional to general constitutional protection for statements. Nevertheless, complaints are still received from employees concerning limitations on freedom of expression imposed by employers in cases that do not concern whistleblowing. The subject matter of the case and the questions it raises may influence how the case is treated.

In recent years, around 10 complaints per year have been received from public employees who feel that their employers have imposed unjustified penalties in response to statements by the employees. In the years 2011–2013, the large majority of these cases concerned alleged breaches of the whistleblowing rules in the Working Environment Act. Only one of these whistleblowing cases ended with the publication of a statement by the Ombudsman (2012/279). In contrast, around half of cases during this period that concerned freedom of expression issues falling outside the scope of the whistleblowing rules were published (cases 2012/1031, 2011/2740 and 2011/605).

As stated, there are several reasons why complaints to the Ombudsman concerning unlawful retaliation in connection with whistleblowing are rarely published. One reason is the interests of the complainant. Most individuals who complain about breaches of the whistleblowing rules are not known to be whistleblowers and wish to remain anonymous. To protect complainants against involuntary identification, it has often proven necessary to omit publication because an

anonymised statement would not have provided adequate protection against publication without excluding key information that was decisive in the case.

In cases concerning protection for statements that do not concern “censurable conditions in the undertaking”, statements are often made externally, and the complainant will already be known to the public. This may render publication of the Ombudsman’s statement less problematic. On the other hand, in cases in which the complainant is already publicly known, it will be important to redact confidential information.

Another reason for not publishing whistleblowing cases is that the Ombudsman takes up relatively few such cases for further investigation. Some cases are dismissed on formal grounds. In addition, a large proportion are considered on their merits and closed without grounds being found for raising the matter with the administration. This may be because the complaint and the case documents provide a sufficient basis for concluding that there is no reason to believe that further investigations would uncover breaches of the whistleblowing provisions. However, in the majority of cases there are no grounds for drawing this conclusion based simply on a review of the case documents. When the Ombudsman nevertheless finds it inappropriate to investigate the matter more closely this may, for example, be because the matters invoked by the complainant are old and/or because there is disagreement about facts that are undocumented and difficult to clarify through written case processing without interviewing the parties and witnesses.

The Ombudsman's statement in case 2012/279 concerns the questions whether an employee had reported censurable conditions and whether a subsequent written reprimand constituted retaliation in response to whistleblowing. I concluded that the complainant had reported censurable conditions relating to procedures at the complainant's workplace, and that the written reprimand was directly linked to events that arose in connection with the report on the censurable conditions. On this basis, I concluded that the reprimand constituted unlawful retaliation by the municipality. I was also critical of the municipality's failure to submit key documents in connection with the investigation of the matter. It was the complainant who provided case documents that clarified the case sufficiently. The case therefore also illustrates the importance of written documentation.

Case 2012/1031 concerned a teacher's freedom of expression, and was not considered a whistleblowing case. In that case, I concluded that the municipality's reaction to a news article constituted unlawful limitation of the teacher's freedom of expression. The case also raised the question of whether the municipality could require an employee to make an internal report first and to "go through official channels" – an issue that regularly arises in whistleblowing cases and cases concerning freedom of expression. There may thus be reason to issue a reminder that the provision in section 2-4(2), second sentence, of the Working Environment Act stating that the employee always has "the right to notify in accordance with... the undertaking's routines for notification" is intended to guarantee to the employee that such notification will

always be deemed "appropriate"; see section 2-4(2), first sentence. However, the opposite cannot be concluded, namely that a report that does not comply with the undertaking's routines will not be appropriate. Whether or not an appropriate report has been made will depend on a concrete assessment of both the objective and subjective aspects of the case, including whether the whistleblower saw making an internal report as a real alternative. In the case of statements falling outside the scope of the whistleblowing rules, the relevant assessment will be whether the employee has complied with his or her duty of loyalty. The employee must avoid making disloyal statements that will obviously damage the employer's legitimate, objective interests. No absolute requirement may be imposed that statements must first be presented to the employer; see also case 2006/530, referred to on page 79 of the annual report for 2006 (SOMB-2006-12).

Case 2011/2414 concerned a municipality's handling of a whistleblowing case. I concluded that the municipality had acted contrary to its own whistleblowing procedures, and that good administrative practice had been breached. The case illustrates the importance of orderly, professional handling of whistleblowing cases by employers. In addition, the Ombudsman generally tells complainants making an initial complaint about a lack of whistleblowing procedures and deficient processing of whistleblowing cases by an employer to take up the matter with the Norwegian Labour Inspection Authority in the first instance, in accordance with the principle that the Ombudsman's reviews of the administration should be subsequent in nature.

When the administration is criticised for breaches of the rules on the right to whistleblow and freedom of expression, the final outcome of the case may vary. If an unlawful retaliatory measure has been implemented, for example in the form of a disciplinary penalty, the Ombudsman will generally ask for it to be withdrawn. On occasion, the administration does not comply with the Ombudsman's request, such as in case 2012/279, and in such cases the Ombudsman has requested that the Ombudsman's statement in the case be added to the complainant's personal file together with the disciplinary penalty.

In several cases concerning whistleblowing and freedom of expression, the administration has referred to internal guidelines and procedures that stipulate how employees are to deal with the media and external parties; see for example case 2012/1031, mentioned above. The risk of limitations on freedom of expression presented by such internal regulations has long been known. In case 2007/544, which concerned the freedom of expression of a teacher in connection with the closure of a school, the Ombudsman found that, on certain points, the school's staff regulations and press regulations went too far in limiting employees' freedom of expression. This view was also expressed in case 2006/1632 on the freedom of expression of a head teacher in connection with the reorganisation of the youth sector. I took the view that parts of the municipality's regulations on making statements to the media had a doubtful and unclear status in view of the

protection given to freedom of expression in Article 100 of the Constitution and Article 10(2) of the European Convention on Human Rights. Internal regulations may become static and unable to keep up with ongoing legal developments. There may be reason to reiterate what I said on page 25 of the annual report for 2006, immediately after the whistleblowing rules entered into force: "It would appear that the stronger protection in the Constitution of freedom of expression has not yet had the desired impact in practice, and that several public employers continue to apply an outdated view of employees' freedom of expression and right to whistleblow. This raises the question of whether steps should be taken to inform and achieve changes in attitudes among leaders in the public administration."

This review illustrates that whistleblowing cases raise various questions relating to the legal boundaries of the right to whistleblow and freedom of expression, and with respect to whether an employer has implemented an unjustified reaction. Cases in which there is disagreement about important factual circumstances that are difficult to clarify through the Ombudsman's written procedure will generally have to be closed without further investigation, since they are not suited to consideration by the Ombudsman. It will be logical to continue to focus on rules and procedures developed by employers that limit public employees' freedom of expression and right to report censurable conditions in the undertaking.

3. Case-processing times in the public administration

3.1 General

In 2013, the Ombudsman received 527 complaints relating to case-processing times in the administration, compared to 628 and 537 complaints in 2012 and 2011, respectively. This figure excludes complaints in which slow case processing was one of several submissions but not the main issue.

A large proportion of the complaints concerning slow case processing have been investigated by the Ombudsman by telephone. In most cases, the Ombudsman obtained an answer from the administration that allowed the case to be closed with a promise that the matter would be resolved within a given timeframe. Where no explanation of the case-processing time could be obtained by telephone, or where there were grounds for asking questions of a more general nature or concerning matters of principle, the matter was taken up in writing. In addition, the Ombudsman has carried out more general investigations on his own initiative with respect to certain administrative bodies. A summary of these cases is provided in section 3 of chapter IV of the report.

Complaints concern not only the time spent, but also failure to send a preliminary reply, failure to respond to complainants' reminders and failure to provide information about the delay when a case has not been processed within the speci-

fied period. The enquiries received by the Ombudsman in 2013 show that being kept informed of the case-processing time is important to complainants, and that a long case-processing time is accepted more readily if the reason is notified along with a fairly concrete, realistic statement as to when a reply may be expected.

Reliable procedures to ensure proper progress and ongoing communication of the realistic case-processing time is of great importance to general confidence in the administration's processing of cases. It is therefore important that the administration is aware that failing or deficient procedures for following up on new and ongoing matters may have undesirable effects on the relationship of trust between the administration and citizens. The leaders of administrative bodies must make sure that procedures ensure that case-processing times and information provided to citizens comply with the rules in the Public Administration Act and the non-statutory requirements of good administrative practice. My impression from the complaints received in 2013 is that various administrative bodies in the state, municipal and county sectors have room for improvement in this regard.

In 2013, several cases of general interest concerned slow case processing and failure to send a preliminary reply or notice of delay. An overview of these cases is provided in section 2 of chapter IV. Below, an account is provided of developments in the case-processing times of Nav and the immigration authorities, based on the Ombudsman's impressions from processing complaints in the past year. These administrative sectors have

been discussed in previous annual reports from the Ombudsman, most recently in 2012.

3.2 Nav

In 2013, the Ombudsman received around 530 written complaints relating to the Norwegian Labour and Welfare Administration (Nav). The corresponding figures for the two preceding years were about 700 in 2012 and just under 600 in 2011.

Approximately 180 of the enquiries received in 2013 concerned case-processing times. This figure is on a par with 2011, and represents almost 100 fewer cases than in 2012, when the Ombudsman received around 270 complaints about Nav's case-processing times. Moreover, in 2012 particularly many complaints – around 120 – were received in relation to Nav's case-processing times in disability pension cases. Closer investigation revealed that the primary reason for the extended processing times in those particular cases was a reallocation of tasks between Nav Pensions and the administrative units, of which users had not been informed. Far fewer complaints are now received with respect to Nav Pensions' case-processing times. In addition, no corresponding general increase has been observed in the number of complaints regarding the case-processing times of the administrative units.

