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**EUROPEAN STANDARDS
AND OMBUDSMAN
INSTITUTIONS
IN SOUTHEAST EUROPE**



CENTER FOR
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**EUROPEAN STANDARDS
AND OMBUDSMAN INSTITUTIONS
IN SOUTHEAST EUROPE**

Sofia, June 6-8, 2002

This publication presents a summary of the discussion at the International Conference *“European Standards and Ombudsman Institutions in Southeast Europe”* held on June 6-8, 2002, in Sofia. The conference was organized jointly by the Center for the Study of Democracy and Friedrich Ebert Foundation and was attended by ombudsmen and representatives of the institution from Sweden, Belgium, Greece, Albania, Bosnia and Herzegovina, Macedonia, Serbia, Montenegro, Croatia and Kosovo as well as experts and representatives of institutions and organizations from Bulgaria actively involved in the process of introducing Ombudsman institution in Bulgaria.



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SUMMARY OF THE DISCUSSION¹

The International Conference “European Standards and Ombudsman Institutions in Southeast Europe” organized jointly by the Center for the Study of Democracy and Friedrich Ebert Foundation was aimed to present and facilitate the process of introducing and strengthening Ombudsman institutions in Southeast Europe as well as to establish a network between them to exchange information and experience.

Among the distinguished speakers at the conference were the Parliamentary Ombudsman of Sweden, the Ombudsman of Greece, the Federal Ombudsmen of Belgium, Representative of the Office of the Commissioner for Human Rights of the Council of Europe, and Ombudsmen or their representatives from most of the Southeast European countries (Macedonia, Albania, Bosnia and Herzegovina, Slovenia, Croatia, Serbia, Montenegro, Kosovo). The conference was also attended by Bulgarian experts and representatives of institutions and organizations actively involved in the process of introducing Ombudsman institution in Bulgaria.

Special presentations were delivered by the Parliamentary Ombudsman of Sweden **Ms. Kerstin Andre**, the Ombudsman of Greece **Professor Nikiforos Diamandouros**, the Representative of the Office of the Commissioner for Human Rights of the Council of Europe **Mr. Fernando Mora**, and the Federal Ombudsmen of Belgium **Dr. Herman Wuyts** and **Mr. Pierre-Yves Monette**. The experience of the Southeast European countries was presented by **Mr. Branko Naumovski**, Ombudsman of Macedonia, **Ms. Mimosa Skenderaj**, International Relations Officer, Office of the Ombudsman of Albania, **Ms. Branka Raguz**, Ombudsman of Federation Bosnia and Herzegovina (Sarajevo), within Bosnia and Herzegovina, **Mr. Zlatko Kulenovic**, Ombudsman of Republika Srpska (Banja Luka) within Bosnia and Herzegovina, **Mr. Jernej Rovsek**, Deputy Ombudsman of Slovenia, **Mr. Ante Klaric**, Ombudsman of Croatia, **Mr. Sevdalin Bozhikov**, Deputy Minister of Justice of Bulgaria, **Mr. Meho Omerovic**, Member of Parliament of Serbia, **Mr. Slaven Lekic**, Director, Council for Encouragement of Citizens’ Participation in Local Self-Government, Montenegro, and **Mr. Hilmi Jashari**, Director of Investigations, Kosovo.

In the course of the conference the following main issues were discussed:

- practical and legal aspects of the establishment and development of Ombudsman institutions in Southeast Europe;
- specific features of Ombudsman institutions in transition countries;
- functions and powers of the Ombudsman;
- fundamental principles in the activities of the institution;
- funding and organization of the activities of the institution;
- relations between the Ombudsman and the other institutions;
- relations between the Ombudsman and the citizens and the media;
- international cooperation between the Ombudsmen.

