

3. Legal Framework in Bulgaria

3.1. Law on the Ombudsman

(Promulgated, SG, No. 48/23.05.2003, in force since 01.01.2004)

Chapter One

GENERAL PROVISIONS

Art. 1. This law shall regulate the legal status, organization and activities of the Ombudsman.

Art. 2. The Ombudsman shall intervene by the means, envisaged in this law, when citizens' rights and freedoms have been violated by actions or omissions of the state and municipal authorities and their administrations as well as by the persons assigned with the provision of public services.

Art. 3. (1) The Ombudsman shall be independent in his/her activities and shall obey only to the Constitution, the laws, and the ratified international treaties to which the Republic of Bulgaria is a party. He/she shall be guided by his/her personal conscience and morality.

(2) The Ombudsman shall perform his/her activities based on rules on the organization and activities of the institution. The rules shall be elaborated by the Ombudsman, shall be approved by a decision of the National Assembly and shall be promulgated in the State Gazette.

Art. 4. The activities of the Ombudsman shall be public.

Art. 5. The Ombudsman shall be assisted in his/her activities by a Deputy Ombudsman.

Art. 6. The state and municipal authorities and their administrations, the legal persons and citizens shall be obliged to provide the Ombudsman with information, entrusted to them officially, and to provide assistance to the Ombudsman in relation with the complaints and signals sent to him/her.

Art. 7. The activities of the Ombudsman and his/her administration shall be financed by the State Budget and/or by other public sources. The Ombudsman shall be first-rate administrator of budgetary credits.

Chapter Two

TAKING THE OFFICE. LEGAL STATUS

Art. 8. The Ombudsman shall be elected by the National Assembly for a term of five years and may be re-elected for the same office only once.

Art. 9. Shall be elected Ombudsman a Bulgarian citizen, possessing university degree, revealing high integrity and meeting the requirements for the election of Member of Parliament.

Art. 10.(1) The Members of Parliament and the Parliamentary Groups may submit proposals for election of Ombudsman.

(2) The National Assembly shall elect the Ombudsman by secret voting. The candidate, who has received more than a half of the votes of the Members of Parliament participating in the voting, shall be elected.

(3) If none of the candidates has received the required majority at the first voting, a second voting shall take place, in which only the two candidates, who has received the greatest number of votes shall participate. The candidate, who has received more than half of the votes of the Members of Parliament participating in the second voting, shall be considered elected.

Art. 11.(1) The Deputy Ombudsman shall be elected by the National Assembly within one month following the election of the Ombudsman upon proposal by the Ombudsman and for the term under article 8.

(2) The Deputy Ombudsman shall meet the election criteria under article 9.

Art. 12. The Ombudsman shall take office after taking the following oath before the National Assembly: "I swear in the name of the Republic of Bulgaria to observe the Constitution and the laws of the country and to protect the human rights and fundamental freedoms by exercising conscientiously and impartially my powers".

Art. 13. The election of a new Ombudsman shall take place at least two months before the expiry of the term of office of the active Ombudsman. The Ombudsman shall continue to carry out his/her duties until the newly elected Ombudsman takes office.

Art. 14. The office of the Ombudsman and the Deputy Ombudsman shall be incompatible with any other state office, managerial position in commercial company or not-for-profit legal person, as well as with membership in political party or trade union. The Ombudsman and the Deputy Ombudsman may not perform commercial activities.

Art. 15.(1) The powers of the Ombudsman and the Deputy Ombudsman shall be terminated by the National Assembly before the expiry of their term of office in case of:

1. establishment of incompatibility or ineligibility;
2. inability to carry out his/her powers for more than six months;
3. entry in force of a sentence for intentional crime;
4. failure to carry out his/her duties and violation of the Constitution and the laws of the country or the commonly accepted ethical rules;
6. resignation;
7. death.

(2) The decision for termination of the powers of the Ombudsman or the Deputy Ombudsman before the expiry of their term of office on the grounds of paragraph (1), items 1, 2 and 4 shall be adopted by the National Assembly upon request by at least one-fifth of the Members of Parliament; the grounds under paragraph (1) items 3, 5 and 6 shall be announced before the National Assembly by the Chair of the National Assembly.

(3) Apart from the grounds under paragraph (1), the Deputy Ombudsman shall be dismissed by the National Assembly upon a justified proposal by the Ombudsman.

(4) The Ombudsman and the Deputy Ombudsman shall have the right to speak before the National Assembly in the cases under paragraph (1), items 1, 2, 4 and 5; the Deputy Ombudsman shall have the same right in the case under paragraph (3) as well.