The reason for the remaining reduction is uncertain. Several factors may have played a role. One obvious explanation is that Nav's service complaints scheme, which was introduced in December 2011 to simplify access to Nav Appeals, became

better known to users in 2013 than in 2012. There is also reason to believe that the processing of service complaints in itself has a positive effect on people's view of matters such as Nav's case-processing times. The Ombudsman's contact with Nav – both in own-initiative cases and otherwise – shows that Nav, centrally and at lower levels, is making targeted efforts to effectivise general case processing within the organisation, shorten case-processing times and introduce procedures for communicating delays in a timely manner.

As in previous years, the enquiries relating to case-processing times have involved all types of benefits and a large number of Nav offices, although some Nav offices are the subject of more complaints than others. The Ombudsman continues to receive a relatively large number of complaints (37 in 2013), about the case-processing times of Nav International. I am aware that Nav International received additional resources towards the end of 2013 to enable it to reduce its backlog of cases concerning membership of the national insurance scheme and national insurance contributions in particular. Nevertheless, the question remains whether Nav International has sufficient resources to perform its extensive, and in some cases difficult, tasks satisfactorily.

A little more than 100 of the approximately 180 complaints received about case-processing times in 2013 were resolved, or undertaken to be resolved, within a specified timeframe. However, in some cases it was necessary to ask Nav for a detailed written account. The Ombudsman has also taken up certain cases on his own initiative, such as case 2013/1984 on

the case-processing time in cases concerning daily unemployment benefit and case 2012/3401 concerning Nav Appeals' procedures for the despatch of preliminary replies.

My experiences in 2013 relating to Nav's case-processing times show that improvements have been made. There is nevertheless reason to fear that complaints will continue to be made because of long case-processing times or because case documents and cases cannot be retrieved. Nav makes a large number of administrative and other decisions every year. Despite the positive trend, many Nav units have a clear improvement potential with respect to their case-processing times. There is reason to believe that Nav is aware of the problems and challenges presented by prolonged and delayed processing of cases.

3.3 The immigration authorities

The case-processing times of the immigration authorities have been a recurring topic in the Ombudsman's annual report in recent years. Last year's report stated that the Norwegian Directorate of Immigration appeared to have adopted a special focus on effectivising case processing and reducing case-processing times, and that this had shortened case-processing times in a number of subject areas. Case-processing times have generally remained stable in 2013. Fewer complaints are being received about the Directorate's case-processing times than before. This is positive.

However, certain types of cases stand out in a negative sense. The Directorate's case-processing times in family immigration and citizenship cases remain long, although an improvement also appears to have been achieved with respect to these types of cases. The same applies to the time the Directorate spends preparing appeals before they are sent to the Immigration Appeals Board. The processing of applications for the cancellation of entry bans for citizens of countries outside the EU/EEA also takes a long time. Even though processing times for certain types of cases remain lengthy, my general impression is that the Directorate is aware of the challenges and has taken steps to reduce case-processing times. It also appears that the Directorate is providing more information about case-processing times than before, something which is important not least for citizens' expectations.

The annual report for 2012 noted a marked increase in the number of complaints relating to the case-processing times of the Immigration Appeals Board. However, my impression was that the Board had a desire to reduce its case-processing times, and that active steps were being taken to achieve this. The number of complaints received by the Ombudsman relating to the Board's case-processing times fell in 2013. The drop in the number of complaints corresponds to the Board's own statement that the number of unprocessed cases was almost halved during the first nine months of 2013. There is reason to believe that this will shorten case-processing times going forward. This is positive.

4. Compliance with the Ombudsman's statements by the administration

4.1 Introduction

The question of whether the Ombudsman's statements are followed and the administration complies with the Ombudsman's views is important for confidence in both the Ombudsman and the administration. The Ombudsman is only entitled to "express his opinion on matters which come within his jurisdiction". Although the Ombudsman's statements are not legally binding, they are normally followed.

In most cases in which the Ombudsman finds grounds for expressing criticism, the administration is asked to reconsider the matter. There may be reason to distinguish between cases in which the Ombudsman primarily comments critically on case processing and cases in which the Ombudsman disagrees with the administration's application of the law and conclusion.

In cases where the Ombudsman criticises case processing, he usually states that the case-processing error may have influenced the substance of the decision. In such cases, it is normally pointed out that circumstances exist that create "justifiable doubt pertaining to factors of importance in the case", see section 10, second paragraph, of the Ombudsman Act, and the administration is asked to reconsider the case. When criticising case processing, the Ombudsman avoids specifying how

the case should be resolved upon reconsideration. This applies in cases that were insufficiently clarified, see section 17 of the Public Administration Act, and cases where the impartiality rules in section 6, second paragraph, of the Public Administration Act have been breached.

When the administration is asked to reconsider a case, the outcome may vary. If the result is that a decision is amended in favour of the complainant, the Ombudsman will normally not have to conduct further follow-up. Most cases have this outcome; see for example cases 2012/1158, 2012/1280 and 2012/2803.

Cases in some subject areas, such as appointments and operating grants for physiotherapists, often impact third-party interests. Since the third party is not involved in the Ombudsman's processing of the matter, the Ombudsman may not request reconsideration of the case, even if censurable conditions are found; see cases 2012/2044 and 2012/1461. Such cases are closed with criticism, and the administration is asked to note the Ombudsman's criticism for the processing of similar cases in future. The Ombudsman may also recommend that other action be taken to safeguard the complainant's interests.

It may also be that no grounds for requesting reconsideration of the case are found in a given case, but that grounds are found for asking the administration to amend or prepare new procedures and guidelines to prevent a similar development in future cases. This will apply when deficient procedures and guidelines are discovered in cases concerning failure to reply. Deficient case-proces-

sing procedures may also have to be amended; see cases 2012/1580, 2012/1531 and 2012/1553.

4.2 Cases in which the Ombudsman's view was not followed

Although the administration generally complies with the Ombudsman's guidance, in some cases it maintains its own view and does not comply with that of the Ombudsman.

Case 2011/870 concerned a request for redemption of land zoned as common area (a playground). The City of Oslo's "small house plan" had zoned the land for housing purposes, but an amendment plan of 2003 changed the zoning classification back to common area in accordance with the original zoning classification in a plan dating to 1966. The City of Oslo dismissed the redemption request, stating that the zoning in the small house plan was based on an error, and that the conditions for redemption were not met. I concluded that the best grounds indicated that the conditions for redemption in section 42 of the Planning and Building Act 1985 were met, and asked the city to reconsider the issue. In a letter, the city stated that the case remained unchanged in legal terms and maintained its position, apparently without considering my comments.

Case 2013/293 concerned the question of whether the Norwegian Public Service Pension Fund was doing enough to ensure the impartiality of experts in cases relating to the Norwegian Armed Forces' special compensation scheme for mental strain injuries resulting from participation in international operations. In the ca-

se, the impartiality of a privately practising expert was assessed. The expert was employed as a head of section at the Armed Forces' office for psychiatry and stress mastery. I concluded that it was difficult to combine a position of this kind with assignments as an expert in cases relating to the compensation scheme.

The Ministry of Defence disagreed with the statement's terms, legal assessments and conclusions. The Public Service Pension Fund has stated that it agrees with the Ministry's comments. In a decision made before the Ministry submitted its comments, the independent complaints board for compensation and ex gratia payments adopted the views expressed in the Ombudsman's statement when processing an appeal, which was therefore referred back to the Public Service Pension Fund for reconsideration due to the expert's lack of impartiality.

Based on the Ministry of Defence's comments, a new statement was obtained from the Public Service Pension Fund, and certain factual aspects of the case were reconsidered. This review did not alter my view, but did provide a basis for expanding on the procedural changes I consider the Public Service Pension Fund needs to make. I am currently awaiting feedback from the Ministry and the Public Service Pension Fund on the result of my renewed review.

Case 2012/2498 concerned the follow-up of case 2011/720; see page 44 of the annual report for 2012 and page 16 of the report for 2011. In the case, I concluded that the planning and building authorities could not refuse the application for general permission by reference to a muni-

cial sector plan adopted after the expiry of the 12-week deadline in section 95(1) of the Planning and Building Act 1985. The county governor was therefore asked to reconsider the case.

Based on the Ombudsman's statement in the case, the county governor deemed his original decision invalid, and reversed it. The county governor's reversal decision was appealed to the Ministry of Local Government and Regional Development, which took the view that it was the state of the law at the time the decision was made that formed the basis for the decision by the planning and building authorities, and that the legal effect of breaching the 12-week deadline is a reduction in the fee. The Ministry concluded that the county governor had no basis for reversing the original decision based on invalidity, and therefore set aside the reversal decision.

The Ministry's decision was then submitted to the Ombudsman. The complaint raised new matters, and it was therefore necessary to send the matter back to the Ministry for a new assessment. Since the Ministry had rejected the view of the law expressed by the Ombudsman, it was also necessary to make some comments on the aspect of the case that concerned a matter of principle. The Ombudsman stated that the Ministry's position was unfortunate from the perspective of legal safeguards for citizens, since it in reality meant that the authorities could draw out case processing indefinitely in order to then secure legal authority to prohibit a previously lawful act. The legislature should at any rate be given an opportunity to consider whether such a state of the law is desirable. The Ministry was th-

erefore asked to consider the need to evaluate the current regulatory framework. The case has not yet been closed, and the Ombudsman is currently awaiting the Ministry's response.

4.3 Summary

As illustrated by the above example, the administration may respond to a critical statement from the Ombudsman in various ways. The final outcome of the Ombudsman's statements largely depends on what the Ombudsman has found censurable and how the administration is asked to respond to a given statement. A review of the statements made in 2013 shows that the Ombudsman's view is generally respected and followed by the administration. The few cases in which disagreement arises normally concern the application of the law and current law under the regulatory framework. The general impression is also that administrative bodies respect and loyally implement other recommendations made by the Ombudsman during the processing of a case.

5. The Ombudsman's work on human rights

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

Chapter I of the report discusses the Ombudsman's function as Norway's natio-

nal preventive mechanism and the Ombudsman's human rights seminar in 2013. During the course of the year, the Ombudsman issued two consultation statements in which human rights were a topic; see section 6 of chapter IV of the report. Other activities in the area of human rights are detailed in Appendix 4 to the report, which contains an overview of lectures, meetings, visits and trips in 2013.