¹ The full records of the discussion are available in Bulgarian at: “<http://www.csd.bg/law/download/Stenograma.zip>”

Establishment and development of Ombudsman institutions in Southeast Europe – practical and legal aspects

Most Southeast European countries introduced the Ombudsman institution for the first time during the period of transition towards democracy. In **Slovenia** the institution was established in 1991 based on the experience gained from the operation of the then existing Council of Human Rights and Fundamental Freedoms. In **Croatia** the Ombudsman was envisaged in the Constitution of 1990 and two years later (in 1992) the Parliament adopted the *Law on the Ombudsman* and elected the first Ombudsman. In **Macedonia** the Ombudsman was also envisaged in the Constitution of 1991. However, the Parliament adopted the *Law on the Ombudsman* 6 years later in 1997 and the institution started to operate in March 1998 after the necessary conditions, i.e. staff, technical equipment, etc. were secured. Most recently the Ombudsman institution was established in **Albania** – in February 2000.

In **Bosnia and Herzegovina** the Ombudsman institution was introduced in both the state of Bosnia and Herzegovina and its two Entities – Federation Bosnia and Herzegovina and Republika Srpska. In the state of Bosnia and Herzegovina there is a Commission on Human Rights consisting of Human Rights Chamber and Human Rights Ombudsman. On Entity level Federation Bosnia and Herzegovina introduced the Ombudsman institution in March 1994 right after the signing of the Dayton Peace Agreement and the adoption of the Federation's Constitution. The first Ombudsmen were appointed by the Organization for Security and Cooperation in Europe (OSCE) and the next were elected by the Parliament of the Federation. Republika Srpska adopted the *Law on the Ombudsman* in February 2000 and the institution started to operate in November the same year. Initially the functions of the institution were temporarily carried out by three persons appointed by the Human Rights Ombudsman for Bosnia and Herzegovina, while the first permanent Ombudsmen of Republika Srpska were elected by the Parliament on April 25, 2002, for a term of 5 years.

In **Kosovo** the Ombudsman institution was introduced by UN Regulation 2000/38 of June 30, 2000. Its establishment and start of operation were initially supported by the UN and OSCE Missions in Kosovo.

Among all Southeast European countries Bulgaria and Federal Republic Yugoslavia are the only countries, which still have not introduced the Ombudsman institution. In **Bulgaria** in the beginning of June 2002 the Parliament adopted on a first reading three different *Draft Laws on the Ombudsman*. Based on these Drafts a joint task force with the Parliamentary Committee on Human Rights and Religions started preparing a consolidated version to be presented to the National Assembly for adoption on a second reading.²

In **Federal Republic Yugoslavia** the establishment of the Ombudsman institution is defined as one of the country's priorities within the framework of its participation in the Stability Pact for Southeastern Europe and is also considered as one of the preconditions for full membership in the Council of Europe. In **Serbia** the Government has prepared and

² The joint task force completed its work in the middle of July and the prepared consolidated version was presented to the Members of Parliament for submission of new proposals. In the beginning of September the Parliamentary Committee on Human Rights and Religions started to discuss the proposals received and to prepare the final version of the Draft, which will be presented to the National Assembly for adoption on a second reading in plenary session.

submitted to the Parliament a *Draft Law on the People's Advocate*. There is a *Draft Law on the Ombudsman* prepared in Montenegro as well, which is currently presented for consideration to the Council of Europe. According to *Mr. Meho Omerovic*, Member of the Serbian Parliament and Chair of the Parliamentary Committee for Inter-Ethnic Relations, the establishment of Ombudsman institution in Federal Republic Yugoslavia, Serbia and Montenegro respectively, has been hampered by the still unsolved constitutional relations between Serbia and Montenegro and the unclear future of the federal state itself.

From a historic point of view there are two different legislative approaches for introducing the Ombudsman institution. Commonly, the institution is first **envisaged in the Constitution** of the respective country followed by adoption of detailed law provisions. The other possibility is the establishment of the Ombudsman **only by a special law** without an explicit constitutional provision. However, this second approach leaves open the possibility the main provisions of the law to be incorporated in the Constitution on a later stage of the development of the institution after it has started to perform its activities on the grounds of the special law provisions.

Most of the countries have adopted the first approach and have introduced the Ombudsman institution by explicit constitutional provisions. From the EU member states only Belgium and France have not included provisions on the Ombudsman in their Constitutions. As to Southeast Europe the Ombudsman is envisaged in the Constitutions of Macedonia, Albania, Bosnia and Herzegovina, and Croatia.

