

Ombudsman Act

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Text in Bulgarian: Закон за омбудсмана

Chapter One

GENERAL PROVISIONS

Article 1. This Act regulates the legal status, organization and activities of the Ombudsman.

Article 2. The Ombudsman shall intervene by the means provided for in this Act, when citizens' rights and freedoms have been violated by actions or omissions of the State and municipal authorities and the administrations thereof, as well as by the persons commissioned to provide public services.

Article 3. (1) The Ombudsman shall be independent in his or her activities and shall obey only the Constitution, the laws, and the ratified international treaties whereto the Republic of Bulgaria is a party. He or she shall be guided by his or her personal conscience and morality.

(2) The Ombudsman shall perform his or her activities on the basis of the rules of organization and operation of the institution. The said rules shall be elaborated by the Ombudsman, shall be approved by a resolution of the National Assembly, and shall be promulgated in the State Gazette.

Article 4. The activities of the Ombudsman shall be public.

Article 5. The Ombudsman shall be assisted in his or her activities by a Deputy Ombudsman.

Article 6. The State and municipal authorities and the administrations thereof, the legal persons and citizens shall be obliged to provide the Ombudsman with information officially entrusted thereto, and to provide assistance to the Ombudsman in connection with the complaints and alerts sent to him or her.

Article 7. The activities of the Ombudsman and his or her administration shall be financed by the state budget and/or by other public sources. The Ombudsman shall be a first-level spending unit.

Chapter Two

ASSUMPTION OF OFFICE. LEGAL STATUS

Article 8. The Ombudsman shall be elected by the National Assembly for a term of five years and may be re-elected to the same office only once.

Article 9. Eligibility for the office of Ombudsman shall be limited to Bulgarian citizens, holding a university degree, demonstrating high integrity and possessing the qualifications for election of National Representative.

Article 10. (1) The National Representatives and the Parliamentary Groups may submit nominations for election of Ombudsman.

(2) The National Assembly shall elect the Ombudsman by secret ballot. The candidate, who has received more than a half of the votes of the National Representatives participating in the voting, shall be elected.

(3) If none of the candidates has received the required majority at the first voting, a second voting shall take place, in which only the two candidates who have received the greatest number

of votes shall participate. The candidate who has received more than half of the votes of the National Representatives participating in the second voting, shall be considered elected.

Article 11. (1) The Deputy Ombudsman shall be elected by the National Assembly within one month after the election of the Ombudsman on a nomination by the Ombudsman and for the term referred to in Article 8 herein.

(2) The Deputy Ombudsman shall meet the eligibility criteria covered under Article 9 herein.

Article 12. The Ombudsman shall assume office after taking the following oath before the National Assembly: "I swear in the name of the Republic of Bulgaria to observe the Constitution and the laws of the land and to protect the human rights and fundamental freedoms by exercising conscientiously and impartially my powers".

Article 13. The election of a new Ombudsman shall take place at least two months before the expiry of the term of office of the incumbent Ombudsman. The Ombudsman shall continue to discharge the duties thereof until the newly elected Ombudsman assumes office.

Article 14. The office of Ombudsman and Deputy Ombudsman shall be incompatible with any other state office, managerial position in any commercial corporation or not-for-profit legal entity, as well as with membership in any political party or trade union. The Ombudsman and the Deputy Ombudsman may not pursue commercial business.

Article 15. (1) The powers of an Ombudsman and a Deputy Ombudsman shall be terminated by the National Assembly before the expiry of their term of office in case of:

1. establishment of incompatibility or ineligibility;
2. inability to exercise his or her powers for more than six months;
3. entry into effect of a sentence for a premeditated criminal offence;
4. failure to discharge his or her duties and violation of the Constitution and the laws of the land or the commonly accepted ethical rules;
5. resignation;
6. death.

(2) The resolution to terminate the powers of an Ombudsman or a Deputy Ombudsman before the expiry of their term of office on the grounds of Items 1, 2 and 4 of Paragraph (1) shall be adopted by the National Assembly on a motion by at least one-fifth of the National Representatives; the grounds under Items 3, 5 and 6 of Paragraph (1) shall be announced before the National Assembly by the Chairperson of the National Assembly.

