

Regulation of the organization and the activity of the ombudsman

Promulgated in State Gazette No. 45 of May 31, 2005

Section I General

Art. 1. This regulation shall provide the organization and the activity of the ombudsman and his administration and the order for accepting and considering of appeals and signals, for implementing check on initiative of the ombudsman, for mediation and for directing proposals and recommendations.

Art. 2. The issues about the activity of the ombudsman and the organization of his administration which have not been provided in the Law of the ombudsman and the present regulation shall be regulated with internal acts of the ombudsman: instructions, ordinances, orders, decisions, methodical directives etc.

Art. 3. The ombudsman shall be assisted by deputy-ombudsman to whom he shall assign with a written act the fulfillment of some of his authorities or the implementing of some actions.

Art. 4. The official language in the work of the ombudsman shall be Bulgarian. Who does not know Bulgarian may address the ombudsman in other language.

Art. 5. (1) The ombudsman shall cooperate with similar institutions in other states and their associations as well as with international organizations.
(2) The ombudsman shall interact with the local public mediators (local ombudsmen) and other similar institutions in Bulgaria and render them methodical assistance.

Art. 6. (1) The activity of the ombudsman shall be public.
(2) The ombudsman shall inform the public about his work by messages for the press, statements in the media, press-conferences, appearing in programs of the electronic media etc.
(3) The ombudsman shall be obliged not to divulge the circumstances constituting state, official or trade secret as well as personal secrets that have become known to him in connection with implementing his authorities.

Art. 7. (1) The papers of the ombudsman shall be inviolable and shall not be subject to check and seizure.
(2) The correspondence between the ombudsman and persons addressing him with appeals and signals shall be inviolable, not subject to checks and cannot be used as means of proof in any procedures.

Section II Basic principles in the Activity of the Ombudsman. Authorities

Art. 8. In his activity the ombudsman shall be lead by the following basic principles:

1. impartiality and independence;
2. approval of state of law and fairness;
3. assessment according to internal belief whether the requirements for good management have been observed.

Art. 9. (1) The ombudsman shall:

1. consider appeals and signals against the state and the municipal bodies and their administrations and against persons to whom has been assigned the implementing of public function or the rendering of public services when at implementing by them administrative activities are impaired rights and liberties or the necessary conditions for their recognizing are not created;
2. make checks on received appeals and signals;
3. undertake actions on his own initiative when he finds that his intervention is necessary with regard to respecting the rights and the liberties;
4. make proposals and recommendations to the persons of item 1 for respecting the rights and the liberties, for removing the consequences of impairing defined rights and liberties as well as for removal of the reasons lead to this;
5. propose to the bodies of art. 150, para 1 of the Constitution to approach the Constitutional Court if he decides that interpretation of the Constitution is necessary or announcement of the unconstitutionality of a law;
6. mediate between the persons of item 1 and the affected persons and for overcoming the admitted violations and reconcile their positions;
7. require information from the persons of item 1 in connection with the considered cases;
8. check, including on the spot, the activity of the persons of item 1 and be present at considering and taking of decisions;
9. publicly express opinion on observing the rights and the liberties and can require to be listened to by the National Assembly;
10. inform the Prosecutor's Office about the results of his checks when there are data about committed crime;
11. prepare and submit annual report to the National Assembly;
12. inform the National Assembly about separate cases of impairing and not observing of rights and liberties and prepare reports on them;
13. issue bulletin;
14. implement also other activities in connection with observing the rights and the liberties.

(2) The authorities of the ombudsman shall not refer to:

1. the National Assembly, the Constitutional Court, the Supreme Judicial Council and the Audit Office;
2. the implementing of judicial power by the court, the prosecutor's office and the investigation;
3. the relations connected with the national security and the foreign policy.

(3) The ombudsman cannot lead procedures in the name of the persons addressed him and cannot represent them before court and before the persons of para 1, item 1.

