

# Rules of Procedure

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### I. GENERAL PROVISIONS

#### **Article 1**

These Rules of Procedure shall regulate the organization and the system of work of the Human Rights Ombudsman (hereinafter: the Ombudsman; he, his), specify the division of fields and the proceeding of dealing with petitions.

#### **Article 2**

Slovenian shall be the official language of the Ombudsman.

Whoever does not master Slovenian, he/she may lodge a petition with the Ombudsman in his/her mother tongue.

#### **Article 3**

The seal of the Ombudsman shall be round, bearing the Republic of Slovenia's coat of arms in the center, encircled with the inscription "Republika Slovenija Varuh človekovih pravic" (which says: "The Republic of Slovenia, Human Rights Ombudsman").

#### **Article 4**

The questions concerning the organization of the Bureau and the system of work of the Ombudsman which are not regulated with the Human Rights Ombudsman Act or the current Rules of Procedure shall be regulated with other Ombudsman acts of general specific.

#### **Article 5**

The Ombudsman shall cooperate with related institutions and their associations in foreign countries and with the corresponding international organizations.

#### **Article 6**

The Ombudsman shall inform the public on his work through regular annual or special reports, through the presentation of his work at press conferences, press releases, by publishing his reports and proposals in mass media and in special publications.

In doing so, the Ombudsman shall observe the regulations on ensuring the secrecy of data and confidentiality of the proceedings in accordance with the Ombudsman Act.

**Article 7**

The Ombudsman shall inform the public directly or through his Expert Service.

**Article 8**

The proceedings before the Ombudsman shall be confidential.

The proceedings having been completed, the Ombudsman shall issue a final report to inform the petitioner and the body to which the petition refers about his finding of the facts.

The Ombudsman shall not be obliged to show the file to any of the parties concerned.

## II. THE ORGANIZATION AND THE SYSTEM OF WORK

**Article 9**

The service of the Ombudsman shall be organized in the Bureau of the Human Rights Ombudsman (Hereinafter: the Ombudsman Bureau).

The Ombudsman Bureau shall consist of:

1. The Expert Service of the Ombudsman;
2. The Secretary General's Office.

The Expert Service of the Ombudsman shall perform expert tasks for the Ombudsman and Deputy Ombudsmen within individual areas under the jurisdiction of the Ombudsman, shall classify petitions, ensure smooth flow in the handling of petitions, handle petitions and prepare opinions, proposals and recommendations, conduct investigative work, produce reports on its findings in connection with petitions and furnish petitioners with information relevant to their petitions. It shall perform administrative, technical, informational and other tasks which are required for carrying out tasks under the jurisdiction of the Ombudsman and Deputy Ombudsmen. The Expert Service of the Ombudsman shall be headed by the director of the Expert Service, who organizes and directs the work of the advisers, expert and administrative staff of the Expert Service according to the guidelines set by the Ombudsman and Deputy Ombudsmen.

The Secretary General's Office shall perform, independently or in cooperation with external associates, all tasks in the organizational, legal, administrative, material, financial and personnel spheres which are necessary for the functioning of the Ombudsman Bureau.

The Secretary General's Office shall be headed directly by the Secretary General of the Ombudsman.

**Article 10**

In the managing of work in the Bureau and handling labour relations, the Secretary General shall have the powers and duties of a Head of administration in accordance with the State Administration Act, except when such powers are explicitly entrusted to the Ombudsman by the Ombudsman Act or other general acts.

The Secretary General shall decide on the use of funds for the work of the Ombudsman Bureau.

The Secretary General shall be responsible for her/his work to the Ombudsman.

The director of the Expert Service or some other official appointed by the Ombudsman shall deputize for the Secretary General in her/his absence.

**Article 11**

The matters falling within the jurisdiction of the Ombudsman are divided into the following fields:  
constitutional rights;

- restrictions of personal freedom (habeas corpus);
- social security;
- employment;
- administrative matters;
- law court proceedings;
- environment and planning;
- public services;
- housing.

Each field shall fall within the competence of one of the Deputy Ombudsmen.

A more detailed division of individual fields shall be specified by the Ombudsman taking into account the following:

- subject related problems;
- organizations and types of procedures before the state bodies and other bodies, for which he is empowered; and
- the consistency of expert fields.

#### **Article 12**

In connection with his/her work, a Deputy Ombudsman shall have, in the field falling within his/her competence, all the powers that are granted to the Ombudsman by the Act.

