

(Official Gazette No. 28601 dated 28/03/2013)

By Law on the Procedures and Principles regarding the Implementation of the Ombudsman Institution Law

CHAPTER ONE

Purpose, Scope, Basis and Definitions

Purpose and scope

ARTICLE 1 – (1) This By law shall cover procedures and principles for complaint applications by natural and legal persons to Ombudsman Institution established to examine, investigate and submit recommendations on all sorts of acts and actions, as well as attitudes and behaviors of the administration within the framework of an understanding of human rights-based justice and legality and conformity with principles of fairness, taking the principles of good administration into account with the purpose of creating an independent and efficient complaint mechanism in the functioning of public services.

Legal basis

ARTICLE 2 – (1) This By Law has been prepared on the basis of the Ombudsman Institution Law No. 6328 dated 14/06/2012

Definitions

ARTICLE 3 – (1) Within this By Law the following definitions shall apply:

- a) Chief Ombudsman: the Chief Ombudsman,
- b) Office of the Chief Ombudsman: the Office of the Chief Ombudsman of the Ombudsman Institution
- c) Ombudsman: the Ombudsman,
- d) Secretary General: the Secretary General of the Ombudsman Institution,
- e) Office of Secretary: the Office of the Secretary General of the Ombudsman Institution,
- f) Administration: the public administrations under the central government, social security institutions, local administrations, affiliated administrations of local administrations, local administrative unions, organizations with the circulating capital, the funds established under laws, public organizations with legal entity, public economic enterprises, majority-owned state enterprises and their affiliates and subsidiaries, professional organizations with public institution status, and private legal entities providing public services;
- g) Law: the Ombudsman Institution Law No: 6328 and dated 14/06/2012.
- h) Committee: the Joint Committee comprising of the members of the Committee on Petitions and the Committee on Human Rights Inquiry of the Grand National Assembly of Turkey,
- i) Institution: the Ombudsman Institution,

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- j) Complaint application: the complaints lodged to the Institution within the framework of procedures and principles stated in this Regulation,
- k) Complainant: the natural and legal persons who lodge a complaint to the Institution,
- l) Ombudsman Expert: the expert of the Ombudsman Institution.
- m) Ombudsman Assistant Expert: the assistant expert of the Ombudsman Institution.

CHAPTER TWO

Scope of Competence of the Institution and Principles of Good Administration.

Competence of the Ombudsman Institution

ARTICLE 4 – (1) The Ombudsman Institution shall examine, investigate and submit recommendations on the complaints concerning all sorts of acts, actions and attitudes and behaviors of the following:

- a) Public administration under central government and social security institutions, local administrations, affiliated administrations of local administrations, local administrative unions, organizations with the circulating capital, the funds established under laws, public organizations with legal entity, public economic enterprises, majority-owned state enterprises, and their affiliates and subsidiaries, professional organizations with public institution status, and private legal entities providing public services,
- b) Private legal entities which satisfy a permanent and common need of the public and offer public services under administrative regulation, supervision and monitoring,

(2) However the complaints on;

- a) the acts of the President on his/her own competence and the decisions and orders signed ex officio by the President,
- b) the acts regarding the use of the legislative power,
- c) the acts regarding the use of judicial power,
- d) the activities of the Turkish Armed Forces, which are purely of military nature

shall fall outside of the competence of the Ombudsman Institution.

Complaint applications not to be examined by the Ombudsman Institution

ARTICLE 5 – (1) Complaints concerning the disputes which are being dealt with or have been resolved by judicial organs shall not be examined.

(2) Re-lodged complaints, whose reasons, content and parties are the same and are being examined, or which have previously been ruled on shall not be examined.

(3) Complaints who fail to contain a specific subject matter shall not be examined

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Principles of good administration

ARTICLE 6 – (1) While conducting examinations and investigations, the Ombudsman Institution shall comply with the principles of good administration and monitor whether the acts and actions of the administration are fulfilled with an understanding of human rights based justice and in conformity with the principles of good administration such as compliance with laws, prevention of discrimination, proportionality, abuse of power, equality, impartiality, honesty, courtesy, transparency, accountability, compliance with the fair expectation, protection of vested rights, right to be heard, right of defense, right to be informed, taking decision in a reasonable period, taking justified decisions, indicating remedies against decisions, notifying the decision without delay and protection of personal data.

CHAPTER THREE

Lodging a Complaint to the Ombudsman Institution

Right to complain

ARTICLE 7 – (1) Natural and legal entities whose interests are being infringed may lodge a complaint to the Ombudsman Institution against all kinds of acts, actions, attitudes and behaviors of the administration within the framework of the procedures and principles that one set out and this by Law. However, the infringement of interest shall not be sought in the event that the complaint is about human rights, fundamental rights and freedoms, women rights, children rights and general issues concerning the public.

Procedure and places for lodging a complaint

ARTICLE 8 – (1) The complaint shall be lodged with a petition written in Turkish. However, a petition in a different language in which the complainant can express himself/herself better, may be accepted provided that it is deemed to be fair and reasonable by the Ombudsman Institution.

