

Act relating to the Parliamentary Ombud for Scrutiny of the Public Administration (the Parliamentary Ombud Act)

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Overview of chapters:

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[Doc. no. 21 \(2020–2021\)](#) Chapter 10, [Recommendation 409 L \(2020–2021\)](#), [Legislative enactment 106 \(2020–2021\)](#). The Storting's first and second deliberations on 18 and 25 May 2021. Presented by the Ministry of Justice and Public Security.

Chapter 1. Mandate, duties, sphere of responsibility and relationship to the Storting and the public administration

Section 1. *Mandate*

The Parliamentary Ombud for Scrutiny of the Public Administration (the Parliamentary Ombud) is responsible for scrutinising the public administration and all persons in its service in order to prevent individuals from being subjected to injustice, and in order to help ensure that the public administration respects and safeguards human rights.

Section 2. *Appointment*

The Parliamentary Ombud is appointed by the Storting, with a majority of at least two thirds, for a period of four years. The Ombud may only be reappointed once.

The appointment shall take place following public announcement of the position, unless the Ombud is reappointed. The appointment shall take place on the recommendation of the Storting's Presidium.

Section 3. *Duties*

The Parliamentary Ombud may investigate and express his or her opinion concerning:

- a) complaints against the public administration; see Chapter 2,
- b) matters which the Ombud initiates (see Chapter 3), and
- all cases where a person may be being deprived of his personal freedom, in order to
- c) prevent torture and other cruel, inhumane or degrading treatment or punishment; see Chapter 4.

Section 4. *Sphere of responsibility*

The Parliamentary Ombud's sphere of responsibility encompasses the public administration and all persons in its service. It also encompasses all cases where persons may be being deprived of their public freedom.

The Ombud's sphere of responsibility does not encompass:

- a) matters on which the Storting has reached a decision, including matters considered by the Storting's committee for compensation from the government,
- b) the activities of the Storting's external bodies and associated complaint cases,
- c) decisions adopted by the King in Council,
- d) the activities of the courts of law, and
- decisions reached by a municipal council or county council, which by law may only be
- e) taken by such bodies. The Ombud may nevertheless consider such decisions as and when necessary in the interests of due process of law or for other special reasons.

Section 5. *Relationship to the Storting*

The Parliamentary Ombud shall discharge his or her duties independently of the Storting.

The Ombud shall submit annual reports to the Storting on his or her activities; see Section 3. Such reports shall be submitted by 1 April of each year and cover the activities taking place during the period 1 January - 31 December of the previous year.

The Ombud may submit special reports to the Storting.

The Storting may issue supplementary provisions concerning the activities of the Ombud.

Section 6. *Independence from the public administration*

The Parliamentary Ombud is independent of the public administration.

The public administration may not exercise authority over the Ombud which could impact on the independent and impartial performance of the position of Ombud.

The Storting may deviate from and lay down specific provisions concerning the public administration's statutory authority with respect to the Ombud.

Chapter 2. Complaints to the Parliamentary Ombud and consideration of complaints

Section 7. *Complaints to the Parliamentary Ombud*

Any persons who believe they have been subjected to injustice from the public administration may complain to the Parliamentary Ombud.

The complaint must be submitted in writing and state the following:

- a) the name of the complainant,
- b) the subject of the complaint, and
- c) why the complaint is being submitted.

Documentation concerning the matter should be submitted together with the complaint.

The Ombud may provide guidance and assist with the preparation of the complaint.

Any persons who have been deprived of their personal freedom shall be entitled to communicate with the Ombud in confidence.

Section 8. *Conditions for the consideration of complaints*

In order to have a complaint considered by the Parliamentary Ombud, the complainant must have exhausted all other opportunities to complain to the public administration.

If not all opportunities to complain to the public administration have been exhausted, the Ombud shall refer the complainant to the appropriate complaints body within the public administration.

The Ombud may always consider a complaint if the King in Council is the only appeal body, or if there are special reasons to do so.

Section 9. *Deadline for submission of complaints*

The deadline for the submission of complaints to the Parliamentary Ombud is one year.

If the complaint concerns a decision by the public administration, the deadline for the submission of complaints shall be determined from the date of the public administration's final decision regarding the matter.

If the complaint concerns other matters, the deadline for receipt of complaints shall be determined from the date on which the circumstance occurred or ceased, or from the date on which the complainant must have become aware of it.

Even if the deadline is not met, the Ombud may consider the matter if there are special reasons for doing so.

Section 10. The Parliamentary Ombud's consideration of complaints

The Parliamentary Ombud shall decide whether there are grounds to carry out investigations as a result of a complaint, what aspects of the matter should be investigated, and the scope of the investigations.

