Regional Law No.5 of 2nd March 1992

A Law to Set Up the Office of Regional Ombudsman

(Official Bulletin No. 11 of 10th March 1992)
(Abrogated by Article 20 of Regional Law No.17 of 28th August 2001)

Article 1
(Setting up of Office)

1. The office of Regional Ombudsman is hereby set up as part of the Valle d'Aosta Regional Council.

2. The Regional Ombudsman shall exercise his or her functions in complete freedom and independence and shall not be subject to any form of hierarchical or functional control.

Article 2
(Functions, legitimate Parties, Initiatives undertaken by the Regional Ombudsman)

1. The Regional Ombudsman shall intervene on request by Italian citizens, foreigners or refugees with residence in, or living in the Region, by bodies or social groupings or on his or her own initiative in compliance with the procedures set out below. Such intervention shall be in relation to cases of omission, delays, irregularity or illegitimacy caused or arising during the carrying out of the administrative process (or intrinsic to administrative actions which have already been effected) by bodies, offices or services of the Regional Administration as well as by bodies, offices or services of entities, institutions, companies or consortia subject to the control or supervision of the Region, by bodies, offices or services of the Local Health Authority or by bodies, offices or services of the local government authorities with reference (in the case of the latter authorities) to functions which have been delegated or sub-delegated to them by the Region. The Regional Ombudsman shall only intervene on the basis of application by directly interested parties or by representatives of bodies or associations concerned with the defence of collective interests and of those of society at large.

2. The activities of the Regional Ombudsman shall also be aimed at ensuring the observance of equal opportunities between men and women and the prevention of discrimination on the grounds of sex.

3. The Regional Ombudsman shall also have the power to intervene as against Local government authorities in relation to the latter's own functions following the conclusion of the appropriate conventions between such authorities and the Region.

4. The procedures the Regional Ombudsman shall follow, including in relation to cases falling under the conventions as afore-mentioned, shall be those set out under this law.

5. The activities of the Regional Ombudsman in the extra-judicial defence of personal rights,
legitimate and generalised interests, shall be aimed at ensuring the efficiency, correctness and impartiality and generally, the good conduct of the public administration.

Article 3
(Relationship with Administrative Court actions and Proceedings)

The Regional Ombudsman shall have the power to intervene as against the public administration even with reference to actions and proceedings that are not open to challenge under the law, or in relation to which legal proceedings or appeals are pending. Notwithstanding the above, the Regional Ombudsman may suspend his or her intervention to await the related court decisions.

Article 4
(Notice of finding of maladministration)

Should the Regional Ombudsman make a finding concerning the disfunction or service provision failure as against state offices or any other public body, office or service having a bearing on the activities of the Region, he or she may give notice of the same to the interested administration, informing the Region's constitutional bodies of such action.

Article 5
(Qualifications)

1. The person to hold the office of Regional Ombudsman shall be chosen from among citizens who have been resident in the Region for at least five years, who are able to offer the greatest possible guarantee of independence, objectivity and legal-administrative skills and who:

   a) have a degree in law or the equivalent, or have worked as a Local Government Secretary for at least 10 years;

   b) are over 40 years of age;

   c) have no criminal record.

Article 6
(Election)
(Replacement to original as inserted by Article 1 of the Regional Law No.49 of 16th August 1994)

1. The election process for the Regional Ombudsman shall be commenced by means of the publication (through the offices of the Regional Council Chairman) of a Public Notice in the Regional Official Bulletin setting out the following:

   a) The Region's intention to proceed to the election or re-appointment of the Regional Ombudsman;
b) The qualifications required of candidates for the post;

c) The financial remuneration;

d) The time limit of thirty days from the date of publication of the Notice on the Regional Official Bulletin for the presentation of applications at the Offices of the Regional Council Chairman.

2. Associations of individual citizens may forward proposals for candidates to the Chairman of the Council.

3. Proposals for candidacy must contain the following details in relation to the proposed candidate:

   a) Personal details and residence;

   b) Academic qualifications;

   c) Professional experience;

   d) Details highlighting the candidate's suitability for the post on the basis of particular skills, experience, professionalism or aptitude.

4. Each proposal for candidacy must be accompanied by a declaration stating the candidate's readiness to accept the post signed by the candidate him or herself.

5. Candidates for the post of Regional Ombudsman must demonstrate a complete knowledge of the French language. To such end, the candidate will have to pass an exam in French prior to the election process. The exam concerned and the procedures to be followed shall be the same as the test given to external applicants for management posts in the Regional Administration.