Below, an account is provided of cases in 2013 that were particularly relevant to Norway's human rights obligations. The presentation is divided into the following topics: the best interests of the child, the presumption of innocence and detention; see sections 5.1, 5.2 and 5.3, respectively.

5.1 The best interests of the child

The best interests of the child are a primary consideration in all cases concerning children; see Article 3(1) of the UN Convention on the Rights of the Child; see also section 2(4) of the Human Rights Act. In 2013, the Ombudsman dealt with three cases in which this consideration played a central role.

One statement concerned a residence permit on humanitarian grounds in an asylum case (case 2011/2813). The father of a family had had his application for asylum in Norway refused. By the time the father's case was finally decided by the Immigration Appeals Board, his wife and seven children had been granted residence permits based on "strong humanitarian grounds". The key question was therefore whether the best interests of the children were sufficiently considered in the father's case.

The obligation to include the best interests of the child as a primary consideration means that this assessment should be set out in decisions affecting children. The content of the duty to provide reasoned decisions when the situation of children is affected has now also been separately detailed in section 17-1a of the Immigration Regulations. The complexity of the case, the impact of the decision on the children, and the extent to which reasons are needed will influence the scope of the duty to provide reasons. In this case, several factors indicated the necessity of a thorough assessment of what was best for the children. The family was in a vulnerable situation, with the mother having to bear heavy care duties. Among other things, the children had received little schooling before coming to Norway. In addition, one of the children was seriously ill, while another had behavioural problems.

In his statement, the Ombudsman criticised the Immigration Appeals Board for not showing how the interests of the children were considered when the father's application was refused. The decision should have detailed the weight given to this consideration compared to other relevant considerations in the case, including the consideration of controlling immigration. Although the board insisted that the situation of the children was considered as one of several factors in the case, this was not apparent from the decisions to any notable degree. I therefore concluded that it was doubtful whether the assessment had been satisfactory, and the Immigration Appeals Board was asked to reconsider the case.

The needs of children were also a topic in case 2012/3339 concerning subsistence benefit during upper secondary education and training for adults. The case concerned the assessment of an application for subsistence benefit from a single mother responsible for two teenagers. The mother was attending an adult education course at an upper secondary school and receiving a grant from the Norwegian State Educational Loan Fund. Her application for financial benefits was refused. It was stated that she should instead apply for participation in a qualification programme or consider other maintenance alternatives.

When assessing an application for subsistence benefit from an applicant responsible for a child, the administration is required to consider the best interests of the child. Pursuant to Article 12 of the Convention on the Rights of the Child, the child will also be entitled to express its views. Article 27 of the Convention requires the state to recognise every child's right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. Article 27(2) establishes that primary responsibility rests with the parents, while the state has subsidiary responsibility pursuant to Article 27(3), in that it "shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing".

I concluded that the needs of the children had not been sufficiently examined in the case, and stated that greater attention should have been given to the situation of the children. In addition, the decisions that are made must state what considera-

tion has been given to the best interests of the child and what steps have been taken to enable the children to express their views. The county governor was asked to consider re-examining the case.

Case 2012/1794 concerned refusal of an application for prison visitation and assessment of the best interests of the child. A woman was refused permission to visit her husband after attempting, among other things, to smuggle in narcotics during a previous visit to the prison. In practice, the refusal meant that the couple's five-month-old child was also unable to visit its father. In this case, I referred, among other things, to Article 3 of the Convention on the Rights of the Child relating to the best interests of the child and Article 9(3) on the rights of children separated from their parents. I concluded that the decision of the Norwegian Correctional Services did not include a concrete, independent assessment of the interests of the child. This should have been included because contact with this particular child could not be maintained by letter or telephone, and because such a small child might have other needs than its older siblings. It was also unfortunate that the region's decision did not include a detailed assessment of whether various control measures to which the woman had expressly consented could render visits acceptable from a security perspective. It is important that the Norwegian Correctional Services make great efforts to facilitate visitation between children and imprisoned parents.

5.2 The presumption of innocence

Case 2012/803 (unpublished) concerned the imposition of an administrative sup-

plement pursuant to the Customs Act. I took the view that the imposition of an administrative supplement totalling NOK 500,000 had to be deemed a penalty pursuant to Article 6 of the European Convention on Human Rights, and that stricter requirements relating to evidential strength therefore applied. The decision did not state whether stricter evidential requirements had been applied. I stated that the question of what requirements must be applied with respect to the strength of evidence is an important part of the application of the law, and that the statement of reasons must be drafted in such a way that the party is in no doubt that basic human rights have been considered. The fact that the applied evidential requirements were not described or otherwise apparent constituted a defect in the statement of reasons. Depending on the circumstances, such a defect may indicate a shortcoming in the actual decision. This in turn may mean that the decision must be deemed invalid.

5.3 Detention

The Ombudsman has reviewed the annual reports from the Norwegian Correctional Services' supervisory boards for the years 2007–2011. This review uncovered several weaknesses in the supervisory scheme; see case 2011/225. These weaknesses relate to the mandate, which appears unclear, the expertise of the supervisory boards, including recruitment and training issues, and certain organisational matters. There are large differences in how the various supervisory boards function, and many of these differences do not appear to be based on objective grounds. The Norwegian Correctional Services' central administrative body

(now the Directorate of Norwegian Correctional Services), has been asked for a detailed assessment of the scheme.

In 2013, the Ombudsman made two statements on camera surveillance of police arrest facilities. These were case 2011/1355 on Oslo Police District's central arrest facility and case 2012/1295 on Hordaland Police District's central arrest facility.

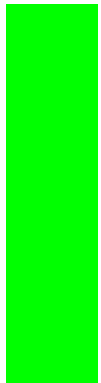
A visit to Oslo Police District revealed that all detainees in the central arrest facility were subject to 24-hour camera surveillance. This is contrary to the applicable regulations. Only the interests of a detainee's health can justify camera surveillance of his or her cell. No concrete assessment was conducted of the need for such surveillance. The police district was also asked to provide a further explanation of the need and basis for camera surveillance during stripping (search) in the cell, which was stated to occur routinely upon admission to the arrest facility. The police district has amended its practice following the visit. Since the police district has discontinued the practice of conducting camera surveillance during stripping, no grounds were found for proceeding with the question of the right to privacy.

Following the visit to Hordaland Police District, issues relating to the placement of multiple prisoners in the same cell (doubling) and camera surveillance were raised. It was recommended that the practice of conducting camera surveillance in search situations be discontinued. Further, legal concerns were pointed out in relation to the practice of conducting camera surveillance of all or parts

of the toilet area in police cells. It was recommended that the police district should take the necessary steps to ensure that camera surveillance of cells complied with the rules in the European Convention on Human Rights and the Police Cell Regulations.

One case, 2012/2396, concerned follow-up of a visit made in 2012 to the central arrest facility of Rogaland Police District. Several of the cells in the central arrest facility in Stavanger were not fitted with communications equipment that would enable prisoners to call for help easily. This was worrying, particularly with regard to compliance with the European Prison Rules (Recommendation of the Committee of Ministers of the Council of Europe of 11 January 2006). Article 2 of the European Convention on Human Rights – on the right to life – also impos-

ses on states certain positive obligations to protect the lives of persons in the state's jurisdiction. The case law of the European Court of Human Rights has established that the authorities may be obliged to conduct ongoing monitoring of detained persons so that they can be given adequate treatment, if necessary. Camera surveillance in connection with search situations (stripping) is contrary to the rules. The police district was asked to discontinue this practice, and in future to conduct searches (stripping) in cells or other premises that are not subject to camera surveillance. Further, it was unfortunate that several of the cells did not have access to daylight; see for example recommendations from the European Committee for the Prevention of Torture. The police district was also criticised for having failed to conduct local arrest-facility inspections in 2010.



IV. Overview of cases in 2013

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 administration aware of shortcomings in laws, regulations or administrative practice (section 4). Cases concerning human rights standards (section 5) and consultation statements issued by the Ombudsman (section 6) are also listed.

In the annual report, cases are referred to by title and case number. In this year's report, unlike in previous annual reports, no detailed account is given of the content of each individual case. Full-text versions of statements are published on the Ombudsman's website and the Lovdata and Gyldendal Rettsdata sites. Consultation statements are published on the Ombudsman's website.

2. Cases of general interest

Pursuant to section 12 of the Directive to the Storting's 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 safeguards. A summary of cases classified by legal area is provided below.

General administrative law

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| Case 2011/1557 | Amendment of the legal grounds for a payment obligation |
| Case 2011/1906 | Damages for failure to comply with an appeal deadline pursuant to section 31 of the Public Administration Act |
| Case 2011/2824 | Rectification order – new information on the factual circumstances at the time the decision was made |
| Case 2011/3554 | The municipality's handling of an application for an emissions permit contrary to sections 6 (requirements as to impartiality) and 40 (right to depart from regulations) of the Public Administration Act. |
| Case 2012/603 | Assessment of whether a zoning plan decision and a decision to impose a temporary prohibition against |

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| | the implementation of measures were invalid due a lack of impartiality | Case 2012/3041 | Duty to provide guidance on association members' individual right of complaint where the association lacks a legal interest in bringing proceedings |
| Case 2012/972 | Individual decision as a condition for coverage of legal costs | | |
| Case 2012/1461 | Case concerning impartiality in connection with appointment | Case 2012/3306 | Impartiality of members of a mountain board |
| Case 2012/1531 | Case concerning the 420 kV Ørskog-Sogndal power line – choice of route in Flora municipality | Case 2013/293 | Impartiality – the Norwegian Public Service Pension Fund's role in the selection of experts for the compensation scheme for mental strain injuries suffered during the Norwegian Armed Forces' international operations |
| Case 2012/1633 | Skånland municipality's handling of a case concerning improvements to wastewater discharge system | | |
| Case 2012/2142 | The Immigration Appeals Board's case-processing time in an asylum case | Case 2013/68 | Damages for failure to comply with an appeal deadline pursuant to section 31 of the Public Administration Act |
| Case 2012/2632 | Concerning a long case-processing time and entitlement to a preliminary reply | | |
| Case 2012/2672 | Long case-processing time by the Patient Injury Compensation Board | Case 2012/1280 | Case concerning an order to raise a maritime vessel measuring approximately 18 metres – question of the correct appeal body |
| Case 2012/2950 | Duty of confidentiality of the Supervisory Council for Legal Practice | | |
| | | Health | |
| | | Case 2012/1960 | Award of physiotherapy operating grant |

– clarification of the case, qualification assessment, reasons, impartiality, etc.