Art. 16.(1) The Ombudsman shall enjoy the same immunity as a Member of Parliament.

(2) The immunity of the Ombudsman may be removed under the terms and through the procedure, envisaged for the Members of Parliament.

Art. 17.(1) In cases of termination of the mandate of the Ombudsman before the expiry of his/her term of office, the new Ombudsman shall be elected within one month following the entry into force of the decision for termination under article 15, paragraph (1), items 1, 2 or 4, or following the announcement under article 15, paragraph (1), items 3, 5 or 6.

(2) In cases of termination of the powers of the Ombudsman before the expiry of his/her term of office, the Deputy Ombudsman shall take the office until the election of a new Ombudsman.

Art. 18.(1) The Ombudsman shall receive remuneration in the amount of three average month salaries of the civil servants and the employees in the public sector, according to the data of the National Statistical Institute.

(2) The remuneration of the Deputy Ombudsman shall be 80% of the remuneration of the Ombudsman.

(3) The Ombudsman and the Deputy Ombudsman may not receive other remuneration as employee or civil servant.

Chapter Three POWERS

Art. 19.(1) The Ombudsman shall:

1. receive and consider complaints and signals regarding violations of rights and freedoms by the state and municipal authorities and their administrations as well as by persons assigned with the provision of public services;
2. make examinations upon the complaints and signals received;
3. reply in writing to the person, who has lodged the complaint or signal, within one month; if the case requires a more thorough examination, this term shall be three months;
4. make proposals and recommendations for reinstatement of the violated rights and freedoms before the respective authorities, their administrations, and persons under item 1;
5. mediate between the administrative authorities and the persons concerned for overcoming the violations admitted and shall reconcile their positions;
6. make proposals and recommendations for eliminating the reasons and conditions, which create prerequisites for violation of rights and freedoms;
7. notify the authorities, listed under article 150 of the Constitution, for approaching the Constitutional Court, when he/she is of the opinion that it is necessary the Constitution to be interpreted or a law to be declared unconstitutional;
8. notify the Public Prosecution Office when data exists that a crime, prosecuted on indictment, has been committed.

(2) The Ombudsman may act on his/her own initiative as well when he/she has established that the necessary conditions for protecting citizens' rights and freedoms have not been created.

(3) The Ombudsman may assign some of his/her powers to the Deputy Ombudsman.

Art. 20.(1) The Ombudsman shall have the right:

1. of access to the authorities, their administrations and the persons under article 2, including the right to be present when they discuss and make decisions;
2. to request and receive timely, accurate and comprehensive information from the authorities, their administrations and persons under article 2;
3. to publicly express opinions and statements, including in the media.

(2) The Ombudsman shall not have the right to disclose any circumstances that he/she has become aware of while performing his/her functions, which are state, official or commercial secret or are of personal nature.

Art. 21. The Ombudsman shall maintain a public register on the received oral and written complaints and signals and their movement.

Art. 22.(1) The Ombudsman shall submit an annual report on his/her activities to the National Assembly by March 31 every year.

(2) The report shall contain information on:

1. the complaints and signals received, the examinations on which have been completed;
2. the cases when his/her intervention has led to a certain result;
3. the cases when his/her intervention has had no consequences and the reasons thereof;
4. the proposals and recommendations made and whether these have been taken into consideration;
5. the respect for the human rights and fundamental freedoms and the efficiency of the legislation in force in this area;
6. a report on the expenditures;
7. a summary.

(3) The report under paragraph (1) shall be public.

(4) The Ombudsman shall prepare reports on particular cases upon request by the National Assembly or upon his/her own initiative.

Art. 23. The Ombudsman shall publish an annual bulletin on his/her activities.

Chapter Four

SUBMISSION OF COMPLAINTS AND SIGNALS

Art. 24. Complaints and signals to the Ombudsman may be submitted by natural persons, irrespective of their citizenship, gender, political affiliation or religious beliefs.

Art. 25.(1) Complaints and signals may be written or oral, submitted personally, by post or by other traditional means of communication.

(2) The complaint must contain the name and permanent address of the sender, description of the violation, the authority, administration, or person against whom the complaint is lodged. Written evidence may also be enclosed to the complaint.

(3) Anonymous complaints and signals and complaints for violations committed before more than two years shall not be considered.

(4) For oral complaints a protocol shall be drawn up, containing the information required under paragraph (2).