(2) Complaint petitions may be delivered by hand to the Ombudsman Institution or the offices established by the Ombudsman Institution in places deemed necessary as well as via mail, electronic mail or fax. Complaints may also be lodged through the electronic system developed by the Ombudsman Institution. In addition, the complaints may be lodged by hand or via mail through governorates in provinces and district governorates in districts. Governorates and district governorates shall send the complaints and their annexes if available in three working days at the latest, to the Ombudsman Institution after having recorded a date and a number.

(3) Unless the originals of the petitions belonging to complaints lodged via fax or electronic mail are delivered to the Ombudsman Institution within fifteen days, the complaint shall not be admissible. This condition shall not apply to the complaints lodged through registered electronic mail.

Lodging a complaint

ARTICLE 9 – (1) Complaints shall be lodged by filling out the Complaint Form for Natural Entities (Annex 1) or Complaint Form for Legal Entities (Annex 2) which are included in the annex to this by Law and published in the official Entities website of the Ombudsman Institution. Provided that the required information and documents specified in this by law are included, a complaint may also be lodged without using the forms. In the event that a justified reason exists, complaints lodged orally
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shall also be accepted by helping the complainant in filling out the form in the place where she/he delivers her/his complaint.

(2) Complaint applications shall be written or filled out in a legible and comprehensible manner.

(3) If available, information and documents concerning the subject of the complaint shall be attached to the complaint.

(4) No price shall be charged due to any reasons for lodging a complaint.

(5) Following aspects shall be included in the complaint:

a) If the complainant is a natural entity;

1) Name, surname and signature,

2) Citizenship ID number for the citizens of the Republic of Turkey and passport number, nationality and if available identity number for foreigners,

3) Residential or work address subject to the notification,

4) Administration against which the complaint is lodged, subject matter of the complaint and request,

5) Date of the application to the administration and date of the response of the administration,

6) If available, e-mail address, telephone and fax number subject to the notification.

b) If the complainant is a legal entity;

1) Title,

2) Residential address, telephone number and if available, electronic notification address subject to the notification,

3) Name, surname, title, signature and if available, e-mail address, telephone and fax number of the authorized person subject to the notification,

4) Administration against which the complaint is lodged, subject matter of the complaint and request,

5) Date of the application to the administration and date of response of the administration,

6) Original or certified copy of the authorization certificate of the authorized person,

7) Central legal entity number, if available.

Lodging a complaint in electronic media

ARTICLE 10 – (1) Complaints may be lodged on electronic media via official website of the Ombudsman Institution. Conditions specified in Article 9 shall be present for the complaints lodged on electronic media. Signature obligation shall not be sought in these complaints, but the Ombudsman Institution may decide on requiring safe electronic signature for lodging a complaint in electronic media.

(2) Documents regarding the complaint shall be attached to the electronic complaint.

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Lodging a complaint through a legal representative or an assignee

ARTICLE 11 – (1) The complaint may be lodged by a legal representative or an assignee. In complaints lodged by a legal representative or an assignee, a valid authorization certificate or an evidence document proving the representation or power of attorney shall be submitted.

(2) In the event that the complaint is lodged by a legal representative or an assignee, the following information of the legal representative or the assignee shall be provided with the complaint:

- a) Name, surname and signature,
- b) Citizenship ID number for the citizens of the Republic of Turkey,
- c) Passport number, nationality and if available, identity number for foreigners,
- d) Residential or work address subject to the notification,
- e) E-mail address, telephone and fax number subject to notification, if available.

(3) Notifications shall be made to the legal representative or the assignee if the complaints are lodged by them.

Exhaustion of administrative remedies

ARTICLE 12 – (1) In order to be able to lodge a complaint to the Ombudsman Institution, the following provisions stated in the Procedure of Administrative Justice Act No: 2577 dated 06/01/1982 shall be fulfilled:

- a) Pursuant to Article 10 of the aforementioned Law, filing an application to the administrative authorities for an act or action which may be a subject of an administrative suit,
- b) Pursuant to the Article 11 of the aforementioned Law, asking a higher authority, or the authority which took the action, or if a higher authority does not exist the annulment, abrogation, withdrawal, amendment of the administrative action, or asking a new administrative action within the term of filing an administrative litigation,
- c) Pursuant to the Article 12 of the aforementioned Law, asking a higher authority, or from the authority which took the action if a higher authority does not exist, for the compensation of the damages arising from the administrative action, within the term of filing an administrative litigation
- d) Pursuant to the Article 13 of the aforementioned Law, applying to the relevant authority for the fulfillment of a right within one year if the administrative action is notified in written form or in other ways and within five years following the date of the action in any case.

(2) In the event that the remedies provided for in subparagraph (a) of the first paragraph are exhausted, additional administrative remedies are not necessary as per subparagraphs (b) and (c) of this Article.

(3) In order to be able to lodge a complaint to the Ombudsman Institution, obligatory administrative remedies stated in special laws are required to be exhausted.

(4) In cases where damages which are difficult or impossible to compensate arise, the Ombudsman Institution may accept complaints lodged even if the administrative remedies are not exhausted.