Case 2011/1327 Failure to conduct an assessment pursuant to the Nature Diversity Act in a case concerning the erection of reindeer fences

Correctional services

Case 2011/225 Investigation of the Norwegian Correctional Services' supervisory board scheme

Case 2012/1105 Withdrawal of licence for a limited company to acquire agricultural property

Case 2012/688 Information provided to prisoners at Halden prison about the supervisory board, etc.

Case 2012/1252 Dismissal of an application for an agricultural production grant due to failure to implement controls

Case 2012/1794 Refusal of application for prison visitation – assessment of the best interests of the child and various control measures

Freedom of information and disclosure

Case 2012/1454 Nav's case-processing time and duty to follow up on applications for disclosure of documents

Case 2012/2823 Decision by the Norwegian Correctional Services regarding a transfer to a higher-security prison

Case 2012/1553 The Ministry of Defence's handling of a disclosure application relating to NATO documents

Case 2013/1049 Follow-up of a visit to Åna prison on 4 June 2013

Case 2012/1782 Case concerning disclosure of an agreement and an appeal body's power to set aside a subordinate body's decision in disclosure cases

Communications and transport

Case 2010/2686 Case concerning the issue of airworthiness certificates for self-constructed aircraft

Case 2012/1807 Slow case processing and failure to process disclosure applications

Agriculture, forestry and reindeer husbandry

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| Case 2012/2243 | Prioritisation of disclosure applications | | of the Planning and Building Act 2008 from the distance rule in section 70(2) of the Planning and Building Act 1985 |
| Case 2012/3391 | Exception relating to “the final decision of the administrative agency in a case” pursuant to section 14, second paragraph, sub-paragraph a), of the Freedom of Information Act | Case 2012/136 | The interests of children and young people in a zoning plan |
| | | Case 2012/215 | Case concerning the placement of a semi-detached house – section 29-4, first paragraph, of the Planning and Building Act |
| Case 2013/1427 | Case concerning disclosure of board documents sent to the Ministry of Children, Equality and Social Inclusion by the Norwegian Consumer Council | Case 2012/654 | Need for dispensation from “hollowed out” zoning plan provision |
| Case 2013/2751 | Case concerning disclosure of cabinet minister Sylvi Listhaug’s client list | Case 2012/956 | Case concerning the erection of a detached house – interpretation of municipal plan by Bærum municipality |
| Case 2013/2776 | Case concerning disclosure of State Secretary Julie Brodtkorb’s client list | Case 2012/1067 | Fee for processing of partitioning application – calculation in accordance with the full-cost principle |
| Planning and building | | | |
| Case 2011/870 | Claim for redemption of undeveloped land | Case 2012/1166 | Breach of the documentation requirement in connection with the charging of a building application fee |
| Case 2011/1167 | Dispensation from regulated building density | | |
| Case 2011/3124 | Dispensation pursuant to section 19-2 | Case 2012/1175 | Conditions for a demolition permit |

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| Case 2012/1840 | The consequence of adopting an incorrect legal basis when processing a dispensation application | Case 2012/3159 | Dismissal on private-law grounds – project on another’s land |
| Case 2012/1852 | Unclear planning provision must be interpreted to clarify whether a measure conflicts with the zoning plan | Case 2012/3160 | Repayment of a fee for processing a planning proposal due to the municipality’s failure to comply with a deadline |
| Case 2012/1956 | Question of whether specification of the roof angle fell within the authorities’ decision-making power under the height and placement provision in section 29-4, first paragraph, of the Planning and Building Act | Cases 2013/964, 2013/1686 and 2013/1687 | Case-processing times for building appeals in the municipalities of Bergen, Oslo and Tromsø |
| Case 2012/2498 | Amendment of the planning basis after a building application was received | Case 2012/3370 | Access to road secured by prescription |
| Case 2012/2545 | Dismissal on private-law grounds – project on own land | The police and prosecuting authority | |
| Case 2012/2570 | Duty to interpret zoning plan provisions before a permit is granted | Case 2011/1355 | Camera surveillance and monitoring of prisoners at Oslo Police District’s central arrest facility |
| Case 2012/2705 | Case concerning a municipal takeover of a road and water and wastewater discharge system | Case 2012/1295 | Camera surveillance and placement of multiple prisoners in the same cell at Hordaland Police District’s central arrest facility |
| | | Case 2012/2396 | Follow-up of visit to Rogaland Police District’s central arrest facility in Stavanger |

Social services

Case 2012/2439 Formulation of decision concerning practical assistance

Case 2012/3339 Subsistence benefit during upper secondary education and training for adults – children's needs

Tax, tax assessment, customs, charges and property tax

Case 2012/2026 Claim for penalty interest in connection with post-payment calculation of property tax

Case 2012/2665 Case concerning arbitrary differential treatment by Tax Mid-Norway/tax appeal board

Case 2012/2932 Liability for a supplement to the one-off registration tax due to a change in status before the vehicle changed owners

Case 2012/2953 Case concerning amendment of a charge settlement notice in favour of the liable party pursuant to section 18-1 of the Value Added Tax Act

Case 2013/332 Case concerning waiver of a delay fee

Schools

Case 2012/1158 Case concerning the consequences of rejecting a doctoral thesis

Case 2012/2364 Loss of student place due to failure to attend on the first day of study

Case 2012/2941 Question of dismissing an appeal concerning a school environment case after the pupil has changed schools

Case 2013/949 Dismissal of an application for adapted examination arrangements submitted too late

Case 2013/1943 Decision that no assessed grade should be given

Appointments, public employment and operating agreements

Case 2011/2414 Statement – disclosure in whistleblowing case

Case 2012/1031 Case concerning employees' freedom of expression

Case 2012/1435 Appointment – lack of written documentation and failure to obtain references

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| Case 2012/1580 | Ability to apply for a vacant position with one's own employer | Case 2012/2070 | Calculation of graded care benefit |
| Case 2012/1891 | Case concerning the assignment of the function of canine service head instructor | Case 2012/2803 | Duty of lawyers to produce a written power of attorney pursuant to section 12 of the Public Administration Act |
| Case 2012/2040 | Case concerning the appointment of the chief municipal executive of Lyngdal municipality | Case 2012/3392 | Claim for repayment of incorrectly paid national insurance benefits pursuant to section 22-15 of the National Insurance Act after an award of damages |
| Case 2012/2044 | Appointment – qualification requirements for the position of technical director/head of department at a fire-prevention unit | Case 2012/3401 | Nav appeal body's procedures for despatch of preliminary replies |
| Case 2012/2282 | Appointment of teachers – failure to conduct interviews | Case 2013/477 | Requirement for DNA testing in connection with reassessment of transitional benefit |
| Case 2012/2327 | Appointment – duty to announce in connection with externally funded assignments | Case 2013/957 | Significance of an incorrect interpretation of the law in a statement by Nav's advising doctor |
| Case 2013/387 | Case concerning the appointment of teachers at an upper secondary school | Case 2013/1052 | Statement – the Norwegian Public Service Pension Fund's case-processing time in appeals |
| Welfare and pension | | | |
| Case 2012/2041 | Whether an approved work capacity assessment must be available before a claim for a disability pension may be submitted | Case 2013/1984 | Case-processing time in cases concerning daily unemployment benefit |

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| Case 2013/2494 | Nav's practice of postponing processing of a claim for parental benefit pursuant to section 14-13, first paragraph, sub-paragraph d), of the National Insurance Act until after the child is born | Case 2011/225 | Investigation of the Norwegian Correctional Services' supervisory board scheme |
| | | Case 2011/1355 | Camera surveillance and monitoring of prisoners at Oslo Police District's central arrest facility |

Immigration cases

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| Case 2011/3068 | Asylum case – risk of human trafficking | Case 2012/688 | Information provided to prisoners at Halden prison about the supervisory board, etc. |
| Case 2011/2813 | Residence permit on humanitarian grounds in an asylum case – the best interests of the child, etc. | Case 2012/1295 | Camera surveillance and placement of multiple prisoners in the same cell at Hordaland Police District's central arrest facility |

Road traffic

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| Case 2012/2265 | Parking permit for mobility-impaired persons | Case 2012/2041 | Whether an approved work capacity assessment must be available before a claim for a disability pension may be submitted |
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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 2013, there were 45 new cases of this kind. Of these, 11 cases were visits to various administrative bodies. In total, 41 such cases were closed in 2013. Fifteen of the cases have been published as cases of general interest:

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| Case 2012/2396 | Follow-up of visit to Rogaland Police District's central arrest facility in Stavanger |
| Case 2012/2632 | Concerning a long case-processing time and entitlement to a preliminary reply |
| Case 2012/2941 | Question of dismissing an appeal concerning a school environment case after |

| | | |
|---|---|--|
| | the pupil has changed schools | rental benefit pursuant to section 14-13, first paragraph, sub-paragraph d), of the National Insurance Act until after the child is born |
| Case 2012/3401 | Nav appeal body's procedures for despatch of preliminary replies | |
| Case 2013/293 | Impartiality – the Norwegian Public Service Pension Fund's role in the selection of experts for the compensation scheme for mental strain injuries suffered during the Norwegian Armed Forces' international operations | |
| Cases 2013/964, 2013/1686 and 2013/1687 | Case-processing times for building appeals in the municipalities of Bergen, Oslo and Tromsø | |
| Case 2013/957 | Significance of an incorrect interpretation of the law in a statement by Nav's advising doctor | |
| Case 2013/1049 | Follow-up of a visit to Åna prison on 4 June 2013 | |
| Case 2013/1984 | Case-processing time in cases concerning daily unemployment benefit | |
| Case 2013/2494 | Nav's practice of postponing processing of a claim for pa- | |

4. Cases in which the Ombudsman has made the 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 enquiry by beginning work on making necessary changes to laws or regulations, or amend its practice. The cases in which the Ombudsman has made the administration aware of such shortcomings must be mentioned in the annual report; see section 12, second paragraph, of the Directive to the Storting's Ombudsman for Public Administration.