Art. 26. The submission of complaints before the Ombudsman shall be free of charge.

Art. 27. The complaints and signals received shall be entered into the register under article 21. The measures undertaken on each case and the results thereof shall also be entered into the register.

Art. 28. The authorities and the persons under article 2, to whom the opinions, proposals and recommendations have been addressed, shall be obliged to consider them within fourteen days and to notify the Ombudsman on the measures undertaken.

Chapter Five

ADMINISTRATIVE PENAL PROVISIONS

Art. 29. Any person who hinders the Ombudsman to perform his/her official duties shall be punished by a fine of up to 600 BGN, if he/she is not liable to a more severe penalty.

Art. 30. Any person who fails to submit data, documents or certificates, demanded by the Ombudsman, in the term, specified by him/her, shall be punished by a fine of up to 500 BGN, if he/she is not liable to a more severe penalty.

Art. 31. Any person who fails to perform another obligation, specified by this law or the relevant secondary legislation on its implementation, shall be punished by a fine of up to 300 BGN, if he/she is not liable to a more severe penalty.

Art. 32. The administrative penalty for the violations under articles 29-31 shall be imposed by the respective regional court. The statement of establishment of the administrative violation shall be drawn up by an official, determined by the Ombudsman, and shall be sent to the respective regional court.

Art. 33. The court shall notify the person, whose punishment has been demanded, of the materials received under article 32, and shall specify the term for this person to get acquainted with them, to make objections and to indicate evidence in their support. The term may not be shorter than one month.

Art. 34. (1) After the expiry of the term under article 33 an open hearing shall be appointed.
(2) The Ombudsman may participate in the court proceedings if he/she finds it necessary.

Art. 35. (1) The regional court shall hear the case upon its merits and shall pronounce a decision for imposing the administrative penalty specified in this law or for discharging the person whose punishment has been demanded.

(2) The decision shall be subject to cassation appeal before the district court under the procedure of the Law on the Supreme Administrative Court. The Ombudsman may also appeal the decision.

Art. 36. Unless otherwise provided in this law the Law on Administrative Violations and Penalties shall be applied.

 ADDITIONAL PROVISION

§ 1. Within the meaning of this law:

1. "public services" are educational, healthcare and social activities, activities related to water, heat and electricity supply, postal and telecommunications activities, commercial activities, activities related to security and transport safety as well as other similar services, provided for satisfying public needs and in relation to which administrative services may be performed;
2. "traditional means of communication" are letters, telephone, telegraph, telex, fax and e-mail.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 2. The National Assembly shall elect the Ombudsman within three months following the entry into force of this law.

§ 3. The Ombudsman shall submit to the National Assembly for approval the rules on the organization and activity of the institution within one month after taking the office.

§ 4. The law shall enter into force on January 1, 2004.

The law was adopted by the 39th National Assembly on May 8, 2003, and was sealed with the official seal of the National Assembly.

3.2. Law on Local Self-Government and Local Administration

(excerpt)

(Promulgated, SG No. 77/17.09.1991, in force since 17.09.1991; amended, SG, No. 24/14.03.1995, No. 49/30.05.1995, No. 65/21.07.1995, No. 90/24.10.1996, No. 122/19.12.1997, No. 33/24.03.1998, No. 130/05.11.1998, in force since 06.12.1998, No. 154/28.12.1998, No. 67/27.07.1999, No. 69/03.08.1999, in force since 03.08.1999, No. 26/29.03.2000, No. 85/17.10.2000, in force since 17.10.2000, No. 1/02.01.2001, in force since 31.03.2001, No. 28/19.03.2002, No. 45/30.04.2002, No. 119/27.12.2002, in force since 01.01.2003, No. 69/05.08.2003, in force since 27.10.2003)

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Art. 21a. (New, SG, No. 65/1995; repealed, SG, No. 69/1999; new, SG, No. 69/2003)

(1) The Municipal Council may elect a Public Mediator.

(2) The Public Mediator shall promote the observance of the rights and legal interests of the citizens before the local self-government authorities and the local administration.

(3) The organization and activities of the Public Mediator shall be regulated by Rules, adopted by the Municipal Council.

(4) The Public Mediator shall be elected and removed from office by a majority of 2/3 of all Municipal Councilors.

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CONCLUDING PROVISION

to the Law on Amending and Supplementing the Law on Local Self-Government and Local Administration (SG, No. 69/2003)

§ 43. This law shall enter into force on the day following the date of holding the local elections in 2003.