Section III Administration of the Ombudsman

Art. 10. (1) The administration of the ombudsman shall be managed by chief secretary and organized in directorates and divisions.
(2) The ombudsman shall appoint and discharge the employees in his administration and determine their authorities and remunerations.
(3) The ombudsman shall determine the working time of his administration and the reception time for citizens.

Art. 11. (1) Reception centre shall be created at the administration of the ombudsman.
(2) The ombudsman shall receive personally the citizens in time defined by him.
(3) The employees shall work in the reception centre on every day rotation principle, on the basis of monthly program approved by the chief secretary.
(4) The ombudsman can open temporary reception centers also in other settlements.

Art. 12. (1) The persons working in the administration of the ombudsman shall be in employment or official legal relations. The ombudsman shall determine which positions are taken by persons in official legal relation.
(2) The practice of the employees with the ombudsman shall be considered as labor practice in their specialty, respectively official practice.
(3) The ombudsman, the deputy ombudsman and the employees shall have right to additional paid leave up to 12 working days for fulfillment of their obligations out of working time. The concrete amount of the leave shall be determined by the ombudsman.

Art. 13. The activity of the ombudsman may be assisted by external experts and specialists working with civil contract or publicly.

Art. 14. The ombudsman may form consultative councils in which he, his deputy or other representatives of his administration, representatives of the academic circles, the media, the organizations of the citizens, external consultants etc. participate.

Art. 15. The ombudsman may create regional councils for interaction with the public mediators, assisting their activity and equaling the practice. In them shall participate the ombudsman, the deputy-ombudsman or representatives of his administration, public mediators from several municipalities and representatives of the respective municipal councils, representatives of the media, of organizations of the citizens etc.

Section IV Receiving and Considering Appeals and Signals

Art. 16. (1) The appeals and the signals submitted to the ombudsman may be written or verbal. Their receiving shall take place at the reception centre of the ombudsman.
(2) The form of the appeals and the signals shall be free but they shall obligatory contain:
1. data about the sender, including for contact with him;
2. description of the violation;

3. data about the violator;
4. the time when the violation has been made;
5. information about whether the same case is in procedure in a court or other institution;
6. information about the caused damages if indemnification is searched for them.

(3) The lack of information of para 2 shall not be obstacle for receiving the appeal or the signal. Any necessary information may be required at or after their submitting.

(4) The written appeals and signals shall be submitted personally, with letter, by fax, telegraph or by e-mail. The ombudsman may issue exemplary model the use of which shall not be compulsory.

(5) The verbal appeals and signals shall be given personally or by telephone.

(6) The submitting of appeals and signals as well as the whole procedure of considering them shall be free of charge for the sender.

Art. 17. The received written appeals and signals shall be entered in the register of the appeals and the signals by the receiving employee for considering in the respective division.

Art. 18. (1) The employee on duty in the reception centre shall compile record about the received verbal appeals of signals, in which shall be pointed out the name and the permanent address of the sender, description of the violation, the body, the administration or the person against whom is the appeal has been submitted.

(2) The record shall be entered in the register of the appeals and the signals.

(3) The receiving employee shall distribute the recorded appeals and signals for considering in the respective division.

Art. 19. When a sender of appeal or signal wishes his identity to be kept is secret in the register shall not be pointed out data about his identity.

Art. 20. (1) The receiving employee shall enter in the register but shall not distribute for considering anonymous appeals and signals as well as appeals and signals for violations made before more than two years.

(2) If the issues in the appeals and the signals that are not subject to distribution of the previous para are with big public importance the employee shall propose implementing of check on initiative of the ombudsman.

Art. 21. (1) The appeals and the signals, distributed in divisions shall be assigned to an employee of the respective division.

(2) The divisions shall cooperate among themselves when given case is in the sphere of activity of more than one of them.

(3) The appeals and the signals containing data about corruption shall be kept in separate account.

Art. 22. (1) An employee to whom have been assigned appeals and signals shall implement check of their admissibility.

(2) In two weeks term after receiving the appeal or the signal the employee shall prepare written answer to the sender whether the appeal or the signal is accepted for considering.