In 2013, the Ombudsman asked the administration to consider changes or additions to laws and regulations, or to amend administrative practice, in 17 cases. Of these, 13 cases have been published as

cases of general interest. Below, an overview is provided of the cases in 2013 in which the Ombudsman pointed out shortcomings in laws, regulations or practice.

| | | | |
|----------------|---|----------------|---|
| Case 2011/225 | Investigation of the Norwegian Correctional Services' supervisory board scheme | Case 2012/2070 | Calculation of graded care benefit |
| Case 2011/1355 | Camera surveillance and monitoring of prisoners at Oslo Police District's central arrest facility | Case 2012/2396 | Follow-up of visit to Rogaland Police District's central arrest facility in Stavanger |
| Case 2011/1557 | Amendment of the legal grounds for a payment obligation | Case 2012/2705 | Case concerning a municipal takeover of a road and water and wastewater discharge system |
| Case 2012/1158 | Case concerning the consequences of rejecting a doctoral thesis | Case 2012/2950 | Duty of confidentiality of the Supervisory Council for Legal Practice |
| Case 2012/1295 | Camera surveillance and placement of multiple prisoners in the same cell at Hordaland Police District's central arrest facility | Case 2013/293 | Impartiality – the Norwegian Public Service Pension Fund's role in the selection of experts for the compensation scheme for mental strain injuries suffered during the Norwegian Armed Forces' international operations |
| Case 2012/1531 | Case concerning the 420 kV Ørskog-Sogndal power line – choice of route in Flora municipality | Case 2013/899 | The function of the Norwegian System of Patient Compensation (NPE) as a settlement office for the drug insurance scheme, etc. |
| Case 2012/2041 | Whether an approved work capacity assessment must be available before a claim for a disability pension may be submitted | Case 2013/1359 | Evidential assessment in contribution case featuring questions about shared custody and actual access |

| | | | |
|----------------|---|----------------|---|
| Case 2013/2077 | Legal authority for withdrawal of approval as a driving instructor | Case 2011/2813 | Residence permit on humanitarian grounds in an asylum case – the best interests of the child, etc. |
| Case 2103/2346 | Case concerning coverage of legal costs pursuant to section 9-11(3) of the Tax Assessment Act | Case 2012/1295 | Camera surveillance and placement of multiple prisoners in the same cell at Hordaland Police District's central arrest facility |
| Case 2013/2494 | Nav's practice of postponing processing of a claim for parental benefit pursuant to section 14-13, first paragraph, sub-paragraph d), of the National Insurance Act until after the child is born | Case 2012/1794 | Refusal of application for prison visitation – assessment of the best interests of the child and various control measures |

5. Cases concerning international human rights standards

In 2013, human rights were a relevant topic in several cases, and the Ombudsman made seven statements of particular relevance to Norway's human rights obligations. The cases are also discussed in greater detail in chapter 3.

| | |
|----------------|---|
| Case 2011/225 | Investigation of the Norwegian Correctional Services' supervisory board scheme |
| Case 2011/1355 | Camera surveillance and monitoring of prisoners at Oslo Police District's central arrest facility |

| | |
|----------------|---|
| Case 2012/2396 | Follow-up of visit to Rogaland Police District's central arrest facility in Stavanger |
| Case 2012/3339 | Subsistence benefit during upper secondary education and training for adults – children's needs |

6. Consultation statements

In 2013, the Ombudsman received 116 consultation letters from the administration containing proposals for new or amended regulations. The starting point for the Ombudsman's investigations is current legislation, and his mandate does not include reviewing the assessments undertaken by the legislature. Accordingly, except in cases directly affecting

the office of the Ombudsman or matters previously dealt with by it, the Ombudsman is cautious – on grounds of principle – about making consultation statements on draft laws. The Ombudsman issued six consultation statements in 2013:

Case 2013/268 Outsourcing of the receipt of residence permit applications

Case 2013/995 Revision of guidelines on the activities of the supervisory boards

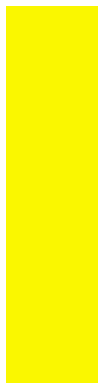
Case 2013/1588 Consultation on amendment of the e-

Administration Regulations

Case 2013/1683 Study on the Optional Protocol to the UN Convention on the Rights of the Child on a complaint mechanism

Case 2013/1743 New national human rights institution

Case 2013/1884 Proposed changes to the Universities and University Colleges Act



Appendix 1

The Ombudsman's office – staff list

As per 31 December 2013, 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: | Ingvild Lovise Bartels |
| Senior Adviser: | Jostein Løvoll |
| Adviser: | Maria Bakke |
| Adviser: | Signe Christophersen |
| Adviser: | Martine Refsland Kaspersen |
| Adviser: | Solveig Moe |
| Higher Executive Officer: | Harald Krogh Ankerstad |
| Administrative Officer: | Law student Hilde Kjensmo |

Division 2:

| | |
|--------------------------|-------------------------|
| Head of Division: | Eivind Sveum Brattegard |
| Deputy Head of Division: | Ingeborg Skonnord |
| Senior Adviser: | Kari Bjella Unneberg |
| Adviser: | Stine Elde |
| Adviser: | Kjetil Fredvik |
| Adviser: | Harald Søndena Jacobsen |
| 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 |
| Higher Executive Officer: | Johan Vorland Wibye |

Division 4:

| | |
|--------------------------|--------------------------|
| Head of Division: | Lisa Vogt-Lorentzen |
| Deputy Head of Division: | Øystein Nore Nyhus |
| Senior Adviser: | Thea Jåtog |
| Senior Adviser: | Marianne Aasland Kortner |
| Senior Adviser: | Marianne Guettler Monrad |
| Senior Adviser: | Sigrid M. F. Oftebro |
| Senior Adviser: | Kari Rørstad |
| Senior Adviser: | Ingeborg Sæveraas |
| Adviser: | André Klakegg |

Division 5:

Head of Division: Annette Dahl
Deputy Head of Division: Arnhild Haugestad
Senior Adviser: Karen Haug Aronsen
Senior Adviser: Edvard Aspelund
Senior Adviser: Elisabeth Fougner
Senior Adviser: Siv Nylenna
Senior Adviser: May-Britt Mori Seim

National preventive mechanism (NPM) division:

Staff members appointed. Due to begin work in 2014.

Others:

Head of Division: Harald Gram
Special Advisor: Yeung Fong Cheung¹

Administration:

Head of Administration: Solveig Antila

Finance, personnel, general operations:

Senior Adviser: Solveig Torgersen
Adviser: Einar Fiskvik

Office and reception 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 2013:

Senior Adviser: Therese Stange Fuglesang
Senior Adviser: Heidi Quamme Kittilsen
Adviser: Mathias Emil Hager

¹ Staff member funded by the Ministry of Foreign Affairs to work for the Ombudsman.