The Ombudsman may grant general or special authorizations to the officials and employees of the Ombudsman Bureau for the investigation or other activities they must perform.

#### **Article 13**

The Ombudsman, the Deputy Ombudsmen, the officials and the authorised employees of the Ombudsman Bureau shall carry official identification cards with their photographs, identity data, and quotation of powers.

The form of identification card and the procedure for its issuing shall be specified by the Ombudsman.

The Secretary General to the Ombudsman shall be responsible for issuing identification cards and keeping records on the issued cards.

#### **Article 14**

The working time of the Ombudsman Bureau shall be determined by the Ombudsman so that it is coordinated with the working time of the state administration.

#### **Article 15**

The Ombudsman may also perform his work away from his seat.

#### **Article 16**

The Ombudsman and the Deputy Ombudsmen shall have talks with petitioners at the previously agreed times.

Has the time of a talk not been previously agreed upon, yet a petitioner wishes to have a talk, he/she shall have it with an expert employee or adviser who shall be appointed by the Secretary General.

#### **Article 17**

Petitions to start the proceedings before the Ombudsman and other complaints and letters shall be received by the Main Office.

### III. THE PROCEEDINGS

#### **Article 18**

The proceedings for establishing violations of human rights or fundamental freedoms shall be started upon a petition.

A petition to start the proceedings may be lodged by any person who believes that his/her human rights or fundamental freedoms have been violated by an act or an action of a state body, a body of local self-government or a body entrusted with public authority.

The Ombudsman may also start the proceedings on his own initiative.

He shall start the proceedings on his own initiative when an exceptionally important case occurs of the violation of human rights or fundamental freedoms, or some other maladministration has been done.

If the Ombudsman is to start the proceedings on his own initiative in an individual case, the consent by the aggrieved person shall be required to start the proceedings.

#### **Article 19**

A petition to start the proceedings shall be lodged in writing, as a rule.

On the claim by a petitioner, a petition may be lodged orally and put on records by an expert employee or adviser who shall be appointed by the Secretary General.

In urgent cases, the Ombudsman may receive a petition also by telephone.

Such a petition must be later lodged in writing by the petitioner. Be it not lodged within a month, the proceedings may be terminated.

#### **Article 20**

A petition to start the proceedings must be signed by the petitioner and contain his/her personal data. It must contain the following facts and items of evidence:

a state body, or a body of local self-government, or a body entrusted with public authority (hereinafter: body) to which the petition refers;

the description of human rights or fundamental freedoms which have been violated, or the maladministration done by the body;

the facts and items of evidence on which the petition is founded;

the description of legal remedies which have already been applied in the case.

Should a petition be lodged by someone else on behalf of the aggrieved person, the consent and authorization by the latter must be attached to the petition.

#### **Article 21**

The Secretary General of the Ombudsman or the director of the Expert Service shall respond to applications and other correspondence which are not in the nature of petitions to begin proceedings.

#### **Article 22**

Should a petition be incomplete or nonunderstandable, the petitioner shall be given reasonable time to complete or correct the petition.

**Article 23**

Should expertise be required for the establishing, clarification or judgement of a certain fact which is important for solving the case, and this expertise cannot be obtained from the Ombudsman Bureau, an expert may be engaged in the proceedings.

The engagement of an expert shall be decided upon by the Ombudsman.

**Article 24**

As regards elimination, records, summons, services, specifying deadlines, and finding of the facts, the provisions of the General Administration Procedure Act shall be reasonably applied, observing the non-formal character of the proceedings before the Ombudsman.

**Article 25**

Before deciding on the way of processing a petition, the Ombudsman may perform the necessary preliminary inquiries. For this purpose he shall obtain by the specified deadline from the respective bodies the explanations, all the necessary items of information and other data.

**Article 26**

When possible, the Ombudsman shall strive, throughout the entire course of proceedings, to establish the mediating approach and settle the case by mutual agreement on a friendly settlement.

When the friendly settlement is reached the proceedings started upon the petition shall be terminated.

The achieved friendly settlement of the case shall not mean that the Ombudsman does not come to his own findings and make proposals or recommend a remedy in accordance with the law.

**Article 27**

Following the established relevant facts, the Ombudsman may communicate to each body his opinion, from the aspect of protection of human rights and fundamental freedoms, about the case he is investigating, irrespective of the type or stage of proceedings which are being conducted by the respective body.

**Article 28**

The Ombudsman shall make his decision on the petition by applying a 'fast-track' treatment, especially when the relevant facts and standpoints of the parties concerned are clearly evident from the documentation attached to the petition to start the proceedings.

