

Law of the Ombudsman

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Chapter one.

GENERAL

Art. 1. This law settles the legal status, the organisation and the activity of the ombudsman.

Art. 2. The ombudsman shall intercede by the means stipulated by this law, when action or lack of action affect or violate the rights and freedoms of the citizens by the state and municipal bodies and their administrations, as well as by the persons to whom public services are assigned.

Art. 3. (1) In his activity the ombudsman shall be independent and shall only be subordinated to the Constitution, the laws and the ratified international agreements party to which is the Republic of Bulgaria, guided by his personal conscience and ethics.

(2) The ombudsman shall carry out his activity on the grounds of regulations for his organisation and activity. The regulations shall be worked out by the ombudsman, it shall be approved by a decision of the National Assembly and shall be promulgated in the State Gazette.

Art. 4. The activity of the ombudsman shall be public.

Art. 5. The ombudsman shall be assisted in his activity by a deputy ombudsman.

Art. 6. The state and municipal bodies and their administrations, the corporate bodies and citizens shall be obliged to submit information consigned to them officially, and to assist the ombudsman in connection with the complaints and signals sent to him.

Art. 7. The activity of the ombudsman and his administration shall be financed by the state budget and/or other public sources. The ombudsman is a primary administrator of budget credits.

Chapter two.

OCCUPATION OF POSITION. LEGAL STATUS

Art. 8. The ombudsman shall be elected by the National Assembly for a period of 5 years and he may be elected for the same position for only one more mandate.

Art. 9. Elected for ombudsman shall be a Bulgarian citizen with higher education, who possesses high moral qualities and meets the requirements for election of a national representative.

Art. 10. (1) Proposal for election of ombudsman may be made by the national representatives and parliamentary groups.

(2) The National Assembly shall elect an ombudsman by secret voting. Elected shall be the candidate having received a majority of more than half of the voting national representatives.

(3) If, as a result of the first voting, none of the candidates has received the required majority, second voting shall be held for the two candidates having received most of the votes. Considered elected by the second voting shall be the candidate who has received the votes of more than half of the voting national representatives.

Art. 11. (1) The deputy ombudsman shall be elected by the National Assembly within one month from the election of the ombudsman on his proposal and for the period under art. 8.

(2) The deputy ombudsman shall meet the criteria for election according to art. 9.

Art. 12. The ombudsman shall occupy the position 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 country and to defend the rights of people and the basic freedoms by exercising conscientiously and objectively my legal capacities."

Art. 13. The election of a new ombudsman shall be held not later than two months before the expiration of the mandate. The ombudsman shall continue to fulfil his duties until the inauguration of the newly elected ombudsman.

Art. 14. The position of the ombudsman and of the deputy ombudsman is incompatible with another state position, a position of management of a trade company or non-profit corporate body, as well as with membership in a political party or trade union. The ombudsman and the deputy ombudsman may not carry out commercial activity.

Art. 15. (1) The legal capacity of the ombudsman and of the deputy ombudsman shall be terminated ahead of terms by the National Assembly for:

1. established incompatibility or non-eligibility;
2. actual inability to exercise his legal capacity for a period longer than six months;
3. enactment of a conviction for deliberate crime;
4. failure to fulfil his duties and for violation of the Constitution and the laws of the country or the commonly accepted moral rules for public conduct;
5. resignation;
6. death.

(2) The decision for pre-term termination of the legal capacities of the ombudsman or of the deputy ombudsman under para 1, item 1, 2 and 4 shall be adopted by the National Assembly on request of at least one fifth of the national representatives, and the grounds under para 1, item 3, 5 and 6 shall be announced by the chairman of the National Assembly to the National Assembly.

(3) Besides in the cases under para 1 the deputy ombudsman shall be released by the National Assembly upon a motivated proposal of the ombudsman.

(4) The ombudsman and the deputy ombudsman shall have the right to be heard out by the National Assembly in the cases of para 1, item 1, 2, 4 and 5, and the deputy ombudsman ? also on para 3.

Art. 16. (1) The ombudsman shall enjoy the immunity of a national representative.

(2) The immunity of the ombudsman may be withdrawn under the conditions and by the order stipulated for national representatives.

Art. 17. (1) In cases of termination of the mandate of the ombudsman ahead of term a new ombudsman shall be elected within one month from the enactment of the decision for termination under art. 15, para 1, item 1, 2 or 4 or from the announcement under art. 15, para 1, item 3, 5 or 6.

(2) In the cases of pre-term termination of the legal capacities of the ombudsman the deputy ombudsman shall take up his position until the election of a new ombudsman.

Art. 18. (1) The ombudsman shall receive monthly remuneration equal to three average monthly salaries of the persons hired under employment and official legal terms in the public sector, according to data of the National Institute of Statistics.

(2) The remuneration of the deputy ombudsman shall be 80 percent of the remuneration of the ombudsman.

(3) The ombudsman and the deputy ombudsman may not receive other remuneration under employment or official legal terms.

Chapter three.