Appendix 2

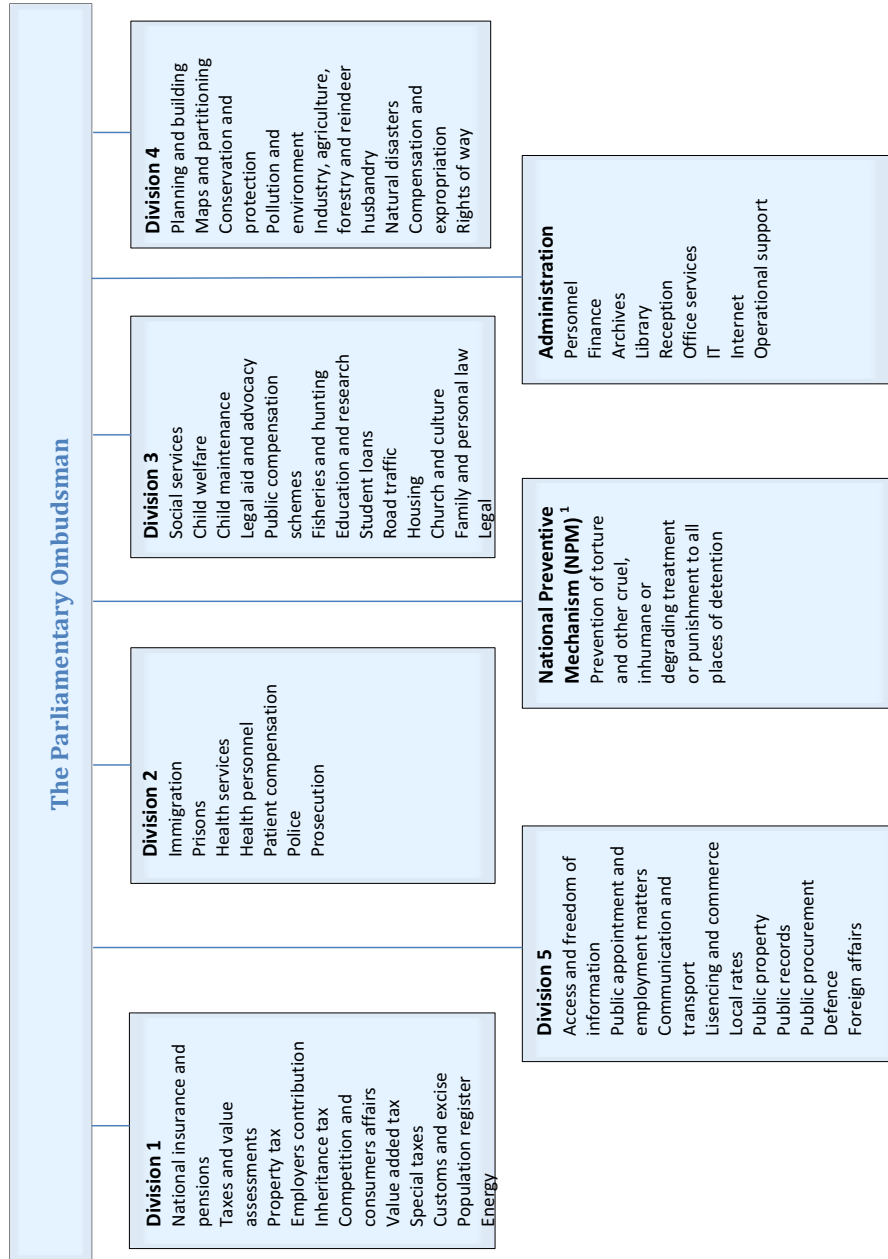
Gender equality summary

| | | Men % | Women % | Pay | |
|-----------------------------------|------|-------|---------|-----------------------|-------------------------|
| | | | | Men average per month | Women average per month |
| Total in workforce | 2013 | 27% | 73% | 54,392 | 51,012 |
| | 2012 | 26% | 74% | 48,858 | 49,693 |
| Executive management ¹ | 2013 | 43% | 57% | 84,883 | 81,965 |
| | 2012 | 43% | 57% | 83,958 | 81,070 |
| Senior Advisers | 2013 | 18% | 82% | 50,083 | 51,674 |
| | 2012 | 15% | 85% | 46,669 | 55,700 |
| Advisers | 2013 | 29% | 71% | 43,473 | 44,225 |
| | 2012 | 31% | 69% | 41,730 | 42,167 |
| Higher Executive Officers | 2013 | 100% | 0% | 39,112 | |
| | 2012 | 67% | 33% | 36,475 | 37,716 |
| Senior Executive Officers | 2013 | 0% | 100% | | 39,701 |
| | 2012 | | 100% | | 39,200 |
| Paid by the hour | 2013 | | 100% | | |
| | 2012 | | 100% | | |
| Part-time ² | 2013 | 0% | 8% | | |
| | 2012 | 4% | 14% | | |
| Medically certified sick leave | 2013 | 1.6% | 4.8% | | |
| | 2012 | 1.5% | 3.9% | | |

1. The Ombudsman is not included in these statistics.
2. 2013: the proportion of each gender working part-time.
2012: the proportion of the total number of employees.

Appendix 3

Overview of divisional structure and specialist subject areas



¹ The division came into operation in 2014

Appendix 4

Lectures, meetings, visits and trips in 2013¹

| Date | Event |
|---|--|
| 1. Lectures | |
| 5–7 January | Lecture at the Wadahl seminar for law students 2013, Gålå* |
| 24 January | Lecture at a consultation meeting relating to the Freedom of Information Act, organised by the freedom of information committee of the Norwegian Press Association, Oslo* |
| 20 February | Lecture on the Parliamentary Ombudsman at the Department of Comparative Politics, Bergen* |
| 5 March | Speech at an event for Nav Appeals employees, Gardermoen* |
| 13 March | Lecture to the Norwegian Tax Administration's association of lawyers on the duty to announce vacant positions, Leangkollen, Asker |
| 14 March | Lecture to customs authorities, Lillestrøm |
| 15 March | Participation in the SKUP (Norwegian Foundation for Investigative Journalism) conference, Tønsberg* |
| 10 April | Lecture at a regional event for Nav employees working for the county governors in southern and eastern Norway, on social services, Moss* |
| 19 April | Lecture to Oslo Police District on quality in the administration, Sundvolden* |
| 31 May | Lecture at the University of Tromsø on the Constitution, Tromsø* |
| 13 November | Lecture to the county social welfare boards in connection with their 20 th anniversary, Oslo* |
| 14 November | Lecture on OPCAT/NPM at the Control Commission Conference 2013, Oslo |
| 18 November | Lecture to the Local Government Act Commission, Oslo* |
| 28 November | Lecture at a seminar on the Storting's control function, Oslo* |
| 28 November | Lecture to the Union of Education Hordaland, Ulvik |
| 6 December | Lecture at a course organised by the Norwegian Federation of Organizations of Disabled People on the Parliamentary Ombudsman's human rights mandate and the rights of disabled persons, Oslo |
| 2. Meetings and visits in Norway | |
| 3 January | Visit from new Juss-Buss (the Law Students' Free Legal Aid Organisation) staff, here |
| 4 January | Visit to Avinor, information exchange, Oslo* |
| 9 January | Visit from student delegation from the Faculty of Law, workplace tour, here |
| 15 January | Meeting with the Confederation of Norwegian Enterprise, marketing of the Parliamentary Ombudsman, here* |

| | |
|--------------|---|
| 16 January | Visit from the Centre for Senior Policy to discuss the Ombudsman's activities and any cases of discrimination against seniors in working life, here |
| 21 January | Seminar in the Storting on the language of the Constitution, Oslo* |
| 15 February | Meeting with the Helsinki Committee regarding a seminar in Kirkenes in May on the role of the Ombudsman, here* |
| 18 February | Seminar in the Storting on constitutional proposals, Oslo* |
| 5 March | Meeting with Norway's health and social services ombudsmen, Leangkollen, Asker* |
| 6 March | Meeting with the Ministry of Finance, here* |
| 11 March | Seminar in the Storting on the proposal to enshrine human rights in the Constitution, Oslo* |
| 11 March | Launch seminar for the Yearbook for Human Rights in Norway 2012, Oslo |
| 14 March | Lecture to customs authorities, Lillestrøm |
| 25 March | Meeting with the Norwegian Board of Health Supervision's new director, Jan Fredrik Andresen, Oslo* |
| 9 April | Meeting with the Norwegian Directorate of Health's director, Bjørn Guldvog, Oslo* |
| 17 April | Liaison meeting between NI and the ombudsmen, Oslo |
| 22 April | Information meeting at the Ministry of Foreign Affairs on Norway's second UPR report, Oslo |
| 22 April | Visit to the Equality and Anti-Discrimination Ombud, Oslo* |
| 24 April | Visit to the Norwegian Agricultural Authority, Oslo* |
| 8 May | Open Government Partnership consultation organised by Transparency International, Oslo* |
| 4 June | Visit to Åna prison, Nærbø* |
| 11 June | Meeting of the advisory committee to Norway's national institution for human rights, Oslo |
| 14 June | Meeting with the Ministry of Labour regarding Nav, Oslo* |
| 18 June | Information meeting at the Norwegian Centre for Human Rights regarding the UPR process, Oslo |
| 19 June | Visit to Drammen prison, Drammen* |
| 20 June | Liaison meeting with Norway's national institution for human rights and the ombudsmen, Oslo |
| 25 June | Opening of the Norwegian Correctional Services' central administration, Lillestrøm* |
| 6 August | Visit from new Juss-Buss staff, here |
| 22 August | Information meeting at the Ministry of Foreign Affairs on Norway's second UPR report |
| 12 September | Lecture to Nav's association of lawyers on clear language and legal safeguards, Oslo* |
| 15 October | Meeting of the advisory committee to Norway's national institution for human rights, Oslo |
| 23 October | Visit to Norwegian Customs and Excise, Oslo* |

| | |
|--|---|
| 24 October | Seminar organised by the Norwegian National Crime Prevention Council, Oslo |
| 31 October | The Parliamentary Ombudsman's human rights seminar 2013, Oslo* |
| 12 November | Meeting at the Norwegian Centre for Human Rights on examination of Norway by the UN Committee on Economic, Social and Cultural Rights, Oslo |
| 14 November | Control Commission Conference 2013, organised by the Norwegian Directorate of Health, Oslo |
| 21 November | Visit from Nordland County Governor, here |
| 9 December | Participation in JUS course on expectations and protection, Oslo* |
| 17 December | Visit to the National Police Directorate, Oslo* |
| 3. International meetings and visits to the Parliamentary Ombudsman | |
| 31 January | Delegation from Swaziland organised by Fafo and the Norwegian embassy in Maputo, here* |
| 14 March | Visit from the El Salvadorean Human Rights Ombudsman, Oscar Humberto Luna, here |
| 3 April | Meeting with Konstantin Dolgov, Russian Special Representative for Human Rights, here* |
| 5 April | Meeting with the Georgian Ombudsman, Ucha Nanuashvili, here* |
| 22–23 April | Study visit from the new Turkish Ombudsman and officials, here |
| 25 April | Meeting with Russian parliamentarians, organised by the Nordic Council, Oslo* |
| 30 April | Meeting with Member of the European Parliament Catherine Stihler, here* |
| 6 May | Meeting with a law professor from China regarding the ombudsman system, organised by the Norwegian Centre for Human Rights, Oslo |
| 13 May | Visit from European Commissioner for Human Rights Nils Muiznieks, here* |
| 15 May | Meeting with the Hungarian Ombudsman, Professor Szabó, here |
| 22 May | Delegation from the Spanish parliament, Oslo |
| 18 June | Meeting with a PhD candidate from Azerbaijan, here |
| 26 August | Delegation from Angola, organised by ILPI (International Law and Policy Institute), here |
| 13 September | Meeting with visiting researchers from China, Indonesia and Vietnam, organised by the Norwegian Centre for Human Rights, here |
| 11 October | Delegation from South Korea (Seoul Metropolitan Government), here |
| 21 October | Visit from the Deputy Ombudsman of Finland, Jussi Pajujoja, here |
| 19 November | Meeting with Group of States Against Corruption (GRECO), Oslo |
| 19 November | Delegation from the Cabinet of the Faroe Islands, here |
| | |

| 4. Meetings and visits abroad, participation in international conferences, etc. | |
|--|---|
| 14–15 March | West Nordic ombudsmen’s meeting, Copenhagen* |
| 4 June | Regional Seminar on Hate Crimes against People with Disabilities for National HR Institutions and Criminal Justice Officials, organised by the Equality and Anti-Discrimination Ombud, Oslo |
| 22.-24 June | Fifth IAACA Seminar on UNCAC Chapter VI, China |
| 15–17 September | Seminar held by the European ombudsman network EUOMB, Dublin* |
| 15–18 September | IOI Anti-Corruption Training, Berlin |
| 18–19 September | ICIC 2013 – International Conference for Information Commissioners, Berlin |
| 22–25 October | Participation in the UN Human Rights Council’s periodic review of the human rights situation in China, Geneva |
| 19 November | Meeting with the Scottish Ombudsman, Edinburgh* |
| 27 November | Judicial Review Conference 2013, London* |
| 21–22 November | Council of Europe conference “Immigration Detention in Europe”/ NPM, Strasbourg |
| 22–24 November | The 7th Annual Conference and General Meeting of the IAACA, Panama |
| 26–27 November | ERA seminar on the European Court of Human Rights, etc., Strasbourg |
| 11–12 December | West Nordic ombudsmen’s meeting, Copenhagen* |

1. The list details the activities of the Ombudsman and/or staff from his office. Activities in which the Ombudsman has participated personally are marked with an asterisk (*).