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(5) Administrative remedies are not required to be exhausted for the complaints lodged against attitudes and behaviors of the administration.

(6) A complaint may directly be lodged to the Ombudsman Institution against actions of the administration which are clearly indicated in the law.

Complaint application period

ARTICLE 13 - (1) Pursuant to the Article 12 of the aforementioned Law, complaints may be lodged to the Ombudsman Institution against an application to the administration within six months;

a) as of the date of notification of the reply by the administration,

b) as of the end of the term, if the administration does not give any response in sixty days.

(2) Complaints may be lodged to the Ombudsman Institution against attitudes and behaviors of the administration and against the actions which are clearly stated in the Law within six months as of the performance or notification date of attitude and behavior or as of the notification date of the action.

Registration and date of the complaint

ARTICLE 14 – (1) Complaint lodged or delivered to the Ombudsman Institution shall be registered by assigning a date and a number and a certificate of receipt shall be given in return.

(2) Date of the complaint refers to the date;

a) when the complaint is lodged to the Ombudsman Institution, its offices, governorate or district governorates,

b) when the mail, e-mail or fax is delivered to the Ombudsman Institution,

c) when the complaint lodged via electronic media is delivered to the electronic system of the Ombudsman Institution.

Complaints of the disabled

ARTICLE 15 – (1) The Ombudsman Institution shall take necessary measures to enable the disabled to lodge complaints.

Confidentiality of the complaint

ARTICLE 16 – (1) Complaint shall be kept confidential at the request of the complainant. All kinds of measures for keeping the complaint confidential shall be taken by the Ombudsman Institution.

Suspension of the term of litigation

ARTICLE 17 – (1) Complaint lodged during the term of litigation shall suspend the ongoing term of litigation.

CHAPTER FOUR

Preliminary Examination

Office for complaints and distribution office

ARTICLE 18- (1) Office for complaints comprises an adequate number of staff member to be assigned by the Chief Ombudsman.

(2) Duties of the Office for Complaints shall be as follows:

- a) To register, assign numbers and file the complaints lodged to the Ombudsman Institution.
- b) To send the complaint to the Distribution Office.
- c) To perform other duties assigned to them by the Chief Ombudsman.

(3) Distribution Office shall comprise an adequate number of ombudsman experts or ombudsman assistant experts and other staff members to be appointed by the Chief Ombudsman.

(4) Duties of the Distribution Office shall be as follows:

- a) To send the complaint to the relevant Ombudsman on the basis of division of labor.
- b) To perform other duties assigned to them by the Chief Ombudsman.

(5) Ombudsman experts or ombudsman assistant experts who are to be assigned in the Distribution Office by turns, shall perform the duty of sending the complaint to the relevant Ombudsman on the basis of division of labor.

(6) The doubt pertaining to which Ombudsman's competency area the complaint falls into, is ruled out by the Chief Ombudsman himself or the Ombudsman assigned by him.

Performing the preliminary examination

ARTICLE 19 – (1) Complaints shall be subjected to a preliminary examination prior to the examination and investigation phase. In the preliminary examination, the complaint shall be examined in terms of whether

- a) it falls within the scope of duty of the Ombudsman Institution,
- b) it is lodged within proper term,
- c) its reasons, content and parties are the same with the ones of another complaint which is being examined and investigated,
- d) its reasons, content and parties are the same with the ones formerly finalized by the Ombudsman Institution,
- e) it is about the disputes being handled or decided on by the judicial organs,
- f) the administrative remedies are exhausted or not,
- g) it is lodged within the framework of the first paragraph of Article 8,
- h) it includes a specific subject matter,

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- i) it contains the information required for lodging a complaint pursuant to the Law,
- j) it contains an infringement of interest.

Actions and decisions to be taken upon preliminary examination

ARTICLE 20 – (1) In the event that the complaint does not fulfill the conditions stated in Article 19 apart from paragraph (e), decision of inadmissibility shall be taken. This decision shall be notified to the complainant and the suspended term of litigation shall continue from the suspension date.

(2) The complaints lodged without exhausting the administrative remedies shall be decided to be sent to the relevant administration. This decision shall also be notified to the complainant. The date when the complaints are lodged to the Ombudsman Institution shall be considered as the complaint date lodged to the administration. Upon delivery of the complaint to the relevant administration by the Ombudsman Institution, a new complaint may be lodged to the Ombudsman Institution within six months following;

- a) the notification of the response given by the administration to the complainant,
- b) the end of the term, if the administration does not give any response in sixty days.

(3) In the event that the administration against which the complaint is lodged is incorrect, the Ombudsman Institution shall determine the right administration and move on to the investigation phase.

(4) In line with the inadmissibility decision, another complaint may be lodged to the Ombudsman Institution within its term, provided that the inadequacies are eliminated,

(5) If the complaint meets the conditions set out in Article 19, then the examination and investigation phase shall begin.

(6) If it is later understood that the preliminary examination condition is not met, inadmissibility decision or decision to send the complaint to the relevant administration shall also be taken.