LEGAL CAPACITY

Art. 19. (1) The ombudsman shall:

1. accept and consider complaints and signals for violation of rights and freedoms by the state and municipal bodies and their administrations, as well as by the persons to whom it is assigned to provide public services;
2. carry out inspections regarding the received complaints and signals;
3. reply in writing to the person who has approached him within one month; should the case require a more detailed inspection this term shall be three months;
4. extend proposals and recommendations for restoration of the violated rights and freedoms to the respective bodies, their administrations and to the persons under item 1;
5. intercede between the administrative bodies and the affected persons for overcoming the admitted violation and reconcile their positions;
6. extend proposals and recommendations for removal of the reasons and conditions which create preconditions for violation of the rights and freedoms;
7. notify the bodies of art. 150 of the Constitution in order to approach the Constitutional Court if it is deemed that interpretation of the constitution or declaring anti-constitutionality of the law is required;
8. notify the bodies of prosecution where there are indications of committed unclassified misdemeanour.

(2) The ombudsman shall act on his initiative when he establishes that the necessary conditions for protection of the rights and freedoms of the citizens are not created.

(3) The ombudsman may assign to the deputy ombudsman some of his legal capacities.

Art. 20. (1) The ombudsman shall have the right:

1. to access to the bodies, their administrations and the persons under art. 2, including to attend the discussions and adoption of decisions by them;
2. to require and receive timely, precise and complete information from the bodies, their administrations and from the persons under art. 2;
3. to express public opinion and statements, including in the mass media.

(2) The ombudsman shall not have the right to make public circumstances having become known to him in fulfilment of his functions, which are state, official or trade secret or which are of personal nature.

Art. 21. The ombudsman shall maintain a public register of the received written and verbal complaints and signals and their movement.

Art. 22. (1) The ombudsman shall present to the National Assembly by March 31 every year an annual report for his activity.

(2) The report shall contain information for:

1. the received complaints and signals on which the inspections have been concluded;
2. the cases when his interference has ended with a positive result;
3. the cases when his interference remained without any effect and the reasons for that;
4. the extended proposals and recommendations, as well as whether they have been complied with;
5. the respect for the human rights and basic freedoms and the effectiveness of the acting legislation in this sphere;
6. account of the expenses;
7. expose.

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

(4) On request of the National Assembly, or on his initiative, the ombudsman shall work out reports on individual cases of his practice.

Art. 23. The ombudsman shall issue an annual bulletin for his activity.

Chapter four.

FILING COMPLAINTS AND SIGNALS

Art. 24. Complaints and signals may be filed with the ombudsman by individuals without discrimination of citizenship, sex, political affiliation or religious convictions.

Art. 25. (1) The complaints and signals may be written or verbal, filed personally, by mail or in other traditional means of communication.

(2) The complaint shall contain the name and the permanent address of the claimant, description of the offence, the body, the administration or the person against whom the complaint is filed. The complaint may also be accompanied by written evidence.

(3) Anonymous complaints and signals, as well as complaints and signals for offences committed before more than two years shall not be considered.

(4) If the complaint is verbal written records shall be worked out containing the information required under para 2.

Art. 26. The filing of complaints with the ombudsman shall be free of charge.

Art. 27. The received complaints and signals shall be entered in the register under art. 21. Noted in the register shall also be the measures undertaken for each individual case and the result from them.

Art. 28. The bodies and the persons under art. 2, whom the statements, proposals and recommendations of the ombudsman regard, shall be obliged to consider them within 14 days and to inform the ombudsman about the measures they have undertaken.

Chapter five.

ADMINISTRATIVE PENAL PROVISIONS

Art. 29. Who obstructs the ombudsman to fulfil his official duties shall be punished by a fine of up to 600 levs unless subject to a more severe punishment.

Art. 30. Who does not submit, within the period set by the ombudsman, requested information, documents or acts, shall be punished by a fine of up to 500 levs, unless subject to a more severe punishment.

Art. 31. Who does not fulfil other obligation ensuing from this law or from a normative act for its implementation shall be punished by a fine of up to 300 levs, unless subject to a more severe punishment.

Art. 32. The administrative punishment under art. 29 ? 31 shall be enforced by the respective regional court. The act establishing the administrative offence shall be issued by an official appointed by the ombudsman, and it shall be sent to the respective regional court.

Art. 33. The court shall notify the person, whose punishment is requested, about the receipt of the materials under art. 32, set a period for acquaintance of them, for objections and providing evidence in their support. The period may not be less than one month.

Art. 34. (1) Upon expiration of the period under art. 33 the hearing shall be appointed for an open court session.

(2) The ombudsman may participate in the court proceedings if he deems it necessary.

Art. 35. (1) The regional court shall consider the case in essence and shall rule by a decision which shall enforce the administrative punishment stipulated by this law, or shall acquit the person whose punishment has been requested.

(2) The decision under para 1 shall be subject to cassation appeal before the district court by the order of the

Law of the Supreme Administrative Court. Cassation appeal may also be filed by the ombudsman.

Art. 36. Inasmuch as this law does not stipulate otherwise the Law of the administrative offences and penalties shall apply.

Additional provisions

§ 1. In the meaning of this law:

1. "public services" are educational, health, social, water supply, sewerage, heat supply, electric supply, postal, telecommunication, commercial activity, activities on guarding and traffic safety, as well as other similar services provided for satisfying public needs, in relation to whose provision administrative services may be carried out;
2. "traditional means of communication" are letters, telephone, telegraph, telex, fax and electronic mail.

Transitional and concluding provisions

§ 2. Within three months from the enactment of this law the National Assembly shall elect an ombudsman.

§ 3. Within one month from occupying the position the ombudsman shall present for approval by the National Assembly the regulations for his organisation and activity.

§ 4. The law shall enter into force on January 1, 2004.

The law was adopted by the 39th National Assembly on May 8, 2003 and was affixed with the official seal of the National assembly.

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