Appendix 5

Budget and accounts for 2013

(in NOK '000)

| Chap./ item | Text | Approved budget 2013 | Available budget¹ | Accounts 2013 |
|------------------------|-------------------------------------|-------------------------------------|---|--------------------------|
| 4301 | Salaries and benefits | 36,564 | 41,074 | 37,967 |
| 4301 | Goods and services | 17,786 | 20,396 | 23,574 |
| | Total expenditure | 54,350 | 61,470 | 61,541 |
| 304316 | Reimbursement of parental allowance | | | 480 |
| | Total income | | | 480 |

¹ Including transfers from 2012 and additional grants in 2013.

The accounts of the Parliamentary Ombudsman are audited by the Office of the Auditor General.

Appendix 6

Statistics

Table 12 Geographical distribution of cases opened in 2013

| County | Number of cases | Case percentage | Population percentage 1 January 2013 |
|--------------------|-----------------|-----------------|---|
| Østfold | 148 | 6.0 | 5.6 |
| Akershus | 267 | 10.8 | 11.2 |
| Oslo | 489 | 19.9 | 12.4 |
| Hedmark | 80 | 3.2 | 3.8 |
| Oppland | 91 | 3.7 | 3.7 |
| Buskerud | 93 | 3.8 | 5.3 |
| Vestfold | 119 | 4.8 | 4.7 |
| Telemark | 70 | 2.8 | 3.4 |
| Aust-Agder | 57 | 2.3 | 2.2 |
| Vest-Agder | 81 | 3.3 | 3.5 |
| Rogaland | 162 | 6.6 | 9.0 |
| Hordaland | 245 | 9.9 | 9.9 |
| Sogn og Fjordane | 48 | 1.9 | 2.2 |
| Møre og Romsdal | 97 | 3.9 | 5.1 |
| Sør-Trøndelag | 103 | 4.2 | 6.0 |
| Nord-Trøndelag | 37 | 1.5 | 2.7 |
| Nordland | 118 | 4.8 | 4.7 |
| Troms Romsa | 95 | 3.9 | 3.2 |
| Finnmark Finnmárku | 60 | 2.4 | 1.5 |
| Svalbard | 3 | 0.1 | 0 |
| | 2,463 | 100 | 100 |
| Others | 524 | | |
| Total | 2,987 | | |

Table 13 Distribution by administrative body

| | Total | Dismissed | Considered | Criticism |
|--|-------|-----------|------------|-----------|
| <i>The Office of the Prime Minister</i> | 5 | 4 | 1 | 1 |
| <i>The Ministry of Labour</i> | 2 | 1 | 1 | - |
| Norwegian Labour and Welfare Administration (Nav) | 523 | 246 | 277 | 17 |
| Norwegian Labour Inspection Authority | 5 | 3 | 2 | - |
| Norwegian Public Service Pension Fund | 17 | 8 | 9 | 4 |
| National Insurance Court | 33 | 6 | 27 | 1 |

| | Total | Dismissed | Considered | Criticism |
|--|-------|-----------|------------|-----------|
| Ministry of Children, Equality and Social Inclusion | 4 | 2 | 2 | 2 |
| Office for Children, Youth and Family Affairs | 2 | 2 | - | - |
| County social welfare boards | 4 | 4 | - | - |
| Market Council | 2 | 1 | 1 | - |
| Equality and Anti-Discrimination Ombud/Norwegian Equality Tribunal | 12 | 7 | 5 | - |
| Directorate of Integration and Diversity | 2 | 1 | 1 | - |
| <i>Ministry of Finance</i> | 29 | 9 | 20 | - |
| Financial Supervisory Authority of Norway | 5 | 4 | 1 | - |
| Norwegian Tax Administration (population register) | 131 | 65 | 66 | 5 |
| Customs and Excise Authorities | 28 | 8 | 20 | 2 |
| Norwegian National Collection Agency | 15 | 9 | 6 | 1 |
| Norwegian Financial Services Complaints Board | 2 | 2 | - | - |
| Statistics Norway | 1 | 1 | - | - |
| <i>Ministry of Fisheries and Coastal Affairs</i> | 2 | 2 | - | - |
| Directorate of Fisheries | 7 | 1 | 6 | - |
| Norwegian Coastal Administration | 1 | - | 1 | 1 |
| <i>Ministry of Government Administration, Reform and Church Affairs</i> | 3 | 2 | 1 | - |
| Competition Authority | 2 | 2 | - | - |
| Church of Norway | 6 | 4 | 2 | - |
| Norwegian Government Security and Service Organisation | 1 | - | 1 | - |
| <i>Ministry of Defence</i> | 3 | 1 | 2 | 1 |
| Norwegian Armed Forces | 3 | 3 | - | - |
| <i>Ministry of Health and Care Services</i> | 12 | 3 | 9 | 3 |
| Norwegian System of Patient Compensation/Patient Injury Compensation Board | 19 | 7 | 12 | 1 |
| Norwegian Directorate of Health | 18 | 8 | 10 | 1 |
| Norwegian Board of Health Supervision | 9 | 3 | 6 | 1 |
| Hospitals and health institutions | 24 | 20 | 4 | - |
| Control commissions | 2 | - | 2 | - |
| Regional health authorities | 4 | 3 | 1 | - |
| Norwegian Medicines Agency | 1 | 1 | - | - |

| | Total | Dismissed | Considered | Criticism |
|--|-------|-----------|------------|-----------|
| Norwegian Appeal Board for Health Personnel | 9 | 1 | 8 | 1 |
| Norwegian Health Economics Administration | 10 | 6 | 4 | - |
| Norwegian Registration Authority for Health Personnel | 11 | 5 | 6 | - |
| Patient travel | 2 | 2 | - | - |
| Health and social services ombudsmen | 1 | 1 | - | - |
| Norwegian Governmental Appeal Board regarding medical treatment abroad | 3 | 1 | 2 | - |
| Norwegian Pharmacy Appeals Board | 1 | 1 | - | - |
| <i>Ministry of Justice and Public Security</i> | 23 | 9 | 14 | 3 |
| National Police Directorate | 45 | 14 | 31 | 2 |
| Norwegian Directorate of Immigration | 69 | 42 | 27 | 7 |
| Immigration Appeals Board | 86 | 30 | 56 | 7 |
| Norwegian Correctional Services | 99 | 57 | 42 | 8 |
| Police and prosecuting authority | 104 | 71 | 33 | 4 |
| Enforcement officers | 9 | 9 | - | - |
| Courts | 39 | 39 | - | - |
| Justice Remuneration Committee | 1 | 1 | - | - |
| Norwegian Civil Affairs Authority | 14 | 3 | 11 | - |
| Norwegian Criminal Cases Review Commission | 2 | 1 | 1 | - |
| Supervisory Council for Legal Practice | 2 | 1 | 1 | 1 |
| Compensation Board for Victims of Violent Crime/Norwegian Criminal Injuries Compensation Board | 7 | 2 | 5 | - |
| Norwegian Directorate for Civil Protection | 3 | 1 | 2 | 1 |
| Disciplinary Board for Lawyers | 2 | 1 | 1 | - |
| <i>Ministry of Local Government and Regional Development</i> | 16 | 5 | 11 | 2 |
| Norwegian State Housing Bank | 5 | 1 | 4 | - |
| <i>Ministry of Culture</i> | 6 | 3 | 3 | 1 |
| Norwegian Broadcasting Corporation | 7 | 5 | 2 | - |
| Norwegian Gaming Authority | 1 | 1 | - | - |
| Media Appeals Board | 1 | - | 1 | - |
| Arts Council Norway | 1 | 1 | - | - |
| Museum | 1 | - | 1 | - |
| <i>Ministry of Education and Research</i> | 9 | 7 | 2 | - |
| Research Council of Norway | 1 | 1 | - | - |
| Norwegian State Educational Loan Fund | 27 | 15 | 12 | - |