The decision shall comprise the established relevant facts, the judgement on the violation of human rights or fundamental freedoms or maladministration, and the means of redressing the violation or wrong-doing.

**Article 29**

The Ombudsman shall launch an investigation by taking the decision on the investigation first.

**Article 30**

The decision on the investigation shall particularly include the following clues:

a summary of the petition and the statement of a body to which the petition refers;  
the statement of the fact which supposedly stands for the violation of human rights or fundamental

freedoms or other wrong-doing;  
the persons who are going to carry out the investigation.

#### **Article 31**

The Ombudsman may discontinue the investigation has he established that the case was already settled in some other way, if the petitioner does not cooperate in the investigation for unjustified reasons, or if it is evident from the petitioner's actions that he/she shows no interest for the continuation of the investigation.

The discontinuation of the investigation shall terminate the proceeding of handling the petition.

The petitioner and the body to which the petition refers shall be notified about the discontinuation.

#### **Article 32**

After the completed investigation the Ombudsman shall make a draft report on his finding of the facts and send it to the parties concerned. These may, by the deadline set by the Ombudsman, send their comments or proposals for completing the finding of the facts in the report.

In urgent cases, or when the Ombudsman assesses on the basis of available documentation that the facts are indisputable, he may decide on the basis of his finding of the facts and give recommendations without previous verifying from the preceding paragraph.

#### **Article 33**

In his final report, the Ombudsman shall state his assessment of the facts and circumstances of that individual case, and establish whether or not human rights or fundamental freedoms have been violated or some other maladministration has been done in the investigated case.

At the same time, the Ombudsman shall recommend the way how to remedy the established wrong-doing. In this, he may recommend that the body repeat a certain procedure in accordance with the law, recommend the compensation for the damage, or recommend some other means of redressing the wrong-doing that has affected the individual. In this, he shall not interfere with the civil-legal rights of the individual to the compensation for the damage.

In his final report, the Ombudsman shall also specify his views on the comments, if any, on his draft report, made by the parties concerned, which have not been taken into account.

The Ombudsman may propose the initiation of disciplinary proceedings against the officials of the bodies who did the established maladministration that led to an injustice.

#### **Article 34**

The Ombudsman or a person empowered by the Ombudsman may enter the official premises of any state body, body of local self-government, or body entrusted with public authority.

Related to his/her work, the Ombudsman or a person empowered by the Ombudsman shall have unrestricted access to the data and documents within the competence of the state bodies.

#### **Article 35**

The Ombudsman may inspect prisons or other places where people are kept detained, and other institutions with restricted freedom of movement.

The Ombudsman shall have the right to talk in private with persons from the institutions of the preceding paragraph.

Inspections may be carried out without a previous notification.

Persons to talk with may be adequately chosen at random.

#### **Article 36**

In dealing with more general issues which are important for the protection of human rights and fundamental freedoms and legal security of citizens, the Ombudsman shall obtain information and standpoints on the handled case from the competent bodies.

After having investigated the case, the Ombudsman may state his opinion with proposals and recommendations.

He shall send his opinion to the competent body, and he may also send it to the Parliament and the Government of the Republic of Slovenia.

### **IV. OTHER PROVISIONS**

#### **Article 37**

In connection with an individual case he is dealing with the Ombudsman may lodge an appeal for the assessment of constitutionality and legality of Regulations and other Acts of general specific, issued for the purpose of implementing public authorities.

#### **Article 38**

Under conditions provided by the law, the Ombudsman may lodge a constitutional complaint with the Constitutional Court in relation to an individual case he is dealing with.

The constitutional complaint shall be lodged after the previous consent of the person whose human right or fundamental freedom the Ombudsman is protecting in that particular case.

#### **Article 39**

Statistical records shall be kept on the received petitions and their processing.

#### **Article 40**

The annual report shall include the findings on the level of respecting human rights and fundamental freedoms and legal security of the citizens of the Republic of Slovenia, the description of essential problems, statistical survey of received, handled and processed petitions, the description of individual typical cases of violations or maladministration, and the report on other activities of the Ombudsman.

### **V. TEMPORARY AND FINAL PROVISIONS**

#### **Article 41**

The processing of petitions lodged before these Rules of Procedure take effect shall proceed and conclude in accordance with the provisions of these Rules of Procedure.

#### **Article 42**

Amendments to the Rules of Procedure shall take effect fifteen days after their publication in the Official Gazette of the Republic of Slovenia.