



Extract from the report to the
Public Accounts Committee on
the Danish State Administration's
supervision of the municipalities

February
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1. Introduction and conclusion

1.1. Purpose and conclusion

1. The report concerns the Danish State Administration's supervision of the Danish municipalities. The purpose of the supervision performed by the State Administration is to ensure that the municipalities adhere to the legislation that applies to public authorities in particular. The State Administration addresses supervisory matters and determines whether the law has been broken, and imposes sanctions if required.

The rules governing the supervision of the Danish State Administration and the Ministry of Social Affairs and the Interior are laid down in the Local Government Act, cf. consolidated act no. 769 of 9 June 2015.

The State Administration belongs under the Ministry of Social Affairs and the Interior, which, in addition to its general group management responsibilities, is also charged with specific supervisory tasks. The outcome of the ministry's examination of matters in relation to its supervisory activities may have an impact on the framework defined for the State Administration's supervision of the municipalities.

Rigsrevisionen finds it important to examine the State Administration's supervision of the municipalities, since they are responsible for many of the public services that are provided to the citizens, and at the same time provide the central gateway into the public sector for both citizens and companies. According to section 82 of the Danish Constitution, the municipalities have the right to manage their own affairs independently under the supervision of the state. It is therefore important that the supervision by the State Administration ensures that the municipalities adhere to the legislation, including the municipal authority rules. The supervision of the municipalities must ensure that the areas where authority has been delegated to the municipalities are managed in compliance with the law to protect the companies and citizens against abuse of power, for instance.

*The concept of **municipal authority rules** covers all non-statutory and unwritten principles that regulate the municipalities' possibilities of assuming tasks that are not prescribed by statute law.*

The municipalities' total budget for 2015 was approximately DKK 349 billion of which state reimbursements made up DKK 39 billion. The size of the budget is a reflection of the many tasks and responsibilities that the municipalities are charged with.

2. The purpose of the study is to examine whether the State Administration's supervision of the municipalities is organised appropriately, i.e. whether it has been planned and prioritised based on an analysis of materiality and risk to ensure that it is focused on the potentially most substantial breaches of the law. Firstly, we examine whether the Ministry of Social Affairs and the Interior has provided a framework for the organisation of the State Administration's supervision. Secondly, we examine whether the supervision planned by the State Administration is systemic and drawing on a pool of knowledge and experience with the execution of supervisory tasks, including tasks of different types and scope. Thirdly, we examine whether the State Administration follows up on the supervisory cases and publishes its statements in order to prevent similar breaches of law in the future.

***Materiality** should be evaluated in relation to:*

- *financial value*
- *significance of the matter for the basic living conditions of one or several citizens*
- *how many citizens, businesses or municipalities that will be affected by the potential breach of the law.*

CONCLUSION

It is Rigsrevisionen's assessment that the supervision of the municipalities is not organised appropriately by the State Administration. The State Administration has no systematic approach to summarising knowledge and experience gained with various types of supervisory tasks, which makes it difficult to prioritise supervisory matters based on an assessment of the risk of law breaches and the potential effect of such breaches. As it is today, supervisory tasks are largely prioritized according to the order in which they are received and the State Administration only takes up very few cases on its own initiative. Due to the State Administration's approach to collecting knowledge and planning its supervisory tasks, resources invested in supervision may not be used sufficiently effectively and the State Administration may fail to prioritise matters that could have an impact on how the municipalities perform their tasks in general. It is Rigsrevisionen's assessment that if the State Administration were more focused on generating knowledge and experience from their current activities, it would be better positioned to plan its supervision effectively.

The examination shows that the Ministry of Social Affairs and the Interior is not fully ensuring that the framework defined for the State Administration's supervision is relevant and providing the necessary guidance. Rigsrevisionen has established that the State Administration and the ministry have defined relevant performance targets for the State Administration's production in relation to the municipal supervision. In 2015, it took the Ministry of Social Affairs and the Interior more than three years, on average, to process supervisory matters relating to the municipalities. This is considered unsatisfactory by Rigsrevisionen. The long processing time can be a challenge for the State Administration since the statements made by the ministry set the standard for the State Administration's performance of its supervision. It is also Rigsrevisionen's assessment that the dialogue between the ministry and the State Administration should be strengthened to ensure that the statements made by the ministry contribute to the management and coordination of the supervisory practice.

The State Administration is challenged by an increasing number of cases; in 2014, the number of cases that required separate processing increased by 20 per cent over 2013. At the same time, the average processing time was 115 weeks for 25 per cent of the oldest cases that led to a statement in 2014. This means that an illegal practice may be followed by the municipalities throughout the examination period and until the matter is settled. The increase in the number of cases and the long processing times are, among other things, caused by an increase in the number of requests for access to files. The State Administration has the option to prioritise and examine matters urgently, and processing requests for access to files is highly prioritized following a critical statement by the parliamentary ombudsman in this respect. Rigsrevisionen's examination shows that only few of the State Administration's key performance indicators are focused on the effective use of its supervisory resources. The examination also shows that the State Administration has defined internal performance targets for processing times in relation to selected types of tasks, yet does not have the data required to monitor whether the targets are achieved. Rigsrevisionen finds that the State Administration in collaboration with the department should assess whether the current key performance indicators are relevant and adequate for the State Administration's internal management of the supervisory tasks. The two bodies should also assess whether the key performance indicators should be re-defined or their number increased in order to support more effective use of resources.

Documents relating to a case in the State Administration's case management system that require separate processing include, for instance, the following: requests received from municipalities concerning preliminary statements, reviews of the accounts of the municipalities or information received from the citizens concerning possible infringements of the law.

Statements made by the State Administration address both supervisory matters, where the State Administration issues a preliminary statement on a prospective municipal transaction, and matters where the State Administration reviews decisions already made – and possibly also implemented – by the municipalities.

In light of the increasing number of cases and long processing time, the State Administration should strive for transparency in its planning, which should be based on knowledge and experience gained concerning, for instance, types of tasks, use of resources, processing times and the complexity of the supervisory matters. This approach would enable the State Administration to take up the most risky and important cases on its own initiative.

It is Rigsrevisionen's assessment that the State Administration's policy for publication of statements on its website lacks transparency. Rigsrevisionen has also established that the State Administration publishes very few of its statements.

Rigsrevisionen recommends that the State Administration should ensure that all statements are made available in its database, which is accessible from the website. This would prevent the emergence of similar supervisory matters in the municipalities and limit the number of requests from the municipalities for preliminary statements concerning specific transactions.