

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

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

## **Section 1. *Election of the Ombudsman***

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

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

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

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

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

## **Section 2. *Instructions***

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

## **Section 3. *Purpose***

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

### **Section 3a. *National preventive mechanism***

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

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

## **Section 4. *Sphere of responsibility***

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

The sphere of responsibility of the Ombudsman does not include:

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

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

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

#### **Section 5.** *Basis for action*

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

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

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

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

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

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

### **Section 7.** *Right to information*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Section 11.** *Notification of shortcomings in legislation and in administrative practice*

If the Ombudsman becomes aware of shortcomings in acts, regulations or administrative practice, he may notify the ministry concerned to this effect.

#### **Section 12.** *Reporting to the Storting*

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

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

#### **Section 13.** *Pay, pension, other duties*

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

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

#### **Section 14.** *Employees*

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

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

**Section 15.**

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