Various opinions have been put forward regarding the appropriate legislative approach for introducing the Ombudsman institution. The Ombudsman of Croatia *Mr. Ante Klaric* pointed out that the institution should be introduced by provision in the Constitution as a guarantee for its stability. According to him, since the Ombudsman is a parliamentary institution observing the operation of the Executive on behalf of the Parliament the ombudsman law as an organic law should have its grounds in the Constitution.

In the opinion of the Deputy Ombudsman of Slovenia *Mr. Jernej Rovsek* the inclusion of provisions on the Ombudsman in the Constitution could be appropriate in view of strengthening the stability of the institution since the Constitution is a long-term and constant law and is therefore much more difficult to be amended in comparison to other laws. Supporting this view, *Professor Nikiforos Diamandouros* defined the incorporation of provisions on the Ombudsman in the Constitution as an additional guarantee for its independence. Despite these arguments *Mr. Jernej Rovsek* concluded that the lack of constitutional provisions should not be considered as an obstacle and the Ombudsman could be successfully established by a special law, because the introduction of this institution does not interfere with the principle of division of powers.

With regard to the special ombudsman law and the scope of issues it should regulate the opinions expressed were also different. According to *Branko Naumovski* transition countries need a more precise and detailed legislative regulation, especially of the powers of the Ombudsman. Thus, for instance, if the Ombudsman's power of access to information is not precisely regulated the respective state authorities may not provide him/her with access to such information and he/she will not be able to perform effectively his/her functions.

Mr. *Branko Naumovski* referred to the negative experience in Macedonia where some of the provisions of the *Law on the Ombudsman* were not precisely formulated due to the quick adoption of the Law, which lead to ineffective operation of the institution. As a result the Law is currently in process of amendment in order to eliminate the existing discrepancies and to create strong and secure guarantees for the independence of the institution.

The importance of precise and detailed ombudsman legislation was also underlined by Ms. *Snezhana Nacheva*, Associate Professor at the Sofia University Law Faculty and Member of the Legislative Council with the National Assembly. In her opinion the absence of such legislation would lead to difficulties in clarifying the relations between the Ombudsman and the traditional state authorities, especially in transition countries, where the institution is introduced for the first time and which do not have the necessary public attitude and readiness.

Mr. *Jernej Rovsek* expressed a different opinion, pointing out that the main objective of the law is to guarantee the institution's independence, its financial autonomy, and the exercising of the authorities it is vested with. However, apart from these provisions the Law should be more general in order not to restrict the Ombudsman in performing its activities. The country Mr. *Rovsek* mentioned as an example of this case is Slovenia, where the law regulates the investigation procedures by rather sophisticated provisions and that was the reason for the Ombudsman to introduce and follow more simplified procedures not explicitly envisaged by the Law.

The Ombudsman of Federation Bosnia and Herzegovina Ms. *Branka Raguz* and the Ombudsman of Greece Professor *Nikiforos Diamandouros* subscribed to the opinion of Mr. *Rovsek*. According to Ms. *Raguz* the Ombudsman should not be burdened by formalism and strict rules and the flexibility of the institution should remain one of its characteristic features. Professor *Diamandouros* pointed out that the main objective of the Legislature is to find the "golden mean" by adopting rules, which are detailed enough so that the Ombudsman could effectively perform its activities without being restricted and turned into an "instrument deprived of flexibility".

Specific features of the Ombudsman institution in transition countries

All Ombudsman institutions in the world have in common that they are democratic institutions based on the recognition of the fundamental rights of individuals and the principle of the rule of law. The establishment and functioning of the Ombudsman is increasingly seen as a key mechanism for fostering good governance.

Most of the presentations underlined that the Ombudsman institutions established in transition countries play a significant role in the process of democratization and protection of human rights. Many of the newly established institutions, not only in Europe but all over the world, mark considerable success in spite of the comparatively short period of operation.

According to Ms. *Kerstin Andre*, Parliamentary Ombudsman of Sweden, the traditional view that the Ombudsman institution can function properly only in favorable surroundings, where the democratic system of government is firmly established and the principle of the rule of law is universally recognized by the public officials, is constantly disproved during the last few years by the experience of the countries in transition introducing this

institution. In these countries the Ombudsman institution meets with difficulties that are specific to the new democracies, such as cases of serious violations of the human rights, more or less widespread corruption, poor attitude of the administration towards the citizens. This makes the existence of the Ombudsman institution very important for these countries in order to fully protect the individuals' rights.

