

Human Rights Ombudsman Act

I. GENERAL PROVISIONS

II. ELECTION AND POSITION OF THE OMBUDSMAN AND HIS DEPUTIES

III. JURISDICTION OF THE OMBUDSMAN

IV. PROCEEDINGS

V. THE RIGHTS OF THE OMBUDSMAN

VI. THE BUREAU OF THE OMBUDSMAN

VII. PENALTY PROVISIONS

VIII. INTERIM AND FINAL PROVISIONS

I. GENERAL PROVISIONS

Article 1

To protect human rights and fundamental freedoms against the state bodies, local self-government bodies, and bodies entrusted with public authorities the Human Rights Ombudsman and his/her jurisdiction and powers shall be established by this act.

Article 2

The Human Rights Ombudsman (hereinafter: Ombudsman; he - his) shall be elected by the Parliament upon the nomination made by the President of the Republic.

Article 3

In performing his function he shall act according to the provisions of the Constitution and international legal acts on human rights and fundamental freedoms. While intervening he may invoke the principles of equity and good administration.

Article 4

The Ombudsman shall be autonomous and perform his function independently.

Article 5

The Ombudsman shall lay before the Parliament general annual reports and special reports on his work.

The funds for the Ombudsman's work shall be allocated by the Parliament from the state budget.

Article 6

State bodies, local self-government bodies, and bodies entrusted with public authorities (hereinafter: bodies) shall furnish the Ombudsman, upon his requirement, all the information and data within their competences, irrespective of the level of secrecy, and shall enable him to carry out the investigation.

Article 7

The Ombudsman may make suggestions and give recommendations, opinions and critiques to the bodies which are bound to consider them and respond within the deadline specified by the Ombudsman.

Article 8

Proceedings before the Ombudsman shall be confidential.

The Ombudsman shall inform the public and the Parliament about his finding of the facts and steps that have been taken.

Article 9

Any person who believes that his/her human rights or fundamental freedoms have been violated by an act or an action of a body may lodge a petition with the Ombudsman to start the proceedings. The Ombudsman may also institute the proceedings on his own initiative.

The Ombudsman may also deal with more general issues relevant to the protection of human rights and fundamental freedoms and legal security of the citizens of the Republic of Slovenia.

The proceedings before the Ombudsman shall be non-formal and free-of-charge for the petitioners.

The Ombudsman shall conduct impartial and independent investigation and shall obtain the opinions in each case by all the parties concerned.

Article 10

The seat of the Ombudsman shall be in Ljubljana.

The Ombudsman shall specify the organizational scheme and work of his bureau in the Rules of Procedure and other general acts.

II. ELECTION AND POSITION OF THE OMBUDSMAN AND HIS DEPUTIES

Article 11

Only a citizen of the Republic of Slovenia may be elected as the Ombudsman.

Article 12

The Ombudsman shall be elected by the Parliament with the two-third majority of all MP votes for the term of six years, and after the expiration of this term of office, he may be re-elected only once.

Article 13

The election procedure for the Ombudsman shall start not later than six months prior to the expiration of the term of office of the actual Ombudsman.

The Parliament shall decide on the nomination made by the President of the Republic within forty-five (45) days after it has been submitted.

Article 14

The provisions of the Law on the Constitutional Court, regulating the candidature of the constitutional judges, shall apply, respectively, to the candidature of the Ombudsman.

Article 15

The Ombudsman shall have not less than two but no more than four deputies. Deputies shall be appointed by the Parliament upon the nominations made by the Ombudsman.

The Ombudsman shall submit nomination for his deputy to the Parliament not later than six months prior to the expiration of the term of office of the actual deputy.

The Parliament shall decide on the nomination of the Deputy Ombudsman within forty-five (45) days after its submission.

Article 16

The term of office of a Deputy Ombudsman shall be six years. After the expiration of this term of office, he/she may be re-appointed.

Article 17

In the case of absence, death, expiration of the term of office, permanent or temporary incapacity of performing the duties of his office, the Ombudsman shall be replaced by a Deputy Ombudsman.

The Ombudsman shall specify the sequence of his deputies to replace him.