Aspects to be included in the inadmissibility decision and decision to send the complaint to the relevant administration

ARTICLE 21 – (1) Following aspects shall be included in the inadmissibility decision and decision to send the complaint to the relevant administration:

- a) Complaint number and decision number and their respective dates.
- b) Name, surname and address of the complainant and if available of the representative,
- c) Administration against which the complaint is lodged.
- d) Subject matter of the complaint.
- e) Justification.
- f) Decision.
- d) Administrative remedies concerning the subject matter of the complaint, the term thereof and the authority to apply to.
- e) Signature and seal.

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CHAPTER FIVE

Examination and Investigation

Procedure of examination and investigation

ARTICLE 22 – (1) All sorts of acts and, actions and attitudes and behaviors of the Administration shall be examined and investigated within the framework of an understanding of human rights based justice in terms of legality and fairness and principles of good administration.

(2) The complaint shall be examined and investigated by the Chief Ombudsman, Ombudsman or the ombudsman experts or ombudsman assistant experts to be assigned.

(3) Complaints with similar grounds regarding same reason and subject matter may be combined and examined accordingly.

(4) In the event that subject matter of the complaint is about human rights, fundamental rights and freedoms and women and children rights, then the examination and investigation may be conducted on the spot. For the complaints concerning the general issues of public, examination and investigation may be conducted on the spot at the request of the complainant or the administration against whom the complaint is lodged. Relevant administrations and authorities shall provide all necessary conveniences to ensure for the aforesaid situation.

Requesting information and document from the administration

ARTICLE 23 – (1) Chief Ombudsman or ombudsmen may request information and documents concerning the subject matter under examination and investigation from the relevant administration. Administration shall immediately send the requested information and documents to the e-mail address of the Ombudsman Institution via e-mail and they shall deliver original copies of the sent information and documents within thirty days following the date request has been notified. Relevant authority shall launch an investigation upon the Chief Ombudsman's or ombudsman's demand, on the ones who do not submit or submit incompletely the information and documents requested within this term without a reasonable ground. Relevant authority shall inform the Ombudsman Institution about the act of opening an investigation and the result of the investigation.

(2) Information and documents with state secret or trade secret value may not be submitted, provided that its reasons is clearly explained by the highest authority or board. However, information and documents with state secret value may be examined on the spot by the Chief Ombudsman or the ombudsman assigned by the Chief Ombudsman. The examined information and documents with state secret value shall not be disclosed and they shall not be included in the decision.

Assigning an expert witness

ARTICLE 24 – (1) Chief Ombudsman or Ombudsmen may assign an expert witness for subject matter under examination and investigation in case they require special or technical expertise. Referees may also be chosen among people who are included in the lists determined by justice commissions of court of first instance of civil matters and also among faculty members or members of professional chambers.

(2) People to be assigned as an expert witness are required to:

a) Have at least five years of experience in their profession,

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b) Be in a condition of not having been convicted of offences against the State such as, embezzlement, extorting, bribery, theft, fraud, forgery, break of trust, fraudulent bankruptcy or other offence such as, smuggling, corrupt in official lending and in purchase and sales, giving misleading expertise and perjure, even if the sentence is pardoned or reprieved,

c) Be in a condition of not having been dismissed from the profession due to disciplinary reasons or civil service or suspended from practice.

(3) Expert witness shall not perform their duty for the complaints lodged against the administration where they work or with which they have a working relationship and complaint lodged by themselves, their spouses and their relatives by consanguinity or by marriage up to-and including-the third degree.

(4) If the expert witness did not take an oath before a board with regard to her/his duty before, then s/he shall swear, expressing the words "I swear on my honour and on my conscience that I will perform my duty impartially by abiding justice, in compliance with science and reason"

(5) The expert witness shall submit her/his report to the Ombudsman Institution within a period determined by the Chief Ombudsman or an Ombudsman. This period shall not be more than two months as of the date the duty is assigned. This period may be extended to one extra month, in the event that the content is comprehensive and complicated.

(6) The expert witness is liable to keep the secret information s/he has learned during the performance of her/his duty confidential and to abstain from using them for the sake of herself/himself or the other parties.

(7) Experts witness shall be paid in accordance with Article 19 paragraph (2) of the Law.

Hearing the witnesses or relevant persons

ARTICLE 25 – (1) Chief Ombudsman or Ombudsmen shall decide on hearing witnesses or relevant persons in connection with the subject matter under examination and investigation. Witnesses or relevant persons may be heard by the Chief Ombudsman, Ombudsmen or ombudsman experts

(2) Witnesses or relevant persons may be heard by using visual and voice communication tools.

(3) Witnesses or relevant persons shall be heard in a location, place and procedure to be determined by the Chief Ombudsman or an Ombudsman according to the nature of the complaint.

(4) The witness shall take the oath expressing the words "I swear on my honour and on my conscience that I will say the truth."

(5) Statement of the witness or relevant persons shall be written to a minute and the minute shall be signed by the declarant and the official who received the statement.