At receiving the appeal or the signal for considering to the sender shall be notified the entrance number and the division or the employee who will consider the case. Upon negative answer the ground shall be pointed out without being necessary to present other motives.

(3) If necessary sender may be required additional data from the sender of the appeal or the signal.

(4) The existing of other ways shall not be ground for not admitting of the appeal or the signal. If the appeal or the signal refer to issue which can be referred to higher administrative body or other specialized body (commission, agency) the ombudsman may advise the sender to address the respective institution unless he assesses that it is necessary he himself to consider the case.

(5) If the appeal or the signal is out of the authorities of the ombudsman he shall not take it for considering, inform the sender about his decision and may advise him to address other body.

(6) In separate cases with the consent of the sender the ombudsman may send the appeal or the signal to other competent body.

Art. 23. (1) The employee to whom the considering of the appeal or the signal has been assigned shall implement check collecting information, require and check documents, observe directly the activity of the bodies and the persons of art. 9, para 1, item 1, make inquiries etc.

(2) The check may include also collecting data from the sender of the appeal or the signal, questions to bodies or persons out of these of art. 9, para 1, item 1 etc.

(3) The ombudsman may assign the making of investigations and expert reports if he decides that they are necessary for the objectives of the check.

Art. 24. (1) The check shall finish with written statement.

(2) The statement of para 1 shall reflect the results of the check and includes:

1. the cause for implementing the check;
2. description of the violation;
3. the division and the employee to whom the case has been distributed;
4. the undertaken activities;
5. the collected proofs;
6. the findings and the conclusions made;
7. recommendations and proposals if there are such;
8. other information of importance for the case.

(3) The statement shall be signed by the ombudsman or a person authorized by him.

(4) A copy of the statement shall be sent to the interested bodies and persons.

(5) The number and the date of the statement shall be entered in the register of the appeals and the signals.

(6) In separate cases the ombudsman may send in advance draft of his statements to the affected parties. In a term defined by him they may express their opinion.

Art. 25. (1) The register of the appeals and the signals shall contain:

1. entry number and date of receiving of the appeal or the signal;
2. the name and the address of the sender except in the cases of art. 19;

3. name of the body of art. 19, para 1, item 1;
 4. the essential of the complaints;
 5. the division or the employee to whom the case has been distributed;
 6. the statement of the respective division on accepting the appeal or the signal for considering;
 7. number and date of the statement;
 8. the pronouncing of the ombudsman, respective other measures that have been undertaken on the case;
 9. the implementing of mediation and the results of it;
 10. noting whether the case is included in the annual or the special reports of the ombudsman.
- (2) The entries in the register shall be prepared by the receiving employees and the employees making the checks and implemented by the chief secretary or employee of the administration.
- (3) The information contained in the register shall be accessible for all bodies and persons.

Section V Mediation

Art. 26. At any time at considering of appeal or signal the ombudsman may propose mediation for voluntary settling of the case between the affected person and the body or the person of art. 9, para 1, item 1.

Art. 27. The ombudsman shall upon his discretion implement mediation personally or by assigning of separate or all activities to the deputy ombudsman or employee of the administration.

Art. 28. (1) In the cases of art. 26 the ombudsman shall direct proposal for mediation to the sender and the body or the person against which the appeal or the signal has been submitted.

(2) In case both parties accept the mediation the ombudsman shall render any help for overcoming the conflict (making contact, support in the progress of eventual negotiations etc.). For this purpose he can conduct without limitation sequence of common meetings, with the two parties and also individual meetings with each of them separately.

(3) In the progress of the meetings at each stage the ombudsman shall listen to the statements of the parties and supports them in the process of overcoming the differences with all possible means, including proposal of formula for resolving the dispute.

(4) The ombudsman may reveal to the other party of the dispute information which has received at individual meeting only upon existing of explicit consent by the party from which he has received the information.

(5) In case of successful settling of the conflict for the results of the mediation a record shall be compiled which shall be signed by the two parties and the ombudsman or an employee defined by him.

(6) In case of unsuccessful finishing of the mediation for implementing his function the ombudsman may use the other authorities provided by the law and this regulation.