Article 18

The Ombudsman and his deputies shall assume their offices after having taken the oath before the Parliament. The oath shall be:

"I swear that I will perform my duties in accordance with the Constitution and the laws, I will protect human rights and fundamental freedoms, I will perform these duties thoroughly and impartially, and in doing so I will adhere to the principles of equity and good administration."

Article 19

The holding of the office of the Ombudsman shall be incompatible with the holding of any office in the state bodies, local self-government bodies, political parties and trade unions, or the performing of other functions and activities which are incompatible by law with the holding of a public office.

An office, incompatible with the holding of the function of the Ombudsman, shall cease to the Ombudsman or it shall be suspended, if so regulated by the law.

If the Ombudsman does not discontinue a profitable activity incompatible by law with the performing of the function of the Ombudsman within 30 days of the day when the competent committee at the Parliament has established this incompatibility, his office of the Ombudsman shall be terminated.

Article 20

The Ombudsman shall not be held responsible for the opinion or recommendation given while performing his function.

The Ombudsman shall not be held in custody in the criminal proceedings instituted against him for having performed his function, without the prior consent of the Parliament.

Article 21

The Ombudsman may be untimely relieved of his office only on his own request, or may be removed from office if he has been convicted of a criminal act and sentenced to imprisonment, or due to his permanent loss of ability for performing the duties of his office.

The procedure for removing the Ombudsman from his office shall be started upon the motion made by one third of MPs.

The Parliament shall remove the Ombudsman from his office if two thirds of the present MPs have voted for it.

Article 22

Provisions of the Article 19, Article 20, and Article 21 shall also apply to a Deputy Ombudsman.

III. JURISDICTION OF THE OMBUDSMAN

Article 23

The Ombudsman shall have the powers, specified by this Act, over the state bodies, local self-government bodies, and bodies entrusted with public authorities.

Article 24

The Ombudsman shall not interfere in the cases in which court or some other legal proceedings are being conducted, except in case of undue delay in the proceedings or evident abuse of authority.

Article 25

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.

IV. PROCEEDINGS

Article 26

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

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

If the Ombudsman is to institute the proceedings, either on his own initiative, or upon a petition which has been lodged on behalf of the aggrieved person by a third party, the consent by the aggrieved person shall be required to start the proceedings.

Article 27

Each petition lodged with the Ombudsman shall be signed and have all personal data of the petitioner, as well as comprise all circumstances, facts, and evidence on which the petition is based. The petitioner must also state whether or not legal remedies have already been applied, and if they have been, which of them.

Each petition to start the proceedings (hereinafter: petition) shall be, as a rule, lodged in writing. Neither the form nor the assistance by a counsellor shall be required for lodging a petition.

Persons deprived of liberty shall have the right to lodge a petition with the Ombudsman in a sealed envelope.

Article 28

Having received a petition, the Ombudsman shall screen it and decide on this basis either:

- (1) to give a 'fast-track' treatment to the case; or
- (2) to launch a full investigation; or
- (3) to reject the petition; or
- (4) to decline the petition because it is either anonymous or too late or insulting, thus abusing the right of petition.

The Ombudsman having decided to reject a petition or decline it due to the reasons stated under the items (3) and (4) of the above paragraph, shall inform the petitioner in the shortest possible time about his decision, and explain him the reasons for it and point out, if possible, another adequate way of settling the case.

Article 29

The Ombudsman shall decide on giving the 'fast-track' treatment (item (1) of the Article 28) particularly in the case when the actual situation and the standpoints of all parties concerned are already evident from the petition itself and the attached documents.

Article 30

The Ombudsman shall reject a petition (item (3) of the Article 28) particularly due to the following reasons:

- when it is obvious from the available data and circumstances that human rights or fundamental freedoms have not been violated nor other maladministration done;
- when the petition is incomplete and has not been completed on the Ombudsman's requirement;
- when proceedings are being conducted in the case before the judicial bodies, except for the cases specified in this act;
- when the case falls within the competences of investigating commissions at the

Parliament, related to public officials;
when all regular and extraordinary legal remedies have not been exhausted, except if he assesses that it would be useless for the petitioner to start or continue such proceedings, or if he assesses that individuals would suffer great or irreparable damage in the meantime;
when the petition clearly reveals a case of lesser importance in which, even after a conducted investigation, no adequate results could be expected.