The investigation of a complaint shall normally take place through the Ombud submitting written questions to the public administration, which is asked to respond by a specified deadline. The Ombud should ask third parties to express their opinion regarding any complaint which concerns their legal circumstances or other overriding interests.

The Ombud may at any time decide to conclude the investigation of a complaint on the basis of the explanations that have been provided, if the public administration corrects an error or decides to reconsider the matter, or if for other reasons the Ombud believes that there are insufficient grounds to consider the matter further.

Section 11. Right of complainants to access documents and express their opinion

Complainants have the right to familiarise themselves with documents relating to the complaint and reasoned opinions and information provided concerning the matter. The above provision shall nevertheless not apply to:

- a) documents prepared or obtained during the public administration's original consideration of the case,
- b) information held by the public administration that the complainant is not entitled to access, or
- c) the Ombud's internal case documents.

Complainants shall be given the opportunity to express their opinion on the public administration's reasoned opinion regarding the matter, unless it is clear that such comments would be of no importance for the Ombud's consideration of the matter.

Section 12. Conclusion of the Parliamentary Ombud's consideration of a complaint

Based on the consideration of a complaint case, the Parliamentary Ombud may express his or her opinion concerning the matter and reach a decision regarding:

- a) whether the public administration has made an error or acted irresponsibly or in breach of good public administration practice,
- b) whether a decision is invalid or obviously unreasonable,
- c) whether there is justifiable doubt regarding matters of importance to the case, or
- d) whether there are any circumstances which could result in liability to pay compensation or damages.

If the Ombud has expressed an opinion as referred to in the first paragraph, the Ombud may also state that the error should be rectified, that the matter should be reconsidered or that compensation or damages should be paid.

Section 13. Notification of the conclusion of the Parliamentary Ombud's consideration of a complaint

The Parliamentary Ombud shall notify the complainant or the persons that the matter concerns of the outcome of the consideration of the matter.

When the Ombud concludes a case as referred to in Section 12, a summary of the public administration's reasoned opinion shall be included in the Ombud's concluding letter or reasoned opinion.

Section 14. Suspension of special deadlines for legal proceedings

Special statutory deadlines for the initiation of legal proceedings against the public administration shall be suspended when a complaint regarding a matter is submitted to the Parliamentary Ombud.

The countdown to the relevant deadline for initiating legal proceedings shall recommence from the date on which the Ombud's notification of the conclusion of procedures has been received by the complainant, or from the date on which the complainant is notified of the public administration's response to the Ombud's request to reconsider the matter.

The countdown to the deadline for legal proceedings shall not be suspended if the complaint was obviously only submitted in order to have the deadline suspended and it did not lead to any judgement on the merits of the case by the Ombud.

Chapter 3. Cases brought up on the Parliamentary Ombud's own initiative

Section 15. Investigations initiated by the Ombud

The Parliamentary Ombud may on his or her own initiative take up, investigate and express his or her opinion regarding specific or general matters within the public administration.

The Ombud shall decide how the investigations are to be carried out. The public administration shall facilitate the execution of the investigations.

The public administration shall be given the opportunity to comment on the Ombud's findings and other questions that the matter raises before the Ombud expresses his or her opinion on the matter.

If the investigations arise from information given in a complaint submitted to the Ombud, the Ombud should notify the complainant that investigations have been initiated.

Section 16. Conclusion of cases initiated by the Ombud

The Parliamentary Ombud may express his or her opinion on the basis of investigations that have been carried out. If the case provides grounds to do so, the Ombud may reach a decision as referred to in Section 12.

The Ombud shall ensure that the relevant parties within the public administration are notified of the outcome of the investigations. If the Ombud deems it appropriate, other parties within the public administration may also be notified.

Chapter 4. National preventive mechanism

Section 17. Optional Protocol to the UN Convention against Torture

The Parliamentary Ombud is a national preventive mechanism pursuant to Article 3 of the Optional Protocol of 18 December 2002 to the UN [Convention against Torture](#) and other cruel, inhumane or degrading treatment or punishment.

As a national preventive mechanism, the Ombud has the authority and rights described in Articles 19 and 20 of the Optional Protocol, including the conducting of visits and investigations, the acquisition of information, and access rights with respect to the public administration and private individuals. No person shall be held responsible for or subjected to retaliation as a result of having communicated or shared information with the Ombud.

Section 18. Recommendations

In his or her work as a national preventive mechanism, the Parliamentary Ombud may issue recommendations in order to improve the treatment and conditions of persons who have been deprived of their personal freedom, and to prevent torture and other cruel, inhumane or degrading treatment or punishment.

The competent authority shall review the recommendations and enter into a dialogue with the Ombud regarding possible improvement measures.