Three main areas, in which the Ombudsmen in transition countries could play a considerable role in reforming state governance, were outlined: first, the adoption of adequate legislation; second, the establishment of effective institutions and authorities; and third, improving the practical operation of such institutions. Special attention was paid to the role of the Ombudsman in changing the state authorities' attitude towards the citizens due to the mere fact of knowing that someone observes their operation.

In the opinion of *Ms. Kerstin Andre* the role of the Ombudsman transition countries is even more important because an Ombudsman in a transition country could do more for consolidation and strengthening of democracy, detection of irregularities in the activities of state institutions, improving the protection of human rights, and increasing the responsibility of different branches of administration.

The Federal Ombudsman of Belgium *Dr. Herman Wuyts* expressed his view that the establishment of the Ombudsman institution in transition countries is facilitated by the circumstance that it is carried out within the process of building the new state organization and is therefore not impeded by the conservative and bureaucratic approach, typical for the traditional democracies when it comes to introducing new institutions.

Meanwhile, the Ombudsman of Macedonia *Mr. Branko Naumovski* defined the process of transition towards a new political system as the main reason for the difficulties faced by the Ombudsmen in Southeast European countries. In his opinion this process is often marked by slow structural reforms, not fully established political and democratic relations, inadequate legislation and legal provisions that are inconsistent with the international acts, as well as underdeveloped communication relations between the administration and the citizens. In such an environment the Ombudsman could substantially contribute to the transformation of the existing system, especially in terms of recognition and free exercise of human rights, by using its influence and reports and also by attracting the attention of the public and the media.

Functions and powers of the Ombudsman

Individual countries have introduced the Ombudsman institution under various forms and types: there is the classical Ombudsman in the Scandinavian countries, Poland and the Netherlands, the People's Defender in Spain and the Latin American countries, the Mediator in France and the other French-speaking countries, the Parliamentary Commissioner for Human Rights in Hungary, etc.

Professor Nikiforos Diamandouros defined two main types of Ombudsman institutions depending on whether their activities are focused on exercising control over the administration or on protecting the human rights. Following this view the Ombudsman historically was not established with the purpose to protect the human rights but rather to

control the Executive not to allow abuses against the citizens. The specific type of Ombudsman institution established by the individual countries depends to a great extent on their political history in a way that according to *Professor Diamandouros* “the more traumatizing this history has been the more functions the Ombudsman has as defender of human rights”. This also reflects on the name of the institution. Thus, in developed democracies more neutral terms have been used, based on the concept of mediation, like the Swedish “ombudsman” and the French “mediator”. On the opposite, in countries with more troubled political history, where the citizens have not always been fully protected against the state, the institution is most often called “people’s defender”, like for instance in Spain and the Latin American countries. In Greece the institution is called Defender of Citizens, in Portugal – Protector of Justice, etc.

Professor Diamandouros pointed out that most of the post-socialist countries tend to include the term “human rights” within the very name of the institution to emphasize on the need for their guaranteeing. He formulated three main functions the Ombudsman could perform. First, the Ombudsman could serve as an instrument for external control over the administration. Such control includes the detection of violations committed by the administration and the preparation of recommendations for their elimination. The second main function of the Ombudsman is the mediation, which means the establishment of dialogue between the citizens and the administration aimed at reaching a decision acceptable for both sides. The third main function of the Ombudsman is related to the preparation of proposals for reforming and improving the work of the administration.

The speakers from Southeast Europe indicated that the laws of their countries define the main function of the Ombudsman in a similar way emphasizing on the protection of the human rights against violations by the state administration. In such a way the function of the Ombudsman is defined in the legislation of Albania, Bosnia and Herzegovina, Macedonia and Croatia.

The Croatian Ombudsman *Mr. Ante Klaric* identified the building of confidence between the citizens and the public administration as a specific task of the Ombudsmen in transition countries. According to *Ms. Kerstin Andre*, who also supported this view, one of the objectives of the Ombudsman when criticizing the failures in the operation of the administration is to preserve and strengthen the confidence in the administrative system.