(6) Witnesses or relevant persons shall be paid according to the provisions of Public Allowance and Expenditures Law and no. 6245, dated 10/02/1954

Withdrawing a complaint

ARTICLE 26 – (1) Complainant may withdraw her/his complaint until the decision is made. In this case, the Ombudsman Institution shall terminate the examination and investigation.

Compliance with the complaint request by the administration

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ARTICLE 27 – (1) The Ombudsman Institution shall terminate its examination and investigation in the event that the complaint request is fulfilled by the relevant administration before a decision is made.

Demise of the complainant or termination of legal entity

ARTICLE 28 – (1) The examination and investigation shall be terminated, in case of the demise of the complainant if s/he is a natural entity or termination of legal entity if s/he is a legal entity. However, the examination and investigation may continue, in the event that the subject matter of the complaint concerns the successors.

Filing a lawsuit about the complaint which is being examined

ARTICLE 29 – (1) If a lawsuit is filed against the subject matter of complaint, while the examination and investigation is carried out, the Ombudsman Institution may suspend the examination and investigation until the lawsuit is concluded or may terminate the examination and investigation according to the nature of the complaint. The Ombudsman Institution shall decide on the examination and investigation according to the judgement concerning the suspended complaint.

Cases where the examination and investigation cannot be terminated

ARTICLE 30 – (1) The examination and investigation may continue, when the subject matters of the complaint is about human rights, fundamental rights and freedoms, women rights, children rights and general matters concerning the public, in cases where the complaint is withdrawn, the complaint is fulfilled by the administration and on the demise of the complainant or termination of legal entity.

CHAPTER SIX

Decisions to be made as a Result of Examination and Investigation

Types of Decisions

ARTICLE 31 – (1) The Ombudsman Institution shall issue recommendations, decisions of refusal or decisions as to no ground exists for taking decision as a result of examination and investigation concerning the complaint.

Recommendation

ARTICLE 32 – (1) When the complaint is found appropriate as a result of examination and investigation, a recommendation shall be issued. In such decision, one or more of the following recommendations regarding the administration shall be included:

- a) Admitting the misconduct.
- b) Compensating the damage.
- c) Taking acts or action.
- d) Making legislative amendment
- e) Withdrawing, aborting, changing or correcting the action.
- f) Correcting the implementation.

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g) Reconciliation.

h) Taking measures.

(2) The Ombudsman Institution may issue another recommendation apart from the recommendations stated in the first paragraph.

(3) Relevant authority shall inform the Ombudsman Institution within thirty days of the actions established and the measures taken in line with the recommendation or about its justification when it does not consider the recommended solution feasible.

Decision of refusal

ARTICLE 33 – (1) When the complaint is found inappropriate as a result of examination and investigation, a decision of refusal shall be issued.

Decision as to no ground exists for taking decisions

ARTICLE 34 – (1) The Ombudsman Institution shall decide that there is no ground to take a decision when it terminates its examination and investigation, in the following cases:

a) When the complainant withdraws her/his complaint,

b) In case of demise when the complainant is a natural entity or termination of the legal entity if it is a legal entity,

c) Compliance with the complaint request by relevant administration,

d) When a lawsuit is filed against the subject matter of the complaint while examination and investigation is carried out

Aspects to be included in decisions

ARTICLE 35 – (1) Following aspects shall be included in the decisions made as a result of the examination and investigation:

a) Complaint number and decision number and their respective dates.

b) Name, surname and address of the complainant and if available of the representative.

c) Administration against which the complaint is lodged and its address.

d) Subject matter of the complaint, legal reasons and summary of the request.

e) Summary of the information and documents in the file

f) Justification.

g) Decision made and conclusion.

h) Remedies concerning the subject matter of the complaint, the term and the authority to apply to.

i) Signature and seal.

Decision making period

ARTICLE 36 – (1) The Ombudsman Institution shall finalize its examination and investigation within six months at the latest following the date of application. In the event that the examination and

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investigation is not finalized within this period, the complainant shall be notified of the justification for non-finalization and that the term of litigation has resumed and the Ombudsman Institution shall go further with examination and investigation; however, provisions of the Article 29 shall be reserved.

Notification of decision

ARTICLE 37 – (1) The Ombudsman Institution shall notify the relevant authority and complainant of its decisions.

(2) Recommendation issued about private legal entities offering public services may also be submitted to the ministry or public institution or organization responsible for supervision and monitoring.

Resuming of the term of litigation

ARTICLE 38 – (1) When the complaint is rejected by the Ombudsman Institution, suspended term of litigation shall resume, as of the notification of the justified decision of refusal to the relevant persons.

(2) In the event that the Ombudsman Institution deems the complaint appropriate and accepts it, when the relevant authority do not take any action within thirty days upon recommendation of the Ombudsman Institution, then the suspended term of litigation shall resume.

(3) When the Ombudsman Institution decides that there is no ground to take a decision, then the suspended term of litigation shall resume as of the notification of the decision to the relevant persons.

(4) In the event that the Ombudsman Institution cannot finalize its examination and investigation within six months at the latest following the date of the complaint, then the case is notified with its justification to the complainant. Suspended term of litigation shall resume following the notification.

