



News from the Danish Parliamentary Ombudsman

COVID 19: Still more people wait too long for access to files from the health authorities

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In still more cases, it takes too long for journalists and others to get a response from the health authorities to requests for access to public files. Moreover, contrary to expectations, the challenges have increased in the past months.

In the autumn of 2020, the Ministry of Health expected a 'significant improvement' in the processing times in cases about access to files. However, it has gone in the opposite direction, according to an investigation published by the Parliamentary Ombudsman on 18 March 2021.

'The authorities' efforts against COVID-19 constitute by far one of the most important themes for all of us at the moment. And timely access to public files with the health authorities is essential in order for the people in Denmark to gain ongoing insight into current conditions,' says Parliamentary Ombudsman Niels Fenger, who calls the development worrying, and at the same time he expresses doubt that the authorities' initiatives are sufficient.

The challenges have increased

Since May 2020, the Ombudsman has focused especially on the processing times in cases about access to files with the Ministry of Health, the Danish Health Authority, the national serum institute (Statens Serum Institut, SSI) and the Danish Patient Safety Authority.

The most recent numbers from the beginning of February 2021 show that, since the autumn of 2020, there has been a great increase in the number of pending cases on access to files where the deadlines have been exceeded.

For example, in the Ministry of Health, the number of pending cases on access to files where the processing time is 40 business days or more has doubled compared to the autumn of 2020. There has also been an increase in the number of such cases with SSI and the Danish Patient Safety Authority, while the Danish Health Authority's processing times, according to information received, continue to comply with the deadlines set out in the Access to Public Administration Files Act and the Environmental Information Act.

Doubtful whether deadlines can be met in the short term

The Ministry of Health has stated that the Ministry expects the processing times in the Ministry to be reduced as a newly established secretariat for access to files gains (further) experience in the processing of access to files cases and as SSI and the Danish Patient Safety Authority contemplate adding more resources to the processing of access to files cases. However, the Ministry has not specified when the Ministry expects it to be possible to meet the deadlines for processing access to files cases.

Based on the information given by the Ministry of Health, the Ombudsman expresses doubt whether the Ministry's initiatives are enough to ensure that the deadlines can be met within a short time frame.

He has therefore suggested that the Ministry of Health consider whether the initiatives are sufficient to ensure that the deadlines will be met in the Ministry's field within a short time frame. The Ombudsman has asked the Ministry of Health for a detailed account of the Ministry's considerations, including an assessment of how and within what time frame the implemented and any further initiatives can be assumed to affect the processing times.

The Ombudsman has also informed Parliament's Legal Affairs Committee and Health Committee about the matter.

Further information:

Niels Fenger, Parliamentary Ombudsman, tel. +45 42 47 50 91

FACTS

THE RULES OF THE ACCESS TO PUBLIC ADMINISTRATION FILES ACT

- The Access to Public Administration Files Act sets out the following about processing times in access to files requests:

'As soon as possible, the relevant authority etc. will determine whether a request for access to files can be met. A request for access to files must be finalised within **7 business days** after receipt, unless, in exceptional cases, it is not possible due to, for instance, the scope or complexity of the case. (...)' [*non-official translation from Danish*]

- According to the explanatory notes to the Act, the most comprehensive or complicated cases must be endeavoured to be finalised within **40 business days**.

THE RULES OF THE ENVIRONMENTAL INFORMATION ACT

- The Environmental Information Act sets out the following deadlines for processing times in access to files requests:

'Cases about access to files must, with regard for any deadline set by the requester, be concluded as soon as possible and no later than **1 month** after receipt of the request, or, if the scope and complexity makes it impossible to meet the 1-month deadline, **no later than 2 months** after receipt. (...)' [*non-official translation from Danish*]

- The Court of Justice of the European Union's judgment in Case No. C-186/04, Housieaux, stipulates that the 2-month deadline is an unconditional case processing deadline.