(3) Apart from the grounds under Paragraph (1), the Deputy Ombudsman shall be dismissed by the National Assembly on a reasoned proposal by the Ombudsman.

(4) The Ombudsman and the Deputy Ombudsman shall have the right to address the National Assembly in the cases under Items 1, 2, 4 and 5 of Paragraph (1) ; the Deputy Ombudsman shall have the same right in the case under Paragraph (3) as well.

Article 16. (1) The Ombudsman shall enjoy the same immunity as a National Representative.

(2) The immunity of the Ombudsman may be lifted under the terms and according to the procedure applicable to National Representatives.

Article 17. (1) In cases of termination of the credentials of the Ombudsman before the expiry of his or her term of office, a new Ombudsman shall be elected within one month after the entry into force of the resolution on termination under Items 1, 2 or 4 of Article 15 (1) herein, or following the announcement under Items 3, 5 or 6 of Article 15 (1) herein.

(2) In cases of termination of the powers of the Ombudsman before the expiry of his or her term of office, the Deputy Ombudsman shall assume the office until the election of a new Ombudsman.

Article 18. (1) The Ombudsman shall receive remuneration amounting to three average month salaries of civil servants and public sector employees, according to data of the National Statistical Institute.

(2) The remuneration of the Deputy Ombudsman shall be 80 per cent of the remuneration of the Ombudsman.

(3) The Ombudsman and the Deputy Ombudsman may not receive other remuneration under an employment relationship or civil service relationship.

Chapter Three

POWERS

Article 19. (1) The Ombudsman shall exercise the following powers:

1. receive and consider complaints and alerts regarding violations of rights and freedoms by the State and municipal authorities and the administrations thereof, as well as by persons commissioned to provide public services;

2. make examinations on the complaints and alerts received;

3. reply in writing to the person who has lodged the complaint or alert within one month; if the case requires a more thorough examination, this time limit shall be three months;

4. make proposals and recommendations for reinstatement of the violated rights and freedoms to the respective authorities, the administrations thereof, and persons under Item 1;

5. mediate between the administrative authorities and the persons concerned for overcoming the violations committed and reconcile their positions;

6. make proposals and recommendations for elimination of the reasons and conditions which create prerequisites for violation of rights and freedoms;

7. notify the authorities, listed under Article 150 of the Constitution, to approach the Constitutional Court, when he or she is of the opinion that it is necessary to interpret the Constitution or to declare a law unconstitutional;

8. notify the prosecuting magistracy when there is reason to believe that an indictable offence has been committed.

(2) The Ombudsman may act on his or her own initiative as well when he or she has established that the conditions necessary for protection of citizens' rights and freedoms have not been created.

(3) The Ombudsman may delegate some of his or her powers to the Deputy Ombudsman.

Article 20. (1) The Ombudsman shall have the right:

1. to access to the authorities, the administrations thereof and the persons under Article 2 herein, including the right to be present when they discuss and make decisions;

2. to request and receive timely, accurate and comprehensive information from the authorities, the administrations thereof and the persons under Article 2 herein;

3. to publicly express opinions and statements, including in the media.

(2) The Ombudsman shall not have the right to disclose any circumstances that come to the knowledge thereof in the performance of his or her functions, which constitute a State, an official or a commercial secret or are of personal nature.

Article 21. The Ombudsman shall maintain a public register on the received oral and written complaints and alerts and their movement.

Article 22. (1) The Ombudsman shall submit an annual report on his or her activities to the National Assembly on or before the 31st day of March every year.

(2) The report shall contain information on:

1. the complaints and alerts received, the examinations on which have been completed;
2. the cases when his or her intervention has led to a certain result;
3. the cases when his or her intervention has had no consequences and the reasons thereof;
4. the proposals and recommendations made and whether these have been taken into consideration;
5. the respect for human rights and fundamental freedoms and the efficiency of the effective legislation in this area;
6. a report on the expenditures;
7. a summary.