| | Total | Dismissed | Considered | Criticism |
|---|-------|-----------|------------|-----------|
| Universities and university colleges | 49 | 24 | 25 | 3 |
| Directorate for Education and Training | 5 | 2 | 3 | - |
| <i>Ministry of Agriculture and Food</i> | 3 | 1 | 2 | 2 |
| Norwegian Agricultural Authority | 10 | 4 | 6 | - |
| Norwegian Food Safety Authority | 26 | 17 | 9 | - |
| Reindeer Husbandry Authority | 12 | 4 | 8 | 2 |
| Norwegian milk quota appeals board | 1 | - | 1 | - |
| Norwegian National Fund for Natural Damage Assistance | 1 | 1 | - | - |
| <i>Ministry of the Environment</i> | 17 | 7 | 10 | - |
| Norwegian Mapping Authority | 9 | 5 | 4 | 1 |
| Norwegian Environment Agency | 8 | 1 | 7 | - |
| <i>Ministry of Trade and Industry</i> | 6 | 3 | 3 | - |
| Innovation Norway | 1 | 1 | - | - |
| Brønnøysund Register Centre | 2 | 2 | - | - |
| Norwegian Industrial Property Office | 1 | 1 | - | - |
| <i>Ministry of Petroleum and Energy</i> | 18 | 9 | 9 | 1 |
| Norwegian Water Resources and Energy Directorate | 8 | 3 | 5 | 1 |
| Statnett | 1 | 1 | - | - |
| Enova | 1 | - | 1 | - |
| <i>Ministry of Transport and Communications</i> | 7 | 1 | 6 | 2 |
| Norwegian National Rail Administration | 1 | 1 | - | - |
| Norwegian Public Roads Administration | 39 | 24 | 15 | 3 |
| Norwegian Post and Telecommunications Authority | 1 | 1 | - | - |
| Civil Aviation Authority Norway | 1 | - | 1 | - |
| Avinor | 3 | 1 | 2 | - |
| Posten Norge AS | 1 | 1 | - | - |
| <i>Ministry of Foreign Affairs</i> | 14 | 8 | 6 | - |
| <i>County governors</i> | 519 | 160 | 359 | 37 |
| <i>County administrative bodies</i> | 44 | 17 | 27 | 8 |
| <i>Municipal administrative bodies</i> | 578 | 349 | 229 | 45 |
| <i>Others</i> | 133 | 129 | 4 | - |

| | Total | Dismissed | Considered | Criticism |
|--------------|-------|-----------|------------|-----------|
| Total | 3,076 | 1,558 | 1,518 | 183 |

Table 14 Distribution by subject area

| | Total | Dismissed | Considered |
|---|-------|-----------|------------|
| Working life, education, research, culture, lotteries, intellectual property rights, language in the civil service | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 37 | 12 | 25 |
| Freedom of information, confidentiality, disclosure of documents | 28 | 16 | 12 |
| Legal costs, compensation | 1 | - | 1 |
| The Parliamentary Ombudsman (complaint against) | 1 | 1 | - |
| Appointments | 151 | 50 | 101 |
| Employment and service matters | 82 | 57 | 25 |
| Working environment, safety provisions | 9 | 6 | 3 |
| Wage guarantee | 1 | - | 1 |
| Other working-life issues | 15 | 12 | 3 |
| Primary schools | 34 | 18 | 16 |
| Upper secondary education in schools | 22 | 7 | 15 |
| Upper secondary education in business | 3 | 1 | 2 |
| Universities and university colleges | 26 | 10 | 16 |
| Public certification of professionals | 30 | 10 | 20 |
| Financing of studies | 30 | 18 | 12 |
| Other education-related issues | 5 | 5 | - |
| Research | 1 | 1 | - |
| Language in the civil service | 2 | 1 | 1 |
| Culture | 1 | 1 | - |
| Lotteries | 1 | 1 | - |
| Copyright | 1 | 1 | - |
| Other working-life issues, etc. | 11 | 10 | 1 |
| Health and social services, national insurance, family and personal matters | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 208 | 59 | 149 |
| Freedom of information, confidentiality, disclosure of documents | 34 | 17 | 17 |
| Legal costs, compensation | 8 | 4 | 4 |

| | Total | Dismissed | Considered |
|--|-------|-----------|------------|
| Approval of offers | 14 | 5 | 9 |
| Treatment, compulsory measures, complaints about personnel, patient injury | 111 | 61 | 50 |
| Issues related to medical records, etc. | 16 | 8 | 8 |
| Payment for accommodation, refunds, patient resources | 15 | 8 | 7 |
| Financial assistance | 63 | 36 | 27 |
| Social services outside institutions | 37 | 19 | 18 |
| Other issues concerning health and social services | 33 | 26 | 7 |
| Membership of the national insurance scheme | 4 | 2 | 2 |
| Benefits related to childbirth, adoption, child maintenance | 26 | 13 | 13 |
| Unemployment benefits | 24 | 16 | 8 |
| Sickness benefits | 308 | 124 | 184 |
| Retirement pension, survivor's pension | 41 | 17 | 24 |
| Other issues related to national insurance | 44 | 23 | 21 |
| Child support, maintenance | 80 | 42 | 38 |
| Adoption | 1 | 1 | - |
| Child welfare, childcare | 98 | 72 | 26 |
| Day-care facilities | 16 | 14 | 2 |
| Guardianship, supporting guardian | 23 | 14 | 9 |
| Marriage, separation, divorce | 7 | 6 | 1 |
| Cases concerning names | 2 | 1 | 1 |
| Other issues related to family and personal matters | 11 | 10 | 1 |
| Other | 7 | 6 | 1 |
| Resource and environmental management, planning and building, expropriation, outdoor recreation | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 87 | 23 | 64 |
| Freedom of information, confidentiality, disclosure of documents | 22 | 10 | 12 |
| Legal costs, compensation | 10 | 2 | 8 |
| Energy | 26 | 16 | 10 |
| Environmental protection | 38 | 13 | 25 |
| Waste collection, chimney sweeping | 8 | 4 | 4 |
| Water supply and wastewater discharge | 31 | 12 | 19 |
| Other issues related to resource and environmental management | 4 | 1 | 3 |
| Maps and partitioning issues | 17 | 10 | 7 |

| | Total | Dismissed | Considered |
|--|-------|-----------|------------|
| Planning matters | 86 | 50 | 36 |
| Dispensation from plans, shoreline zones | 91 | 20 | 71 |
| Other building matters | 244 | 98 | 146 |
| Processing fees | 8 | 2 | 6 |
| Other issues related to planning and construction | 33 | 17 | 16 |
| Expropriation | 7 | 3 | 4 |
| Outdoor recreation | 1 | 1 | - |
| Other | 10 | 4 | 6 |
| Business and industry, communications, regional development fund, the Norwegian State Housing Bank, competition, prices | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 40 | 11 | 29 |
| Freedom of information, confidentiality, disclosure of documents | 36 | 13 | 23 |
| Legal costs, compensation | 1 | - | 1 |
| Fishing, trapping, hunting | 18 | 6 | 12 |
| Agriculture, forestry, reindeer husbandry | 76 | 38 | 38 |
| Industry, crafts, trade | 3 | 1 | 2 |
| Shipping, aviation | 7 | - | 7 |
| Tourism, hotels and restaurants, licensing | 6 | 4 | 2 |
| Transport licenses, motor traffic in wilderness areas | 2 | - | 2 |
| Other issues related to business and industry | 5 | 4 | 1 |
| Transport (roads, railways, ports, airports) | 41 | 22 | 19 |
| Telephone, broadcasting | 10 | 7 | 3 |
| Road traffic (driving licence, parking permits, etc.) | 76 | 41 | 35 |
| Public transport | 5 | 3 | 2 |
| Other issues related to communications | 1 | - | 1 |
| The Norwegian State Housing Bank, etc. | 11 | 3 | 8 |
| Competition, prices | 11 | 6 | 5 |
| Other | 15 | 6 | 9 |
| Taxes, fees | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 24 | 7 | 17 |
| Freedom of information, confidentiality, disclosure of documents | 8 | 1 | 7 |

| | Total | Dismissed | Considered |
|---|-------|-----------|------------|
| Legal costs, compensation | 8 | 4 | 4 |
| Assessment of taxable income | 63 | 30 | 33 |
| Tax remissions and relief | 5 | 1 | 4 |
| Other tax-related issues | 78 | 39 | 39 |
| Customs | 14 | 4 | 10 |
| VAT, investment tax | 21 | 6 | 15 |
| Special taxes | 19 | 5 | 14 |
| Other issues related to fees | 1 | 1 | |
| Other issues related to taxes and fees | 4 | 3 | 1 |
| Administration of justice, foundations, immigration cases | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 123 | 63 | 60 |
| Freedom of information, confidentiality, disclosure of documents | 21 | 12 | 9 |
| Legal costs, compensation | 3 | 1 | 2 |
| The Parliamentary Ombudsman (complaint against) | 1 | 1 | - |
| Courts | 27 | 27 | - |
| Police, prosecuting authority | 100 | 61 | 39 |
| Norwegian Correctional Services | 96 | 54 | 42 |
| Legal aid | 20 | 9 | 11 |
| Enforcement, debt repayment | 22 | 21 | 1 |
| Registration | 6 | 4 | 2 |
| Public compensation schemes | 24 | 12 | 12 |
| Other issues related to administration of justice | 19 | 17 | 2 |
| Foundations | 3 | 3 | - |
| Asylum cases | 42 | 19 | 23 |
| Visas | 6 | 4 | 2 |
| Residence and work permits | 75 | 34 | 41 |
| Deportation, expulsion | 14 | 6 | 8 |
| Citizenship | 11 | 7 | 4 |
| Other issues related to immigration cases | 22 | 13 | 9 |
| Other issues related to administration of justice, foundations, immigration cases | 3 | 3 | - |

| | Total | Dismissed | Considered |
|--|-------|-----------|------------|
| Public registers, public procurements, public property, the Armed Forces, foreign affairs | | | |
| Isolated case-processing issues: | | | |
| Case-processing time, failure to reply | 12 | 3 | 9 |
| Freedom of information, confidentiality, disclosure of documents | 25 | 9 | 16 |
| Public registers | 22 | 11 | 11 |
| Public procurements | 7 | 3 | 4 |
| Public property | 11 | 7 | 4 |
| Armed Forces | 3 | 2 | 1 |
| Foreign affairs | 10 | 4 | 6 |
| Other | 31 | 23 | 8 |

Appendix 7

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 8

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 sta-

te, 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 confidentialia-

lity 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 9

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 recorded 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 chil-

dren, 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 Om-

budsman'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.