Section 19. *Advisory committee*

The Parliamentary Ombud shall have a specific advisory committee for his or her work as a national preventive mechanism.

Chapter 5. General provisions concerning the activities of the Parliamentary Ombud

Section 20. *Right to information and physical access*

Notwithstanding the duty of confidentiality, the Parliamentary Ombudsman may order a person who is covered by the sphere of responsibility referred to in Section 4 to provide any information or any document which is necessary in order to discharge his or her duties in accordance with the present Act. Government memoranda and documents directly linked to such memoranda are exempt from the foregoing provision. The Ombud may stipulate a deadline for complying with such an order.

The Ombud shall have access to physical locations and systems to the same extent.

The Ombud may require the recording of evidence by the courts of law pursuant to the provisions of [Section 43 second paragraph of the Courts of Justice Act](#). Court sessions shall take place behind closed doors.

Section 21. *Expert assistance*

The Ombud may engage expert assistance if it is necessary in order to investigate a case.

Section 22. *Duty of confidentiality*

The Parliamentary Ombud shall have a duty of confidentiality regarding information received during the discharge of his or her duties concerning personal circumstances and operational or commercial secrets.

The duty of confidentiality shall continue to apply after the Ombud has vacated his or her position.

The same duty of confidentiality shall apply to the Ombud's employees and others who provide assistance in connection with the discharging of the Ombud's duties, as well as any person who receives confidential information for use in research.

Access may be given to the Ombud's case documents for use in research without hindrance from the duty of confidentiality. The Ombud shall decide whether access may be granted, and if so to what extent and subject to what conditions.

Section 23. *Disqualification*

The Parliamentary Ombud or an employee in the Ombud's office shall be deemed to be disqualified in the event of circumstances which are likely to weaken the degree of trust that a matter is being considered in an impartial and objective manner.

In the assessment, emphasis shall be accorded to whether the consideration of the matter could entail an advantage or disadvantage for the person concerned or any person to whom he or she has a close affiliation.

Any person who is disqualified may not prepare or reach decisions concerning the matter. An employee may not reach a decision in a case if the Ombud or a direct superior is disqualified.

Section 24. *Publication of the Ombud's assessment regarding a case*

The Parliamentary Ombud's assessment in a case shall be published in the manner deemed appropriate by the Ombud.

Section 25. *Special reports and notifications*

The Parliamentary Ombud may address special reports to a body within the public administration.

If there are special grounds for doing so, the Ombud may notify the prosecution authority or competent appointing authority concerning circumstances that are revealed through his or her investigations.

The Ombud may notify the public administration of deficiencies linked to laws, regulations or administrative practice.

Section 26. *Public disclosure of documents*

Documents that have been prepared as part of the Parliamentary Ombud's activities are public, with the following exceptions:

- a) documents and information subject to a statutory duty of confidentiality, and
- b) documents prepared or obtained during the public administration's prior processing of cases as referred to in Chapters 2-4.

The Ombud's internal case documents and documents exchanged between the Ombud and the Storting concerning budgets and internal administration may be exempt from public disclosure.

The Ombud may also exempt other documents and information from public disclosure if there are special grounds for doing so. The Ombud shall decide whether a document should be exempt from public disclosure in its entirety or in part.

Requests may be submitted for access to the official content of records which the Ombud keeps for the registration of documents in established cases.

The Ombud may make records and other documents publicly available on the internet.

[Chapter II of the Archives Act](#) shall apply to the Parliamentary Ombud's activities, with the exception of [Sections 7](#) and [8](#). Associated regulations shall apply insofar as they are applicable.

Section 27. *Processing of personal data*

The Parliamentary Ombud may process personal data, including personal data as referred to in [Articles 9](#) and [10 of the General Data Protection Regulation](#), as and when necessary in order to discharge his or her duties in accordance with the present Act.

Requests for copies of personal data in case documents prepared or obtained during the public administration's original consideration of a matter (see [Article 15\(3\) of the General Data Protection Regulation](#)) must be addressed to the relevant administrative body.

Section 28. *Application of the [Security Act](#) to the Parliamentary Ombud*

[The Security Act](#) applies to the Parliamentary Ombud's employees with the exceptions and clarifications that follow from the present Act.

The following provisions of the [Security Act](#) shall not apply to the Parliamentary Ombud: [Sections 1-3](#), [2-1](#), [2-2](#) and [2-5](#), [Chapter 3](#), [Sections 5-5](#), [7-1](#) second to sixth paragraph, 8-3 first paragraph second sentence, 9-4 second to fifth paragraph, Chapter 10 and Sections 11-2 and 11-3.