Section VI

Activities on Initiative of the Ombudsman

Art. 29. (1) The ombudsman can undertake actions on his initiative when he finds that the necessary conditions for protection of the rights and liberties are not being created.
(2) When the ombudsman acts on his own initiative he can implement checks also about violations made before more than two years.
(3) The undertaking of actions of the ombudsman on his initiative shall be entered in separate section of the register of the appeals and the signals.
(4) When the ombudsman undertakes actions on his own initiative he can assign the check to the deputy ombudsman or to one or more employees.
(5) When the ombudsman assigns the implementation of the check to the deputy ombudsman or to one or more employees he shall determine the term for finishing the check.

Art. 30. If other is not provided in this section for the implementation of the check on initiative of the ombudsman and its finishing shall be applied respectively the rules for the check for appeal or signal.

Section VII

Recommendations and Proposals

Art. 31. In the statement with which finishes the implemented check when he finds it is appropriate the ombudsman shall make recommendations and proposals:

1. for the implementing or terminating the accomplishment of defined administrative activities;
2. for restoration of violated rights and liberties;
3. for removal the reasons and the conditions creating prerequisites for violations of the rights and liberties;
4. for removal the acts of bad administration and for improving the work of the administration.

Art. 32. (1) In 14 days term after receiving the statement and the proposals the body or the person to whom it has been sent shall be obliged to consider them and to notify the ombudsman about the undertaken measures.

(2) If no measures are undertaken the ombudsman can include the case in his annual report of in separate report before the National Assembly.

Art. 33. (1) If as result of implemented check the ombudsman establishes that defined law provision is reason or creates prerequisites for violation of the rights and liberties he can direct proposals and recommendations for legislative changes.

(2) The proposals and the recommendations for legislative changes shall be sent to the National Assembly and to the Council of Ministers.

(3) The proposals and the recommendations for legislative changes and the actions undertaken for them shall be entered in the register of the appeals and signals and shall be included in the annual report of the ombudsman.

Section VIII

Annual report. Reports on Separate Cases

Art. 34. (1) The ombudsman shall present annual report about his activity before the National Assembly.

(2) The report shall be submitted till March 31 of the following year and it shall contain information about:

1. the received appeals and signals for which the checks have finished;
2. the cases when his interference has had result;
3. the cases when his interference has remained without result and the reasons for this;
4. the made proposals and recommendations as well as whether they have been taken in mind;
5. the respecting of the rights and the basic liberties and the effectiveness of the acting legislation in this field;
6. proposals and recommendations for implementing changed in the legislation;
7. account of the expenses;
8. abstract;
9. other information which the ombudsman considers necessary for full and precise presentation of his activity.

(3) The report of para 1 shall be public. The full text of the report shall be at disposal in the reception centre of the ombudsman.

(4) Abstract of the annual report shall be promulgated in State Gazette.

Art. 35. (1) Upon request by the National Assembly or on his own initiative the ombudsman shall prepare and present reports on separate cases.

(2) The reports of para 1 shall be public.

(3) Copies of the separate reports shall be sent to the bodies and the persons to which activity they refer.

Art. 36. The ombudsman shall publish bulletin in which he presents his activity, problems of respecting the rights and the liberties, the implementation of the legislation in this sphere, scientific investigations and publications, the activity of similar institutions in other countries etc.

Section IX

Budget

Art. 37. (1) The activity of the ombudsman and his administration shall be financed from the state budget and from other sources.

(2) The ombudsman shall be primary administrator with budget credits.

Art. 38. The basic monthly remunerations of the administrative of the ombudsman shall be determined by the ombudsman, according to the Internal rules for the salary and the disposable resources in the budget for the respective year.

Art. 39. The fulfillment, the accounting and the control of the activities, financed with

resources from the budget of the ombudsman shall be implemented according to the general rules of the Bulgarian legislation.

Concluding Provisions

Sole paragraph. The regulation has been approved with decision of the National Assembly pursuant to art. 3, para 2 of the Law of the Ombudsman (prom. SG 48/03).