(3) The report under Paragraph (1) shall be public.

(4) The Ombudsman shall prepare reports on particular cases upon request by the National Assembly or on his or her own initiative.

Article 23. The Ombudsman shall publish an annual bulletin on his or her activities.

Chapter Four

SUBMISSION OF COMPLAINTS AND ALERTS

Article 24. Complaints and alerts to the Ombudsman may be submitted by natural persons, irrespective of their citizenship, gender, political affiliation, or religious beliefs.

Article 25. (1) Complaints and alerts may be written or oral, and may be submitted in person, by post or by other conventional means of communication.

(2) A complaint must state the name and permanent address of the sender, description of the violation, and the authority, administration, or person against whom the complaint is lodged. Written evidence may also be enclosed with the complaint.

(3) Anonymous complaints and alerts and complaints of violations committed more than two years before the time of the complaint shall not be considered.

(4) A memorandum shall be drawn up on oral complaints, stating the information required under Paragraph (2).

Article 26. The submission of complaints to the Ombudsman shall be free of charge.

Article 27. The complaints and alerts received shall be entered into the register referred to in Article 21 herein. The action taken on each case and the results thereof shall also be entered into the said register.

Article 28. The authorities and the persons under Article 2 herein, to whom the opinions, proposals and recommendations have been addressed, shall be obliged to consider them within fourteen days and to notify the Ombudsman of the action taken.

Chapter Five

ADMINISTRATIVE PENALTY PROVISIONS

Article 29. Any person, who hinders the Ombudsman to perform his or her official duties, shall be liable to a fine not exceeding BGN 600, unless subject to a severer sanction.

Article 30. Any person, who fails to submit data, documents or certificates requested by the Ombudsman within the time limit specified thereby, shall be liable to a fine not exceeding BGN 500, unless subject to a severer sanction.

Article 31. Any person, who fails to perform another obligation specified by this Act or the statutory instruments of secondary legislation on the application thereof, shall be liable to a fine not exceeding BGN 300, unless subject to a severer sanction.

Article 32. The administrative penalty for any violations covered under Articles 29 to 31 herein shall be imposed by the competent regional court. The written statement ascertaining any such administrative violation shall be drawn up by an official designated by the Ombudsman, and shall be transmitted to the competent regional court.

Article 33. The court shall notify the person whose penalization has been demanded, of the records received under Article 32 herein, and shall give the said person time to familiarize himself or herself with the said records, to lodge objections and to adduce evidence in their support. The said time may not be shorter than one month.

Article 34. (1) After the expiry of the time limit under Article 33 herein, an open session shall be scheduled.

(2) The Ombudsman may participate in the court proceedings if he or she finds it necessary.

Article 35. (1) The regional court shall hear the case on the merits and shall render judgment imposing the administrative penalty specified in this Act or discharging the person whose penalization has been demanded.

(2) (Amended, SG No. 30/2006) The said judgment shall be subject to cassation appeal before the district court according to the procedure established by the Administrative Procedure Code. The Ombudsman may also appeal the decision.

Article 36. Unless otherwise provided for in this Act, the Administrative Violations and Sanctions Act shall apply.

SUPPLEMENTARY PROVISION

§ 1. Within the meaning given by this Act:

1. "public services" shall be educational, health and social activities, activities related to water, heat and electricity supply, postal and telecommunications activities, commercial activities, activities related to security and transport safety, as well as other similar services, provided to satisfy public needs and in relation to which administrative services may be performed;

2. "conventional means of communication" shall be letters, telephone, telegraph, telex, fax, and electronic mail.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. The National Assembly shall elect an Ombudsman within three months after the entry of this Act into force.

§ 3. The Ombudsman shall submit to the National Assembly for approval the rules of organization and operation of the institution within one month after assuming office.

§ 4. This Act shall enter into force on the 1st day of January 2004.

The Act was passed by the 39th National Assembly on the 8th day of May 2003 and the Official Seal of the National Assembly has been affixed thereto.