Article 31

The decision by the Ombudsman to decline or reject a petition shall be final.

Article 32

The Ombudsman shall not institute the proceedings if more than one year has elapsed from the wrong-doing or the last decision of a body, except when he assesses that the petitioner has been late for justifiable reasons, or the case is so relevant that he should launch an investigation notwithstanding the time lag.

Article 33

When the Ombudsman decides to launch an investigation (item (2) of Article 28) he shall communicate his decision to the petitioner and the body or bodies against which the petition has been lodged, and require all the necessary explanations and additional information.

The Ombudsman shall specify a deadline by which the body must furnish all the explanations and information stated in the previous paragraph. The deadline may not be shorter than 8 days. A body having failed to furnish the required information or explanations to the Ombudsman by the deadline must immediately communicate to the Ombudsman the reasons of not having fulfilled his requirement.

The Ombudsman may directly inform its superior body about the delay from the previous paragraph.

The rejection or ignoring of the Ombudsman's requirements shall be deemed an obstruction to the Ombudsman's work.

The Ombudsman may report about this in a special report to a competent working group at the Parliament or to the Parliament itself, or he may publicize these facts.

Article 34

All state bodies shall be obliged to help the Ombudsman in conducting an investigation and render him adequate assistance upon his requirement.

Article 35

Within the scope of his work, the Ombudsman shall have unrestricted access to all the data and documents within the competence of the state bodies.

Regulations on observing the secrecy of data shall be binding to the Ombudsman, his deputies, and his staff.

Article 36

All officials and other employees of the bodies stated in the Article 6 of this Act must respond to the Ombudsman's call to co-operate in an investigation and provide explanations.

The Ombudsman may summon any witness or expert to an interview about the case he is dealing with. The summoned must respond to the summon.

Article 37

The Ombudsman may discontinue the investigation if he has established that the case has already been settled in some other way, or, if the petitioner does not cooperate in the investigation with any justifiable excuse, or, if it has become obvious from the petitioner's actions that he/she is no more interested in the continuation of the investigation.

Article 38

The investigation having been completed, the Ombudsman shall draft a report on his finding of the facts and forward it to the parties concerned. Within the deadline set by the Ombudsman, they may communicate their comments or proposals to complete the finding of the facts stated in the draft report.

In urgent cases, or when the Ombudsman assesses on the basis of available documents 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 39

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 should repeat a certain procedure in accordance with the law, recommend the compensation for the damage, or recommend some other way how to remedy the wrong-doing that has affected the individual. In this, he shall not interfere in civil legal rights of the individual to the compensation for the damage.

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 40

The bodies stated in the Article 39 must inform the Ombudsman within 30 days about the steps taken in accordance with his proposals, opinions, critiques, or recommendations.

If the body does not submit a report on adhering to the Ombudsman's recommendations, or these are adhered to only partially, the Ombudsman may directly inform about it its superior body or respective ministry, or submit a special report to the Parliament, or publicize these facts.

The Ombudsman may publish his report and his proposals in mass media at the expense of the body if the latter, after a repeated requirement, has not adequately responded to his proposals or recommendations.

Article 41

In dealing with the acts and maladministration of local self-governments the Ombudsman shall be bound to take into account the special character of their position, and their way of taking decisions in particular.

Article 42

The Ombudsman or his authorised representative may enter any official premises of each state body, local self-government body, or body entrusted with public authority.

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.

Article 43

The Ombudsman shall lay before the Parliament his general and special reports on his work, his findings about respecting human rights and fundamental freedoms, and on legal security of the citizens in the Republic of Slovenia.

He shall submit the annual report for the previous year not later than September 30 of the current year.

The Ombudsman may submit special reports to competent working groups at the Parliament or directly to the Parliament.

Article 44

During the debate on the general annual report at the session of the Parliament, the Ombudsman may himself present a summary of the report and ensuing conclusions.

The general annual report of the Ombudsman shall be promulgated.