Re-examination and re-investigation

ARTICLE 39 – (1) The office of the Chief Ombudsman may conduct re-examination and re-investigation about the complaint after its decision has been made, if any information or document, which may affect the conclusion, arises

CHAPTER SEVEN

Duties and Powers, Division of Labor and Working Principles

of the Chief Ombudsman and Ombudsmen

Duties and powers of the Chief Ombudsman

ARTICLE 40 – (1) Duties and powers of the Chief Ombudsman are as follows:

- a) To govern and represent the Ombudsman Institution.
- b) To examine and investigate complaints lodged to the Ombudsman Institution and submit recommendations to the Administration

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- c) To ensure cooperation and monitor coordination amongst the Ombudsmen
- d) To eliminate concerns about the scope of duty of Ombudsmen.
- e) To arrange and change when needed the division of labor amongst the Ombudmen, assigning one of them for women and children rights issues.
- f) Finalize the complaint in person, when s/he deems it necessary.
- g) To enact by laws pertaining to the implementation of the Law and make amendments to them when necessary.
- h) To prepare the annual report and to submit it to the Committee.
- i) To prepare special report on issues that s/he deems necessary, without waiting the publication of annual report.
- j) To release the reports to the public.
- k) To make explanations regarding the actions of the Ombudsman Institution.
- l) To determine the Ombudsman who will substitute her/him in her/his absence.
- m) To appoint the Secretary General and other staff members.
- n) Give permission for criminal investigations and prosecution against Secretary General, ombudsman experts and ombudsman assistant experts in connection with the claims related to the performance of their duties .
- o) To assign expert witness and to hear witnesses or relevant persons.
- p) To request temporary staff from public institutions and organisations to be assigned about needed works and matters.
- q) To request information and documents from the administration with regard to the subject matter under examination and investigation.
- r) To examine information and documents with state secret value on the spot related to the subject matter under examination and investigation or to have the assigned Ombudsman, examine it.
- s) To conduct examinations and investigations on the spot within the scope of Article 22.
- t) To request opening an investigation from the relevant authority against the ones who do not submit the requested information and documents.
- u) To decide on the establishment of a new office in places, where deemed necessary.
- v) To carry out studies concerning the international cooperation about the Ombudsman Institution's scope of duty.
- w) To fulfill other statutory duties.

Duties and Powers of Ombudsmen

ARTICLE 41 – (1) Duties and powers of Ombudsmen shall be as follows:

- a) To examine and investigate the complaints, which fall within the subject and area they are assigned to, and to make recommendation to the Chief Ombudsman.

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- b) To request information and documents from the administration with regard to the subject matter under examination and investigation.
- c) To request opening an investigation from the relevant authority against the ones who do not submit the requested information and documents.
- d) To prepare special reports about the topics s/he deems necessary and to submit them to the Chief Ombudsman.
- e) To make explanations about actions of the Ombudsman Institution, when s/he is assigned by the Chief Ombudsman.
- f) To assign expert witness and to hear witnesses or relevant persons.
- g) To examine information and documents having a state secret value on the spot when s/he assigned by the Chief Ombudsman.
- h) To conduct examinations and investigations on the spot within the scope of Article 22.
- i) To act for the Chief Ombudsman in her/his absence
- j) To assist Chief Ombudsman in performing her/his statutory duties.
- k) To perform other duties assigned to her/him by the Chief Ombudsman.

Formation and Duties of the Office of the Secretary General

ARTICLE 42 – (1) The Office of the Secretary General shall perform administrative and financial services and secretariat services of the Ombudsman Institution. The office of the Secretary General shall consist of the Secretary General and other administrative staff members .

(2) Duties of the Office of the Secretary General are as follows:

- a) To conduct clerical services of the Ombudsman Institution.
- b) To conduct the registration of the complaints.
- c) To conduct studies concerning man power planning and staff policy of the Ombudsman Institution and to make recommendations to the Chief Ombudsman for developing the staff system.
- d) To perform the management of staff working in the Office of the Secretary General.
- e) To carry out the activities related to both personal rights, health and social services of the staff members who are serving at the Ombudsman Institution.
- f) To perform assignment, transfer and promotion of the staff working in the Ombudsman Institution.
- g) To prepare, implement and evaluate the training plan of the Ombudsman Institution.
- h) To assign the staff who participate to in-service trainings, courses etc. and to perform transactions regarding the payment of their financial rights.
- i) To conduct the procedures concerning the leaves and retirement of staff members
- j) To carry out the archive services of the Ombudsman Institution.
- k) To regulate and execute circulation of general documents.

Important Notice: In case of divergent interpretation, the original Turkish text shall prevail.