Among the main issues considered in the course of the discussions special attention was paid to the **powers of the Ombudsman**. The Swedish Parliamentary Ombudsman *Ms. Kerstin Andre* included among the most important powers of the Ombudsman the power to **perform investigations**, which in her opinion represents a key prerequisite enabling the Ombudsman to successfully carry out all the functions assigned to him. Therefore, the right of the Ombudsman to conduct investigations not only on the grounds of complaints submitted to him, but also upon his own initiative, remains of specific importance.

In most of the countries the practice shows that in the prevailing number of cases the Ombudsman performs its investigations and inquiries upon complaints submitted to him. Therefore, the Deputy Ombudsman of Albania *Mr. Jorgo Dhrami* underlined the necessity of securing the broadest possible access to the institution for all persons, whose rights have

been violated by the administrative authorities. Such accessibility of the institution according to the Deputy Minister of Justice of Bulgaria *Mr. Sevdalin Bozhikov* needs to be guaranteed by the introduction of simplified and free of charge procedures for submitting complaints to the Ombudsman.

The effective performance of the Ombudsman's investigations largely depends on the assistance provided by the investigated authorities and the Ombudsman's power of **access to information**. In Sweden, for instance, the governmental departments and their personnel are obliged by the law to present all the information requested by the Ombudsman; the failure to comply with this obligation is considered a violation, for which the Ombudsman has the right to impose fines. Most of the Southeast European countries have also introduced such obligations although they have not assigned the Ombudsman with the power to impose penalties. In Republika Srpska, for instance, in cases of non-compliance with the obligation for assistance the Ombudsman has the right to inform the superior official about the violation committed. In more severe cases, however, the Ombudsman may initiate disciplinary or judicial proceedings.

The Ombudsmen in Bosnia and Herzegovina have one additional power in respect to conducting investigations. If an administrative authority in Bosnia and Herzegovina intends to execute a certain decision, which in the opinion of the Ombudsman will result in irreparable damage, the Ombudsman may request the execution to be postponed by up to 10 days so that he could investigate the case and establish the reason for this decision.

The Ombudsman's right of access to information in most of the countries from the region includes also the access to confidential information, like for instance information representing state secret. In such cases the Ombudsman is obliged not to disclose the data he has obtained.

Another typical power of the Ombudsman is the power to **make proposals and recommendations** to the authorities observed for overcoming the violations committed. Generally, these proposals and recommendations are not binding for the authority they have been addressed to and the Ombudsman could not force the respective authority to comply with them. The strongest power of the Ombudsman in case of noncompliance with the recommendations made is to inform the Parliament by either including the case in its annual report or preparing a special report. In some countries like Albania and Bosnia and Herzegovina the Ombudsman is provided with the possibility to inform the superior administrative authority or the respective minister about the noncompliance with its recommendations.

As to the right of the Ombudsman to impose **sanctions** *Mr. Pierre-Yves Monette* underlined that the Ombudsman institution is designed to persuade and therefore should not have any powers in respect to imposing penalties. *Professor Diamandouros*, who also supported this view, paid attention to the fact that the only countries where the Ombudsman has the power to impose sanctions are Uganda and Sri Lanka, while everywhere else the Ombudsmen rely exclusively on their moral authority. *Ms. Kerstin Andre* explained that in Sweden the Ombudsmen have the power to initiate disciplinary proceedings for the imposition of disciplinary penalties, including dismissal of public officials. However, this power is used very sparingly, because, according to her, the main objective of the Ombudsmen is to guarantee the legality of the actions performed by the state

administration rather than to impose penalties, i.e. "the didactic role is more important than the repressive one".

One of the important issues discussed in relation to the powers of the Ombudsman was the opportunity of the Ombudsman to request from the administration the provision of compensation to the citizens whose rights have been violated. In this respect the Deputy Ombudsman of Albania *Mr. Jorgo Dhrami* pointed out that in Albania the Ombudsman has the right to propose the provision of such compensation or to request from the respective department or institution to apologize for the actions, which have caused damages to the citizens. *Professor Diamandouros* also noted that the Ombudsman should have the right to propose to the administration to compensate the citizens for the violation of their rights. Nevertheless such power of the Ombudsman, according to *Professor Diamandouros*, should be restricted so that the Ombudsman could only propose or persuade the administration in the necessity of such compensation, because the Ombudsman is not entitled to impose sanctions.