Article 45

The Ombudsman may submit to the Parliament and Government initiatives for amending laws or other legal acts within their competence.

The Ombudsman may make suggestions to the state bodies, institutions, and organizations performing the functions of public authorization, for improving their work and conduct with clients.

Article 46

The President of the Parliament, the Prime Minister, and the ministers shall be bound to grant personal audience to the Ombudsman within 48 hours after his request.

V. THE RIGHTS OF THE OMBUDSMAN

Article 47

The Ombudsman shall be granted a salary equal to the salary of the President of the Constitutional Court.

A Deputy Ombudsman shall be granted a salary equal to the salary of a judge of the Constitutional Court.

Article 48

After the expiration of his term of office the Ombudsman who had been a judge or had held another permanent office in a state body until he was elected the Ombudsman, shall have the right to re-assume his former function if he notifies the competent body, within three months after the expiration of his term of office, that he wishes to re-assume his former function.

The Ombudsman who had occupied a certain job until he was elected the Ombudsman, shall have the right to return to his former job within three months after the expiration of his term of office, or to get some other job which must be adequate to his education and professional skill.

Article 49

The Ombudsman whose term of office has expired and can, for justified reasons, neither continue his former job nor get another adequate job, nor has he fulfilled the conditions for retirement by general regulations, shall be entitled to receive a substitute salary in the amount he would receive if he did that job, until he gets employed or fulfills the conditions for retirement under general regulations, but no longer than one year after the expiration of his term of office.

The right to a substitute salary from the previous paragraph may be extended until the conditions for retirement according to the general rules are fulfilled, but for no longer than one year.

The period from the previous two paragraphs is considered as a period of employment of an Ombudsman whose term of office has expired. During this period, the Ombudsman is entitled to insurance according to the regulations which regulate the social insurance of persons in an employment relationship.

Article 50

The provisions of Article 48 and Article 49 shall also apply to a Deputy Ombudsman.

VI. THE BUREAU OF THE OMBUDSMAN

Article 51

Having previously obtained the opinion by the competent working group at the Parliament, the Ombudsman shall pass the Rules of Procedure which specify the division of fields of work, the organization of work, and the method of dealing with petitions. The Rules of Procedure shall be published in the Official Gazette of the Republic of Slovenia.

Article 52

The Ombudsman shall have an expert service. The Ombudsman shall appoint and dismiss, when necessary, his counsels and other employees.

The Ombudsman shall appoint the secretary general who shall manage the Bureau of the Ombudsman.

Article 53

The Ombudsman may appoint advisers and other experts for a fixed time to the service of the Ombudsman from among the employees of the state bodies. They have the right to re-assume their former functions or jobs after their terms have expired.

Article 54

As regards the salary, remuneration, and other personal incomes, allowances and rights, the provisions of the State Officials Act shall respectively apply to the secretary general, and the provisions of the act on the employees in the state bodies shall respectively apply to other employees.

Article 55

The funds for the work of the Ombudsman shall be granted within the state budget of the Republic of Slovenia. The amount shall be allocated by the Parliament upon the proposal made by the Ombudsman.

VII. PENALTY PROVISIONS

Article 56

The following persons shall be fined for a minor offence with at least 10,000 SIT fine: the responsible person of a body that has failed to produce the required materials to the Ombudsman upon his requirement (Article 6); a person who has failed to respond to the Ombudsman's summons to an interview (Article 36).

VIII. INTERIM AND FINAL PROVISIONS

Article 57

The Ombudsman shall begin his work after the required expert staff has been appointed and premises and other material conditions provided.

On the day the Ombudsman begins his work, the Council of Human Rights and Fundamental Freedoms shall cease to operate under this Act.

The Ombudsman shall take over the files, unsettled cases and assets of the Council of Human Rights and Fundamental Freedoms.

Article 58

On the day, the Ombudsman begins his work, the Act on the Council of Human Rights and Fundamental Freedoms (Official Gazette of the Republic of Slovenia, no 14/90) shall cease to be effective.

Article 59

This Act shall take effect on the fifteenth (15th) day after having been published in the Official Gazette of the Republic of Slovenia.