- l) To automate decisions and reports and to archive them.
- m) To perform the duties assigned to the financial services units and strategy development units under the Law No. 5018 dated 10/12/2003 on Public Financial Management and Control and under the Article 15 of the Law on Amendments to the Law No. 5436 dated 22/12/2005 on Public Financial Management and Control and to Law on Amendments to Certain Law and to Decree Laws.
- n) To execute transactions related to estates and assets of the Ombudsman Institution within the scope of related legislation.
- o) To inform the Chief Ombudsman about budgetary expenditures.
- p) To ensure the usage of information systems regarding to the issues related to the duties of the Ombudsman Institution and to monitor improvements related to information systems and their automation.
- q) To perform studies in order to prepare the Ombudsman Institution's information architecture and to establish, update and archive databases.
- r) To plan and execute civil defense and mobilization services of the Ombudsman Institution.
- s) To carry out press and public relations and publicity activities.
- t) To arrange protocol activities.
- u) To carry out administrative, financial and technical works of the Ombudsman Institution.
- v) To perform statutory duties or the duties assigned by the Chief Ombudsman.

Duties of ombudsman experts and ombudsman assistant experts

ARTICLE 43 – (1) Ombudsman experts and ombudsman assistant experts shall fulfill the duties assigned to them by the Chief Ombudsman or Ombudsmen.

(2) Ombudsman experts and ombudsman assistant experts shall fulfill the duties set out in the By law on the Ombudsman Experts in order to carry out the fundamental services of the Ombudsman Institution.

Topics or fields subject to division of labor

ARTICLE 44 – (1) Division of labor between the Ombudsmen shall be determined within the scope of the following topics or fields:

- a) Human rights
 - b) Women and children rights
 - c) Disability rights
 - d) Protection of family
 - e) Social services
 - f) Training-education, youth and sports.
 - g) Science, arts, culture and tourism.
 - h) Justice, National defence and security
- Important Notice: In case of divergent interpretation, the original Turkish text shall prevail.

- i) Health
- j) Civil registration and citizenship, refugee and asylum-seeker rights
- k) Public staff policy
- l) Right of property
- m) Economy, finance and taxation
- n) Energy, industry, customs and trade
- o) Labor and social security
- p) Forestry, water, environment and urbanization
- q) Transportation, press and communication
- r) Food, agriculture and livestock
- s) Services carried out by local administrations
- t) Other subjects and areas

(2) Subjects or areas for which Ombudsmen are responsible for, shall be determined by the Chief Ombudsman with a directive.

(3) Chief Ombudsman shall ensure cooperation and monitor coordination amongst Ombudsmen.

Principles of division of labor

ARTICLE 45 – (1) Following principles shall be taken into account with regard to division of labor:

- a) Taking into account the field of experience and expertise of the Ombudsmen
- b) Considering the number of complaints and periodic complaint consistency.
- c) Appointing the same ombudsman for similar topics.

Working principles of the Chief Ombudsman and Ombudsmen

ARTICLE 46 – (1) Ombudsmen shall work alone on a topic or field which is assigned to them by the Chief Ombudsman and submit their decision to her/him. Chief Ombudsman shall notify the complainant and the relevant authority of the decision in case he is convinced that no other aspect is left for inspection and examination or after the finalization of the complaint if s/he considers necessary.

(2) When the subject matter of the complaint falls within the area of duty of more than one ombudsmen, then either the chief Ombudsman may allow more than one ombudsmen to examine and investigate the complaint or the complaint may be assigned to one ombudsman. In the event that the complaint is being examined and investigated by more than one ombudsman, each ombudsman shall work alone and then submit their respective decisions to the Chief Ombudsman.

(3) Ombudsmen may conduct examination and investigation about the complaint with working groups affiliated to them. Sufficient number of ombudsman experts, ombudsman assistant experts and experts responsible for coordination may be assigned in a working group.

(4) Chief Ombudsman, Ombudsmen and Secretary General shall not discriminate people based on linguistic, racial, gender, political, philosophical, religious or sectarian differences, while performing their duties.

(5) Chief Ombudsman, Ombudsmen and Secretary General shall not disclose the professional or trade secrets that they learn during the performance of their duties, even after their leave from their office and they shall not use such secrets for their own benefits or benefits of others.

(6) The Chief Ombudsman, Ombudsmen and Secretary General shall not assume official or private duties or deal in trade during their office at the Ombudsman Institution. The provisions of this Article shall not apply in case of making academic publications, attending national or international congresses, conferences or in-kind meetings to which they are invited in connection with their offices or professions, or being members of associations or partners at non-profit cooperatives.

Independency and impartiality

ARTICLE 47 – (1) No organ, authority, institution or person can issue orders, instructions or circulars, make suggestions or give advices to the Chief Ombudsmen or Ombudsmen in the exercise of their duties.

(2) The Chief Ombudsman and Ombudsmen must act in compliance with the principle of impartiality during the exercise of their duties.

(3) Chief Ombudsman, Ombudsmen and Secretary General shall not examine complaints lodged by themselves, their spouses or their relatives by consanguinity or by marriage up to (and including) third degree.

(4) Chief Ombudsman, Ombudsmen and Secretary General shall not be a member of political parties; act to the advantage or disadvantage of any political party, person or group.