In some countries like Bosnia and Herzegovina the Ombudsmen have **special powers to control the implementation of the access to information legislation**. In the opinion of *Ms. Branka Raguz* this practice has a positive impact in view of increasing the transparency in the work of the state authorities. *Mr. Jernej Rovsek* expressed his concerns that such an approach would result in unreasonable overloading of the Ombudsman and suggested that the control in this area should be exercised by the courts.

The situation of the **protection of personal data** is similar. There are some countries like Ireland where the Ombudsmen exercise specialized control over the protection of personal data. In Hungary one of the Ombudsmen deals exclusively with the personal data protection and the access to the information provided by the administration. According to *Professor Nikiforos Diamandouros* such an approach is appropriate for countries with strong traditions in the rule of law and a comparatively small amount of complaints by the citizens. In the same time, if Ombudsmen in transition countries take over this additional function they will face much larger amount of complaints, which in turn could decrease their effectiveness. *Mr. Jernej Rovsek* supported this conclusion by referring to the experience of Slovenia where the personal data protection is under the competence of a specialized Inspection for Protection of Personal Data, whose activities, however, the Ombudsman could observe.

In many Southeast European countries the Ombudsmen have certain **specific powers aimed at improving the legislation**, such as the power to **give statements and recommendations on draft laws** or the power to **approach the Constitutional Court** in cases of unconstitutionality of laws. In Albania, for instance, the Ombudsman could establish that the violations of individuals' rights are due to the contents of the legislation rather than to its implementation. In such cases the Ombudsman has the right to give recommendations for amending the respective legislation, including the secondary legislation adopted by the administration, as well as to approach the Constitutional Court for repealing such acts. The Ombudsmen in Federation Bosnia and Herzegovina may approach the Constitutional Court of Bosnia and Herzegovina if the public interest has been affected. The Ombudsman of Slovenia also has the right to appeal against unconstitutional legal provisions before the Constitutional Court. The Ombudsman in Kosovo may give statements on the compliance of domestic law with the adopted international standards. In Croatia the Ombudsman

participates in the work of the parliamentary committees on all draft laws concerning human rights. The Macedonian Ombudsman also has the right to give statements and recommendations on draft laws. In this respect *Ms. Branka Raguz* underlined that the right of the Ombudsman to give recommendations regarding the legislation is of key importance for transition countries and represents one of the main differences between the institutions in these countries and the Ombudsmen in developed democracies.

One of the fundamental issues in relation to the Ombudsman's powers is whether he should deal mainly with solving individual cases or he should focus on more general problems. *Mr. Jernej Rovsek* concluded that in democracies in transition the emphasis in the Ombudsman's work should be laid on the general problems rather than on the individual ones. *Professor Nikiforos Diamandouros* also paid attention to the importance of this preventive function of the Ombudsman. In the same time he underlined that the solving of individual complaints also represents a very important criteria for the legitimacy and the success of the institution. According to him one should always search for the most appropriate balance between the systematic interventions and the individual solutions of problems because the solution of individual complaints strengthens the public confidence in the institution.

A typical power of the Ombudsman and one of its main instruments for influence is the preparation of **annual report to the Parliament**. Such power is provided in all countries with operating Ombudsman institutions, including the ones in Southeast Europe.

Being a parliamentary institution, as is the prevailing case, the Ombudsman submits its annual report to the Parliament. In some countries, like Sweden for instance, the annual report of the Ombudsman is distributed free of charge among all institutions in the country and is available in all public libraries and since recently in the Internet as well. In Belgium the Ombudsman submits to the Parliament an annual report together with general recommendations. These recommendations are sent to the special Parliamentary Committee on Complaints and Petitions, which in turn presents them to the other committees working on the respective laws. In Albania copies of the report should be presented to the President and the Prime Minister and could also be sent to other institutions concerned, as well as to foreign missions in Albania (translated in English). Also in Albania the recommendations and decisions of the Ombudsman after being discussed in the Parliament shall be promulgated. One specific feature of the Ombudsman of the state Bosnia and Herzegovina is its obligation to send its annual reports not only to the Parliament, the Government and the Presidency of Bosnia and Herzegovina but also to the bodies responsible for its election: the Parliamentary Assembly of OSCE in Vienna and the UN Representative for Bosnia and Herzegovina.