6. As soon as the deadline for the presentation of applications has passed, the Chairman of the Council shall call the Commission for the election of the Regional Ombudsman in order to carry out the preliminary French test and the subsequent election of the Regional Ombudsman.

7. The Commission for the election of the Regional Ombudsman shall be composed of:

   a) The Regional Council Chairman who shall act as the Chairman of the Commission;

   b) The President of the Court of Aosta;

   c) The President of the Administrative Court of the Valle d'Aosta;
d) The Chairman of the Aosta Lawyers' Guild;


8. A permanent teacher of French from secondary schools in the Region shall supplement the Commission for the Election of the Regional Ombudsman, in order to carry out the preliminary test in French.

9. The Commission for the Election of the Regional Ombudsman shall elect the Regional Ombudsman from those candidates passing the preliminary test in French by taking a vote. The candidate to be elected shall be the person who receives votes cast in his or her favour by a majority of the Commission's members.

**Article 7**
*(Regional Ombudsman Ineligible, incompatible activities and invalidity of appointment)*

1. The following shall not be eligible to hold the office of Regional Ombudsman:

- any person elected to public office or

- any person holding a position in bodies carrying out functions of supervision or control over Public Administration Affairs.

The office of Regional Ombudsman is incompatible with the exercise of any form of self-Employment or work as a direct Employee and with any commercial or entrepreneurial activity.

2. The Commission for the election of the Regional Ombudsman may declare the election invalid should it find grounds demonstrating the ineligibility or incompatibility of the holder pursuant to a written complaint presented by citizens resident in the Region.

**Article 8**
*(Duration of Mandate. Revocation)*

1. The Regional Ombudsman shall hold office for five years and may only be re-elected once.

2. Three months prior to the date for the natural expiry of the Regional Ombudsman's mandate or immediately after the cessation of the mandate by resignation or by any reason other than the natural expiry of the same, the Chairman of the ruling committee of the Regional Council shall initiate the procedures set out under Article 6.

3. In the event of the natural expiry of the mandate, the powers of the Regional Ombudsman shall be extended up to the date when the successor to the post takes office. The extension cannot in any case last longer than one year from the expiry of the mandate as aforesaid.
4. The Regional Ombudsman may be removed from office for reasons of a serious nature connected to the exercise of the office's functions. In such circumstances the revocation of the mandate shall be effected by the Commission of Appointment for the Regional Ombudsman on the basis of a reasoned proposal approved by the Regional Council passed with a two-thirds majority. The decision to revoke the mandate must be passed unanimously by the Commission.

Article 9
(Financial Remuneration)

1. The Regional Ombudsman will be entitled to remuneration equal to the official financial allowance to which Regional Councillors are entitled. The office holder will also be entitled to the same leaving indemnity and reimbursement of expenses incurred in the carrying out of official duties as a Regional Councillor would be entitled to.

Article 10
(Manner of Intervention)

1. The intervention of the Regional Ombudsman may be requested by the interested party without the fulfilment of particular formalities.

2. In the carrying out of his or her functions the Regional Ombudsman, following the assessment of a complaint or of his or her own motion, shall have the following powers:

   a) To ask, either orally or in writing, for information on the state of progress of the cases or of the situations brought to his or her attention. The offices receiving such a request must reply without delay.

   b) To consult, and to take copies of, without limitations in relation to official secrets, all deeds and documents relating to the subject matter of his or her intervention and to acquire the necessary information in that regard;

   c) To call those responsible for the case to a meeting in order to obtain clarification in relation to the state of the case concerned and to the causes of any maladministration or dysfunction. In such circumstances a solution should be sought which takes account of the general public interest as well as that of the complainant;

   d) To gain access to offices in order to carry out such assessments and inspections as may prove necessary;

   e) To notify the relevant administrative directors of situations where the law is uncertain or where there is a lacuna in legislative provision and encourage them to take the appropriate remedial steps;

   f) To present notes to, and to ask to be heard by, meetings of supervisory and control bodies of
the Regional council in order to illustrate reasons behind his or her belief in the existence of possible defects in the legitimacy or substantive merits of the case or case papers.

3. Should the administration decide not to follow the recommendations of the Regional Ombudsman it must give sufficient reasons for its disagreement, and send the same to the Regional Ombudsman.

**Article 11**
(Consultancy and translation for the purposes of investigation)

The Regional Ombudsman may ask for consultancy or translations for the purposes of his or her investigation. To such end the Regional Ombudsman may either use the services of staff in the Regional offices or else use the services of consultants or interpreters. Any resulting costs shall be authorised in advance by the Office of the Regional Council Chairman.