Reports

ARTICLE 48 – (1) The Ombudsman Institution shall prepare a report about its activities and recommendations at the end of each calendar year. This report shall be submitted to the Committee until the last day of January of the following year. The Committee shall discuss this report within two months excluding holidays and intermission period and summarize it and prepare another report by including its own views and convictions and send it to the Office of the Speaker for submittal to the General Assembly. The Committee's report shall be discussed by the General Assembly urgently.

(2) The Annual Report of the Ombudsman Institution shall be made public upon the publication in the Official Gazette.

(3) Special reports may be prepared in matters considered necessary without waiting for the annual report.

(4) The Ombudsman Institution may make public statements as it deems necessary without waiting for the Annual Report.

Authority to make statements

ARTICLE 49 – (1) The Chief Ombudsman or the Ombudsman assigned by the Chief Ombudsman shall be authorized to make statements about the activities of the Institution.

CHAPTER EIGHT

Miscellaneous and Final Provisions

International cooperation

ARTICLE 50 – (1) The Ombudsman Institution may be a member of international organizations related to its scope of duty. The Ombudsman Institution shall participate in studies as regards to cooperation with these organizations, shall ensure coordination and when necessary conduct joint projects with international organizations and their representatives.

Information and Promotion

ARTICLE 51 – (1) Staff in charge in the Office for Complaints shall be liable for informing natural and legal entities about the usage of their statutory rights. This may also be done via phone.

(2) The Ombudsman Institution may perform any promotional activities concerning procedures and principles of lodging a complaint. Promotions activities may be in different languages.

Publishing the decisions and reports of the Ombudsman Institution

ARTICLE 52 – (1) Decisions and reports of the Ombudsman Institution may be published in the official website or in other face, as long as there are no legal obstacles and personal data are protected.

Terms

ARTICLE 53 – (1) Relevant terms with regard to the implementation of this By Law shall start following the date of notification.

(2) Holidays are included in these terms. If the last day of term coincides with a holiday, the term shall be extended to the end of the working day following the last day of holiday.

Notification

ARTICLE 54 – (1) Notifications to be made pursuant to the provisions of this By Law shall be in compliance with Notifications Law no. 7201 dated 19/01/2013 as well as By Law on Electronic Notification which was published on Official Gazette No. 28533.

Lodging a complaint against acts, actions, attitudes and behaviors prior to the enforcement of the By Law

PROVISIONAL ARTICLE 1 – (1) Complaints may be lodged against all kinds of acts, actions, attitudes and behaviors about which all administrative remedies are exhausted within last six months prior to 29/3/2013, when complaints have been started to be accepted by the Ombudsman Institution, provided that relevant conditions are fulfilled. For the complaints lodged against local administrations, it affiliates and associations, administrative remedies should be exhausted within last six months prior to 29/3/2014.

Enforcement

ARTICLE 55 – (1) This By Law shall enter into force on the following dates:

a) As of 29/03/2014 with regard to the complaints to be lodged against acts, actions, attitudes and behaviors of local administrations and its affiliates and associations,

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Unofficial translation prepared by the Ombudsman Institution

b) As of 29/03/2013 with regard to the complaints to be lodged against acts, actions, attitudes and behaviors of other administrations,

c) As of the publication of all provisions except the ones related to lodging complaints.

Execution

ARTICLE 56 – (1) The Chief Ombudsman shall execute the provisions of this By Law .

Important Notice: In case of divergent interpretation, the original Turkish text shall prevail.

ANNEX-1

OMBUDSMAN INSTITUTION COMPLAINT FORM FOR NATURAL ENTITIES

Complainant's	
Citizenship ID No	
Name - Surname	
Passport No.-Identity No.- Nationality (For foreigners)	
Address	
Telephone No.	
Fax No.	
E-mail:	
Her/his legal representative's or attorney's:	
Citizenship ID No.	
Name - Surname	
Passport No.- Identity No.- Nationality (For foreigners)	
Address	
Telephone No.	
Fax No.	
E-mail:	
1. Administration against which the complaint is lodged	
2. Date of complaint, date of the administration's response and if available relevant information and documents	
3. Whether there is a law suit already finalized or still going on concerning the subject matter of the complaint	
4. Subject matter of the complaint	
5. Request	
Date – Signature	

***All kind of documents related to the subject matter of the complaint shall be annexed to the application form**

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ANNEX-2

OMBUDSMAN INSTITUTION COMPLAINT FORM FOR LEGAL ENTITIES

Complainant's	
Title	
Address	
Telephone No.	
Fax No.	
E-mail:	
If available, electronic notification address	
Central legal entity number	
Legal representative's or attorney's:	
Citizenship ID No.	
Name - Surname	
Title	
Passport No.-Identity No.- Nationality (For foreigners)	
Address	
Telephone No.	
Fax No.	
E-mail:	
1. Administration against which the complaint is lodged	
2. Date of complaint, date of the administration's response and if available relevant information and documents	
3. Whether there is a law suit already finalized or still going on concerning the subject matter of the complaint	
4. Subject matter of the complaint	
5. Request	
Date – Signature	

***All kind of documents related to the subject matter of the complaint shall be annexed to the application form**

Important Notice: In case of divergent interpretation, the original Turkish text shall prevail.