In many countries in addition to the submission of annual reports the Ombudsman has the rights to prepare special reports on individual cases. *Mr. Branko Naumovski* concluded that the presentation of special reports to the Parliament providing information on separate cases of violations of individuals' rights is constantly increasing.

Main principles in the activities of the Ombudsman

In performing their activities the Ombudsmen follow several general principles, the main of them being the principles of independence, autonomy, objectivity, accuracy,

conscientiousness, preciseness, nondiscrimination as to the relations with the citizens, etc.

In some countries these principles are envisaged in the Constitution. Thus for instance the Constitution of Federation Bosnia and Herzegovina formulates four main principles the Ombudsmen of the Federation are obliged to observe. The first one is the principle of legality, under which the Ombudsman is obliged to exercise its powers in compliance with the Constitution, the laws and the other regulations. The second principle is the principle of moral and justice, according to which the Ombudsman should operate relying not only on the law but also on the universally recognized moral and justice. The third principle is the principle of autonomy and independence in the performance of the Ombudsman's functions secured by the constitutional ban any person or state authority to interfere with the work of the Ombudsman. The fourth principle is the principle of cooperation including cooperation with the rest of the Ombudsmen, the other state authorities and the citizens who have approached the Ombudsman for assistance.

The Ombudsman is a **personality driven institution**, whose success will always depend on the person occupying the position. Therefore, among the most important issues concerning the establishment of the institution is the one related to the **criteria** which a person should meet in order to be elected Ombudsman.

Mr. Ante Klaric underlined that the Ombudsman needs to be a person enjoying high authority in the society. Besides, the Ombudsman should not necessarily be a lawyer, but he should in any case possess a university degree and knowledge in the field of human rights protection and should also respect the commonly accepted moral standards in the society.

Supporting the opinion, expressed by the Croatian Ombudsman, *Professor Nikiforos Diamandouros* noted that it would be enough for the Ombudsman to have an adequate legal background, knowledge and experience without necessarily possessing a university degree in law. The lack of legal education of the Ombudsman could be easily compensated by the appointment of a qualified team of lawyers in its administration.

Ms. Kerstin Andre underlined that the Ombudsman needs also to be acquainted with the processes and mechanisms of state governance in order to successfully convince the civil servants that in the long term the improvements they would introduce to their activities will benefit both them and the society.

According to *Ms. Andre* observing the principles of legality, independence, impartiality, correctness and openness is a crucial precondition for preserving the public confidence and the respect of the state institutions. *Ms. Andre* referred to the Swedish experience where the Ombudsmen base their activities exclusively on the legislation and their decisions are strictly impartial. The Swedish Ombudsmen do not have the right to criticize a certain department or official without having sufficient proof that some irregularity has occurred.

Mr. Pierre-Yves Monette defined the principle of independence and neutrality as the most important principle in the activities of the Ombudsman. The independence of the Ombudsman, according to the Federal Ombudsman of Belgium, incorporates several components: structural independence, meaning that the Ombudsman is envisaged in the Constitution; organic

independence, indicating that the Ombudsman exercises external control and could not receive instructions even by the institution that has elected him; functional independence, secured by independent funding of the institution; and organizational independence, allowing the Ombudsman to select, appoint and dismiss its own employees.

The importance of Ombudsman's independence was also underlined by the Ombudsmen of Sweden, Macedonia and Greece. In the opinion of *Ms. Kerstin Andre* "independence is a key word when one tries to define the ombudsman concept" and it includes independence in relation to both the Executive and the Parliament. *Mr. Branko Naumovski* emphasized on the significance of political and financial autonomy, which means that the Executive, the Legislature and the Judiciary should not interfere with the activities of the Ombudsman. In his opinion the Ombudsman "should never operate under one's dictate or ultimatum and this, however, could be achieved only by providing the institution with a separate budget". *Professor Nikiforos Diamandouros* paid attention to the importance of Ombudsman's independence from the Parliament. Being a parliamentary institution the Ombudsman is obliged to report before the authority that has elected him, but nevertheless a certain distance should exist between the Ombudsman and the Parliament. In this respect the traditional parliamentary control as exercised over the Executive could hardly be applied in regard to the Ombudsman, because it represents political control, which, if directly applied to the Ombudsman, would undermine its authority and would turn into an obstacle for performing its functions.