**Article 12**
(Information to be given to complainants)

The Regional Ombudsman shall inform the complainant of the outcome of his or her intervention and of the steps to be taken by the administration. The complainant shall also be informed of the remedies or initiatives available either by way of administrative or legal action.

**Article 13**
(Special provisions)

1. Any managers delaying, hindering or preventing the Regional Ombudsman from carrying out his or her functions or in any case, conducting themselves in a manner contrary to their official duties, shall be subject to disciplinary procedures. The Regional Ombudsman may request the initiation of such procedures. The initiation and outcome of such procedures and any abandonment of the same must be communicated to the Regional Ombudsman immediately.

2. Should facts come to the Regional Ombudsman’s notice during the performance of his or her functions which, irrespective of whom they are committed by, are capable of representing a criminal offence, the Regional Ombudsman shall report the same to the relevant legal authorities.

3. The Regional Ombudsman shall be bound by the duty to maintain official confidentiality following the end of his or her appointment.

**Article 14**
(Report on Activities undertaken)

1. The Regional Ombudsman shall, by 31st March of each year, submit a report for consideration by the Regional Council setting out the activities carried out in the previous year
together with any proposals for the introduction of new regulations or administrative procedures.

2. The Report shall be published in the Regional Official Bulletin. The Regional Council shall ensure that it receives adequate publicity through other Regional or independent press or publications.

3. In cases of particular importance or urgency, the Regional Ombudsman may send a special report to the Regional Council and to the Chairman of the Council to allow them to take the appropriate steps.

4. The Regional Ombudsman shall, on his or her own initiative, take steps to publicise his or her activities in defending the interests of individual citizens or groups of citizens. The related costs shall be approved in advance by the Office of the Regional Council Chairman.

Article 15
(Relations with the Council Commissions)

1. The Regional Ombudsman may request to be heard by Council Commissions in relation to particular problems inherent to his or her activities.

2. The competent Council Commission may call for a meeting with the Regional Ombudsman to obtain clarification on the activities undertaken by the latter.

Article 16
(Organisation)

1. The Regional Ombudsman shall be based in the regional capital at the Offices of the Regional Council Chairman and may carry out his or her activities in out-lying offices.

2. In order to facilitate the de-centralised performance of the Regional Ombudsman's functions, the latter may, in agreement with the offices of the Regional Council Chairman and with the ruling committee of the Region, make use of the peripheral structures of the Regional Administration or of other bodies and may use the services of regional staff working in such areas.

3. So far as concerns relations with public bodies based in Rome, the Regional Ombudsman may use the services of the Region of Valle d'Aosta's Rome co-ordination and representation office.

Article 17
(Staff and Offices)

1. The Office of the Regional Council Chairman shall ensure that the Regional Ombudsman is provided with offices suitable for the performance of the latter's functions.
2. Regulations shall be introduced to ensure that the Regional Ombudsman's offices are adequately staffed.

**Article 18**
*(Financial provisions)*

1. The financial charge anticipated for the application of this law, identified for 1992 as ITL30,000,000, shall be made to Chapter 20000 ("Fund for the Functioning of the Regional Council") of the Budget for financial year 1992 and to the corresponding chapters of future budgets.

2. To provide financial cover for 1992, funds amounting to ITL30,000,000 shall be transferred from the monies specially set aside pursuant to Annex 8 of the current year’s accounts (Institutional Area A.4) under Chapter 69000 ("Global Fund for the Financing of Current Expenditure").

3. From 1993 onwards the requisite provision for such charges shall be made by the Finance Law within the meaning of Article 15 of Regional Law No.90 of 27th December 1989 (Legislation concerned with the Accounts and Accounting procedures of the Autonomous Region of the Valle d'Aosta).

**Article 19**
*(Amendments to the Accounts)*

1. The following amendments shall be made to the expenditure side of the Region's Budget for the financial year 1992 in terms of both financial provision and cash reserves:

   a) **Reduction:**

   Chapter 69000 ("Global fund for the Financing of Current Expenditure") ITL30,000,000;

   b) **Increase:**

   Chapter 20000 ("Fund for the Functioning of the Regional Council") ITL30,000,000.

**Article 20**
*(Transitional Provisions)*

*(Replacement to original as inserted by Article 1 of Regional Law no. 15 of 22nd April 1997)*

This law shall have force and effect until 31st August 2000.