Within his or her sphere of responsibility, the Parliamentary Ombud shall designate, classify and maintain an overview of critical national objects and infrastructure and notify such objects and infrastructure to the Norwegian Security Authority with a statement of the level of security; see [Section 7-1 second paragraph of the Security Act](#).

Within his or her sphere of responsibility, the Parliamentary Ombud may reach decisions concerning requests for access clearance for access to all or parts of critical national objects or infrastructure, and decide that persons with security clearance for a particular level should also be cleared for access to a specific critical object or a specific item of critical infrastructure; see [Section 8-3 of the Security Act](#).

The Storting's administration is the clearance authority for the Parliamentary Ombud and the Parliamentary Ombud's employees. The Storting's Presidium is the appeal body for decisions reached by the Storting's administration.

The Storting may determine the extent to which regulations adopted pursuant to the [Security Act](#) should apply to the Parliamentary Ombud.

Section 29. *The staff*

The highest managerial level under the Parliamentary Ombud shall be appointed by the Ombud him- or herself following a recommendation from the Parliamentary Ombud's appointments board. Other employees shall be appointed by the Ombud's appointments board. [Sections 4 to 7 of the Public Employees Act](#) concerning advertising, recommendation and appointment shall apply. Disputes regarding pre-emptive rights in accordance with [Section 13 of the Public Employees Act](#) shall be resolved by the party that has appointing authority.

Staff regulations shall be determined by the Parliamentary Ombud. The Storting's Presidium may consider the staff regulations for revision.

The salary, pension and employment conditions of employees in the Ombud's office shall be determined in accordance with the agreements and provisions that apply to civil servants.

[The Public Administration Act](#) shall apply to cases regarding disciplinary punishment, termination of employment, suspension and immediate dismissal. The appeal body is the Storting's Presidium.

[Act No. 2 of 18 July 1958 on civil service disputes](#) shall apply to employees in the service of the Ombud.

Chapter 6. The position of Ombud

Section 30. *Requirements regarding the Parliamentary Ombud*

The Parliamentary Ombud must have law degree.

The Ombud shall satisfy high requirements regarding academic qualifications and personal characteristics, and possess extensive relevant experience.

Section 31. *Resignation and removal from office*

If the Parliamentary Ombud should die while in office, permanently become unable to discharge his or her duties, resign from the position or be removed from office by the Storting with a two-thirds majority, the Storting shall appoint a new Ombud in accordance with [Section 2](#) for a new period. Until the new Ombud has taken up his or her position, the Storting may appoint a deputy ombud in accordance with [Section 32](#) first paragraph.

Section 32. *Deputy ombud and Substitute Ombud*

If the Parliamentary Ombud is temporarily unable to discharge his or her duties, the Storting may appoint a deputy ombud from amongst the Ombud's senior employees for as long as the Ombud is absent.

In the event of absence of up to three months, the Ombud may appoint a deputy from amongst the senior employees in his or her office.

If the Ombud considers him- or herself to be disqualified under [Section 23](#) or there are other reasons why a case should be considered by a Substitute Ombud, the Storting's Presidium shall be notified and then appoint a Substitute Ombud to consider the case.

Section 33. *Power to delegate*

The Parliamentary Ombud's authorities pursuant to this act may be delegated to employees within the Ombud's office. The Ombud may nevertheless reach a personal decision regarding cases where it is appropriate to criticise the public administration's decisions or conduct or to issue recommendations as referred to in [Section 18](#).

Section 34. *Salary, pension and other positions*

The Parliamentary Ombud's salary shall be determined by the Storting or a party authorised by the Storting. The same shall apply to the remuneration of deputies appointed pursuant to [Section 32](#) first paragraph. The Storting's Presidium, or a party authorised by the Storting, shall determine the remuneration for Substitute Ombuds appointed pursuant to [Section 32](#) third paragraph.

The Ombud shall be a member of the Norwegian Public Service Pension Fund with rights and obligations pursuant to [Act No. 26 of 28 July 1949 relating to the Norwegian Public Service Pension Fund](#).

The Ombud shall not hold any other position or post in the public or private sector without the consent of the Storting or a party authorised by the Storting.

Section 35. *Entry into force and transitional provisions*

This Act enters into force on 1 July 2021. With effect from the same date, the [Act No. 8 of 22 June 1962 relating to the Parliamentary Ombudsman for Public Administration \(the Parliamentary Ombudsman Act\)](#) and [Instructions for the Parliamentary Ombud for Public Administration](#) of 19 February 1980 shall be revoked.

The person who is the Parliamentary Ombud at the time the Act enters into force shall be the Parliamentary Ombud for a period of four years from the date on which the person concerned is appointed as Parliamentary Ombud, unless the Ombud resigns or is removed from office pursuant to [Section 31](#). The person concerned may only be appointed once pursuant to [Section 2](#).