Professor Diamandouros placed among the main issues concerning the independence of the Ombudsman the opportunities for his dismissal. In his opinion the introduction of unclear grounds for dismissing the Ombudsman seriously threatens the independence of the institution. The statement, expressed by *Professor Diamandouros*, was supported by *Mr. Pierre-Yves Monette*, who pointed out that the grounds for dismissal of the Ombudsman by the Parliament should be very precisely regulated and should not allow for too broad interpretation.

As to the principle of impartiality *Mr. Pierre-Yves Monette* explained that it includes both political neutrality and impartiality in the decision making. The Federal Ombudsman of Belgium referred to the Belgian practice as an example of securing guarantees against political influence. In Belgium the principle of neutrality is guaranteed by a special procedure for appointing the Ombudsman. The main element of this procedure is the holding of an academic exam, the results of which are binding for the Parliament when conducting the election. Another effective guarantee, in the opinion of *Mr. Monette*, could be the ban for occupying an elective position. Along with the objective guarantees for neutrality, however, the personal neutrality (the neutrality of the person of the Ombudsman) is also very important. As to impartiality, according to *Mr. Monette* it means that the Ombudsman should not take part with regard to the cases he deals with and should be "at equal distance between the state authorities and the citizens".

The **immunity** of the Ombudsman is also very closely related to its independence, especially in countries with a recently established Ombudsman institution. According to *Professor Nikiforos Diamandouros* the law should guarantee the immunity of the Ombudsman. Nevertheless some traditional democracies like Sweden do not provide for such immunity, for the young democracies it is of particular importance to create guarantees that the Ombudsman will not be politically prosecuted and its activities will not be hampered by

political parties, the Parliament or other state authorities by means of initiating court trials against him for actions or omissions in the course of performing his/her duties. In this respect immunity should be considered as referring to the statements and actions of the Ombudsman in the course of performing his official duties. However, despite his general attitude in support of the Ombudsman's immunity, *Professor Diamandouros* disagreed with the concept of unlimited immunity: the immunity should be restricted, but the scope of such restrictions should be comparatively small, for instance in cases of disclosure of confidential information.

Ms. Snezhana Nacheva also expressed her support for granting immunity to the Ombudsman. In her opinion the guarantees for the Ombudsman's independence correspond to the opportunities politicians have to exercise influence over the institution, i.e. "the more possibilities there are for political influence, the stronger guarantees should be considered to prevent them; and the opposite – the more tolerance exists in the political life, the less important the immunity is". *Ms. Nacheva* also pointed out the need to specify the scope of the immunity to be granted: whether such immunity will cover only the actions performed as an Ombudsman (functional immunity) or whether it will include any actions within his/her term of office (universal immunity).

Mr. Ante Klaric, who criticized the concept of granting immunity to the Ombudsman, underlined that immunity refers to politicians, while for the Ombudsman being a politically neutral institution public support is much more important than immunity.

The Ombudsman and the other state authorities

As pointed out by *Mr. Branko Naumovski*, the successful operation of the Ombudsman depends to a great extent on the attitude of the **authorities and institutions the Ombudsman may address its proposals and recommendations to**. These authorities and institutions should be interested in overcoming the discrepancies and mistakes in their activities. According to *Ms. Branka Raguz* authorities should be convinced that the Ombudsman with its activities contributes to the democratization of the society and the rule of law. *Dr. Herman Wuyts* also underlined that the administration needs to be convinced that the Ombudsman will not hamper its operation but will rather provide valuable information on the weaknesses in its work so that the administration itself could duly eliminate them.

Special attention was paid to the relations between the **Ombudsman and the Prosecutor's Office**. *Ms. