

**DECREE
PROCLAIMING THE OMBUDSMAN LAW**

Hereby the Ombudsman Law is proclaimed, which was adopted by the Parliament of the Republic of Macedonia at its session held on 10th September 2003.

No. 07-4502/1	President
10 th September 2003	of the Republic of Macedonia,
Skopje	Boris Trajkovski (personal signature)

President
of the Parliament of the Republic of Macedonia,
Nikola Popovski, MA
(personal signature)

OMBUDSMAN LAW

I. BASIC PROVISIONS

Article 1

This Law shall regulate the terms of election and dismissal, the jurisdiction and manner of work of the Ombudsman.

Article 2

The Ombudsman shall be a body of the Republic of Macedonia that shall protect the constitutional and legal rights of citizens and all other persons when these are infringed by acts, actions and omissions by the state administration bodies and by other bodies and organizations that have public authority, and who shall undertake actions and measures for protection of the principle of non-discrimination and adequate and equitable representation of community members in the state administration bodies, the local self-government units and the public institutions and agencies.

Article 3

The Ombudsman shall be independent and self-governing in the performance of his function.

The Ombudsman shall carry out the affairs within his scope of competence on the basis of and within the framework of the Constitution, laws and international agreements ratified pursuant to the Constitution.

In the procedure, the Ombudsman may invoke the principle of equity.

Article 4

The headquarters of the Ombudsman shall be in the City of Skopje.

The Ombudsman shall have a seal that contains the name and headquarters, the national coat of arms and the name of the Republic of Macedonia.

On the building occupied by the Ombudsman, the name and headquarters, the national coat of arms, and the flag of the Republic of Macedonia must be indicated.

II. TERMS OF ELECTION AND DISMISSAL OF THE OMBUDSMAN

Article 5

The Parliament of the Republic of Macedonia, upon proposal of the competent Parliamentary Committee, shall elect and dismiss the Ombudsman with a majority vote of the total number of MPs, whereby there must be a majority of votes of the total number of MPs who belong to the non-majority communities in the Republic of Macedonia. The Ombudsman shall be appointed for the period of eight years, entitled to another tenure.

The Ombudsman shall have more deputies. The number of deputies of the Ombudsman shall be determined by the Parliament of the Republic of Macedonia upon proposal by the Ombudsman.

The deputies of the Ombudsman, upon proposal by the Ombudsman shall be elected and dismissed by the Parliament of the Republic of Macedonia with a majority vote of the total number of MPs, whereby there has to be a majority of votes from the total number of MPs who belong to the non-majority communities in the Republic of Macedonia. The Ombudsman's deputies shall be appointed for the period of eight years and are entitled to another tenure.

The election procedure for the Ombudsman and his deputies shall commence three months before the expiration of their tenure.

In case of absence or impediment of the Ombudsman, his Deputy according to a schedule determined by the Ombudsman shall replace him.

Article 6

A person who fulfils the general terms stipulated by the Law on Employment in the State Administration Bodies, a graduated lawyer who has a working experience in legal affairs of over nine years, whose activity has been proved in the sphere of protection of citizens' rights and has a good reputation for performing the duties of the Ombudsman, may be elected Ombudsman.

A person who fulfils the general terms stipulated by the Law on Employment in the State Administration Bodies, a graduated lawyer who has a working experience in legal affairs of over seven years, whose activity has been proved in the sphere of protection of citizens' rights and has a good reputation for performing the duties of the Deputy of the Ombudsman, may be elected Deputy of the Ombudsman.

When appointing deputies of the Ombudsman, an adequate and equitable representation of citizens belonging to all the communities in the Republic of Macedonia shall be provided, without breaching the criteria stipulated by law.

Article 7

The Ombudsman, prior to his coming into office, shall make a solemn declaration in front of the President of the Parliament of the Republic of Macedonia, which shall read:

“I declare that I shall perform the Ombudsman function conscientiously and responsibly, and I shall abide by the Constitution and the laws of the Republic of Macedonia”.

Article 8

The Ombudsman function is not compatible with performing another public function and profession or with political party membership.

Article 9

The Ombudsman shall be dismissed:

- 1) if he himself requests it;
- 2) if he is convicted of a criminal act with an unconditional sentence of imprisonment to at least six months;
- 3) if he permanently loses his psycho-physical ability to perform the Ombudsman function what is determined on the basis of a finding and opinion by a competent health centre;
- 4) if he fulfils the terms of retirement according to age;
- 5) due to incompetent, biased and unconscientiously performing the function of Ombudsman.

Article 10

The provisions in Articles 7, 8, 9 and 10 of this Law shall also refer to the deputies of the Ombudsman.

III. JURISDICTION AND MANNER OF WORK

Article 11

The Ombudsman, in performing his function, shall undertake actions for which he is authorized with this Law for the purpose of protection of the constitutional and legal rights of citizens or protection of the principles of non-discrimination and adequate and equitable representation of citizens belonging to all the communities when these are infringed by the bodies set out in Article 2 of this Law.

Article 12

The Ombudsman shall undertake actions and measures for protection against unjustified prolongation of court proceedings or unconscientious and irresponsible performance of the work of court's services, not infringing thus the principles of independence and autonomy of the judicial authority.

The Ombudsman shall not proceed in cases for which court proceedings are pending, except for the cases set out in paragraph 1 of this Article.

Article 13

The procedure for protection of the constitutional and legal rights of citizens before the Ombudsman shall be initiated by putting forward a submission.

Anyone may put forward a submission to the Ombudsman when he assesses that his constitutional and legal freedoms and rights have been infringed or when the principal of

non-discrimination and adequate and equitable representation of community members in the bodies set out in Article 2 of this Law has been breached.

The Ombudsman may initiate a procedure on his own initiative if he assesses that the constitutional and legal rights of citizens, stipulated in Article 2 of this Law, have been infringed.

Article 14

In a procedure before the Ombudsman, the Macedonian language and its Cyrillic script shall be the official language.

In a procedure before the Ombudsman, another language spoken by at least 20% of the citizens and its script shall also be an official language.

The provisions of the Law on General Administrative Procedures pertaining to the use of languages shall also be applied in the proceedings before the Ombudsman as appropriate.

Article 15

Every citizen, in his communication with the Ombudsman, may use one of the official languages and its script, and the Ombudsman shall respond in Macedonian and its Cyrillic script, as well as in the official language and the script which the citizen uses.

Article 16

The submission addressed to the Ombudsman should be signed and to contain personal data about the person who has put it forward and to contain the circumstances, facts and evidence on which the submission is based.

The body, organization, institution or person to whom the submission refers should be stated in the submission, as well as whether the person who has put it forward has already used legal remedies and which remedies he or she has used.

The submission for initiating a procedure shall be submitted in writing or orally in minutes.

The submission with which the procedure is initiated shall not have a fixed form.

The person who puts forward the submission shall be exempt from paying taxes for the procedure before the Ombudsman.

Article 17

The Ombudsman is obliged to proceed upon the submission conscientiously, impartially, efficiently and responsibly.

When proceeding upon the submission, the Ombudsman is obliged to obtain from the interested parties all the facts and evidence of vital and decisive significance, following the submission.

Article 18

The Ombudsman, during the procedure upon the submission, is obliged to respect the privacy and confidentiality of information regarding the persons who put forward the submission set out in Article 16 of this Law.

Article 19

The Ombudsman, while proceeding upon the submission, may:

- not initiate a procedure;
- initiate a procedure; and
- stop or terminate a procedure.

Article 20

The Ombudsman shall not initiate a procedure upon a submission:

- if the submission is anonymous, except if it is a matter of common interest;
- if the submission insults the body or abuses the right to put forward a submission;
- if the submission is incomplete and if the person who put it forward has not completed the submission after prior instruction by the Ombudsman;
- if it is concluded from the submission that it is a less important case, which would not be able to yield adequate results even after the end of the investigation;
- if from the submission, the circumstances and the presented facts and evidence, it follows that there is no infringement of the constitutional and legal rights of the person who put forward the submission, or the person on whose behalf the submission was put forward, by the state administration bodies in Article 2 of this Law;
- if he is not competent to proceed;
- if more than a year has passed since the action or the last decision of the body, organization or institution, except if he assesses that the person who put forward the submission has missed the deadline due to justified reasons;
- if judicial proceedings are pending concerning the subject of the submission, except for the matters set out in Article 12 paragraph 1 of this Law.

When the Ombudsman does not initiate a procedure upon a submission, pursuant to paragraph 1 of this Article, he is obliged to notify the person who put forward the submission within 15 days from the day of receiving the submission and to explain to him the reasons for which he has rejected the submission and possibly to clarify the manner in which he may fulfil his right.

Article 21

The Ombudsman shall initiate a procedure following a submission put forward, or on his own initiative if, following the allegations, evidence and facts enclosed to the submission or the information obtained by other means, it justifiably follows that the constitutional and legal rights of the citizens or the principles of non-discrimination and adequate and equitable representation of community members have been infringed by the bodies set out in Article 2 of this Law.

If the Ombudsman initiates a procedure on his own initiative, or if another person addresses him on the behalf of the injured person with a submission, a consent from the injured person whose constitutional and legal rights have been infringed is necessary for initiating the procedure, or if the principle of non-discrimination and adequate and equitable representation of community members has been violated, also.

When the Ombudsman initiates a procedure on his own initiative for violation of the constitutional and legal rights of a larger number of citizens, juveniles, infirm people and persons incapable of work, consent from paragraph 2 of this Article shall not be needed.

The Ombudsman shall notify the persons concerned about the initiation of the procedure, within 15 days from the day of the initiation of the procedure.

Article 22

When the Ombudsman decides to initiate a procedure, he shall notify the person who put forward the submission about the procedure within 15 days from the day of reception of the submission.

Article 23

The Ombudsman shall stop or terminate the procedure based upon the submission:

- if, after the termination of the procedure following the submission, it is concluded that there is no infringement of the constitutional and legal rights of the person who put forward the submission by the state administration bodies set out in Article 2 of this Law;
- if the person who put forward the submission initiates court proceedings during the procedure upon the submission;
- if the person who put forward the submission does not show interest for further procedure;
- if the person who put forward the submission withdraws it during the procedure;
- if the person who put forward the submission dies during the procedure, unless his successors demand the continuation of the commenced procedure; and
- if the right of the person who put forward the submission has been realized in the meantime.

When the Ombudsman stops or terminates the procedure following the submission, he is obliged to inform the person who put forward the submission immediately, but no later than 15 days from the day of the occurrence of the circumstances of stopping or termination of the procedure, and to explain to him the reasons for which he stops or terminates the procedure and, if possible, to clarify the manner in which the person may fulfil his right.

Article 24

For the purposes of investigating the submission, the Ombudsman may undertake the following actions and measures, within his scope of competence, regarding the bodies set out in Article 2 of this Law:

- demand necessary explanations, information and evidence regarding the allegations in the submission;
- enter the office premises and have a direct insight into the files and affairs within their competence;
- interview an appointed or nominated person, an official and any other person who can provide certain information for the procedure;
- request the opinion of scientific and specialized institutions; and
- undertake other actions and measures stipulated by law or another regulation.

The bodies set out in Article 2 of this Law are obliged to submit the demanded explanations, information and evidence set out in paragraph 1 indent 1 of this Article to the Ombudsman immediately and no later than eight days from the day of reception of the demand for submission of data. Should they be impeded from submitting them due to justified reasons, they are obliged to notify the Ombudsman without delay about the reasons for which they are unable to proceed.

Should the Ombudsman assess that the reasons in paragraph 2 of this Article are justified, he shall determine a new deadline for submission of the demanded explanations, information and evidence.

The rejection of, and disrespect for, the demands of the Ombudsman for undertaking the actions in paragraph 2 of this Article shall be deemed as obstruction to the work of the Ombudsman.

Article 25

The Ombudsman may inform the immediately superior body, the official in charge of the body set out in Article 2 of this Law, or the Government of the Republic of Macedonia, with a special report about the obstruction of work in Article 24 paragraph 4 and, if they do not undertake the necessary measures, the Parliament of the Republic of Macedonia.

The Ombudsman may publicize the case in the mass media, at the expense of the body set out in Article 2 of this Law to which the case pertains, when there is infringement of the constitutional and legal rights.

Article 26

The persons set out in Article 24 paragraph 1 indent 3 of this Law are obliged to appear at the Ombudsman's summons and to give the necessary explanations regarding the submission.

Upon request from the Ombudsman, the President of the Republic of Macedonia, the Speaker of the Parliament of the Republic of Macedonia, the Prime Minister of the Government of the Republic of Macedonia and other officials in charge of the bodies set out in Article 2 of this Law, are obliged to see him personally without any delay.

Article 27

The bodies set out in Article 2 of this Law are obliged to co-operate with the Ombudsman and upon his request to provide him with all the evidence, data and information, notwithstanding the degree of confidentiality, and to enable him to enforce the procedure.

The Ombudsman is obliged to keep a state and official secret in a manner, and under the conditions, stipulated by law and other regulation.

Article 28

The Ombudsman may present his opinion to the bodies set out in Article 2 of this Law, with regard to the protection of the constitutional and legal rights and the protection of the principles of non-discrimination and adequate and equitable representation of community members, for the case for which procedures are pending, notwithstanding the type and degree of the ongoing procedure before the bodies set out in Article 2 of this Law.

With regard to the situation with ensuring respect and protection of the constitutional and legal rights and the principles of non-discrimination and adequate and equitable representation of community members, the Ombudsman, within the scope of his competence, may forward recommendations, opinions and criticisms, on his own initiative, to the bodies set out in Article 2 of this Law.

Article 29

The Ombudsman shall follow, within the scope of his competence, the situation regarding the respect and protection of the constitutional and legal rights of citizens and respect of the principles of non-discrimination and adequate and equitable representation of community members and by means of visits and insights into the bodies set out in Article 2 of this Law.

Article 30

The Ombudsman may propose initiatives to the authorized proposers for amendments and modifications to laws and other by-laws, and their harmonization with international agreements, ratified pursuant to the Constitution of the Republic of Macedonia.

The Ombudsman may submit a proposal to the Constitutional Court of the Republic of Macedonia for evaluation of the constitutionality of the laws and the constitutionality and legality of the other regulations or general acts.

Article 31

The Ombudsman shall follow the situation with regard to the respect and protection of the constitutional and legal rights of the persons in the bodies, organizations and institutions where the freedom of movement is restricted.

The Ombudsman shall especially follow the situation with regard to the respect and protection of the constitutional and legal rights of the persons arrested, detained, imprisoned, and those who are serving a prison sentence, or a corrective and educational measure, in the prisons and educational-correctional facilities.

The Ombudsman may visit and have insight of paragraphs 1 and 2 of this Article, at any time, without prior notice and approval, as well as talk with the persons at these bodies, organizations or institutions without the presence of official persons.

The persons deprived of their freedom shall be entitled to put forward a submission to the Ombudsman in a closed envelope, without checking by the official persons of the body, organization or institution where they are situated, and to receive a response in a closed envelope without checking by the official persons.

Article 32

When the Ombudsman concludes that the state administration bodies set out in Article 2 of this Law infringe the constitutional and legal rights of the person who put forward the submission, or that some other irregularities have occurred, he may:

- give recommendations, proposals, opinions and indications on the manner of the removal of the determined infringements;
- propose that a certain procedure be implemented pursuant to law;
- raise an initiative for commencing disciplinary proceedings against an official, i.e. the responsible person;
- submit a request to the competent Public Prosecutor for initiation of a procedure in order to determine a criminal responsibility.

Article 33

When the Ombudsman concludes that the constitutional and legal rights of the person who put forward the submission are infringed by the state administration bodies and by other

bodies and organizations that have public authorization, or that the principles of non-discrimination and adequate and equitable representation of community members in the state administration bodies, local self-government units and public institutions and agencies has been breached, or some other irregularities have occurred, and if he assesses that the execution of the administrative act may cause irreparable damage to the right of the interested person, he shall request:

- temporarily postponement of the implementation of the administrative act until the decision by the second-instance body is adopted;
- temporarily postponement of the execution of the administrative act until passing a decision by the competent court.

The bodies set out in Article 2 of this Law are obliged to pass and submit to the Ombudsman the decision immediately, or within 3 days at the latest from the day when the request submitted by the Ombudsman has been received, whereby enforcement of the administrative act has been temporarily postponed.

The competent bodies are also obliged to submit the decision to the Ombudsman following the termination of the procedure.

Article 34

The bodies in Article 2 of this Law are obliged to notify the Ombudsman about the undertaken measures for enforcing his requests, proposals, opinions, recommendations or indications, in a deadline that he shall determine, and no later than 30 days from the day when the request submitted by the Ombudsman has been received.

If the body does not notify the Ombudsman pursuant to paragraph 1 of this Article, or if it only partly accepts his conclusions, requests, proposals, opinions, recommendations or indications, the Ombudsman shall inform the immediate superior body, the official in charge of the body set out in Article 2 of this Law, or the Government of the Republic of Macedonia, with a special report and, if they do not undertake the necessary measures, the Parliament of the Republic of Macedonia.

The Ombudsman may publicize the case in the mass media, at the expense of the body in paragraph 2 of this Law to which the case pertains, when there is an infringement of the constitutional and legal rights.

Article 35

If the bodies in Article 2 of this Law proceed upon the requests, recommendations, opinions, proposals and indications in Article 34 of this Law within the determined deadline, the Ombudsman shall conclude that the procedure is completed and he shall immediately notify the person who put forward the submission.

IV. PUBLICITY OF THE WORK

Article 36

The Ombudsman shall inform the Parliament of the Republic of Macedonia about the level of respect, improvement and protection of the constitutional and legal rights of citizens, and respect of the principles of non-discrimination and adequate and equitable representation of community members, by the bodies set out in Article 2 of this Law, with an annual report.

The report set out in paragraph 1 of this Article shall be discussed by the Parliament of the Republic of Macedonia at a Parliamentary session which shall be compulsorily attended by members of the Government of the Republic of Macedonia, i.e. its representatives.

The Ombudsman's report shall be obligatory publicized in the mass media.

Article 37

The Ombudsman may submit a separate report on the affairs within his scope of competence in the area of the local self-government units where an office is established as an organizational unit of the Ombudsman.

The separate reports in paragraph 1 of this Article, notices and other undertaken activities may be publicized by the Ombudsman in the mass media.

V. LEGAL POSITION OF THE OMBUDSMAN

Article 38

The Ombudsman and his deputies cannot be called to account for a given opinion and actions, measures and activities undertaken in the performance of their function.

Article 39

The Ombudsman, the deputies of the Ombudsman and the employees in the Ombudsman's professional service shall have an official pass.

The form, contents, procedure and manner of issuing, usage and confiscation of the official pass shall be prescribed by the Ombudsman with a general act.

Article 40

The Ombudsman and his deputies, who have been employed prior to their appointment, shall have the right to return to the job that suits the level of their professional education, within 30 days following the termination of their tenure.

Article 41

The Ombudsman, his deputies and the employees in the Ombudsman's professional service shall have the right and obligation to constant professional training and improvement.

Funds from the Budget set aside for the Ombudsman shall be provided for the needs of professional training and improvement.

Article 42

As special rights of the Ombudsman and his deputies, in the performance of their function, shall be deemed:

- the right to enter and have a free pass at the stations, airports and ports, only by displaying the official pass;
- the right to freely use means of transport for public, land or lake traffic on the territory of the Republic of Macedonia; and

- the right to special protection of his personality, his family and property, upon his request, submitted to the police in his place of residence, whenever there are serious threats to his safety.

VI. PROFESSIONAL SERVICE

Article 43

The general acts on the organization of work and systematization of working posts, whereby the type and number of employees and their work assignments are stipulated, shall be passed by the Ombudsman.

Article 44

The following offices shall be organized as regional organizational units for performance of the affairs within the Ombudsman's scope of competence:

- 1) Office of the Ombudsman in Tetovo;
- 2) Office of the Ombudsman in Kicevo;
- 3) Office of the Ombudsman in Stip;
- 4) Office of the Ombudsman in Strumica;
- 5) Office of the Ombudsman in Kumanovo;
- 6) Office of the Ombudsman in Bitola.

The Deputy Ombudsman shall manage the offices of the Ombudsman.

The Ombudsman shall regulate more closely, by means of a general act, the manner in which the work is carried out and the number of employees in the offices of the Ombudsman, who perform duties within the Ombudsman's scope of competence.

Article 45

The Ombudsman may establish and organize departments for the purpose of a more efficient and more successful protection of the constitutional and legal rights of the citizens' in particular areas.

The Ombudsman shall regulate more closely, by means of a general act, the manner of work and number of employees in the departments who shall perform the duties in the area of the Ombudsman's scope of competence.

Article 46

The Ombudsman shall appoint a Secretary General from among the managing civil servants.

The mandate of the Ombudsman's Secretary General shall equal the length of the mandate of the Ombudsman.

The Secretary General to the Ombudsman shall manage the professional service.

Article 47

For his work, the Ombudsman shall adopt Rules of Procedure for the Ombudsman's Work.

The Rules of Procedure for the Ombudsman's Work shall more closely regulate the work, manner and procedures in front of the Ombudsman.

The Rules of Procedure for the Ombudsman's Work shall be published in the "Official Gazette of the Republic of Macedonia".

VII. FUNDS FOR THE WORK

Article 48

In order to perform his duties, the Ombudsman shall have in his service adequate resources, funds and personnel.

The Ombudsman's funds for work shall be provided from the Budget of Republic of Macedonia.

The Parliament shall separately vote on the section in the Budget of the Republic of Macedonia for the purposes of the Ombudsman.

Article 49

The salary and other allowances of the Ombudsman and his Deputies shall be stipulated by law.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 50

The Rules of Procedure for the Ombudsman's Work, and the Acts on the Organizational Manner of Work and the Systematization of Working Posts, shall be harmonized with the provisions of this Law within 6 months from the day of the entering into force of this Law.

The Act on the Manner of Realization of the Special Entitlements of the Ombudsman, His Deputies and the Persons Authorized by the Ombudsman as referred to in Article 42 of this Law and the Act on the Manner of Work and the Number of Employees in the Organizational Units of the Ombudsman as referred to in Article 44, paragraph 3 of this Law, shall be enacted within 6 months from the day of the entering into force of this Law.

The decision about the number of Ombudsman's deputies in Article 5, paragraph 2 of this Law shall be passed by the Parliament of the Republic of Macedonia within 30 days from the day of enactment of this Law.

Article 51

The organizational units shall start practicing their work no later than 6 months from the day of enactment of this Law.

Article 52

With the enactment of this Law, the previous Law on the Ombudsman shall cease to be valid ("Official Gazette of RM" No. 7/97.)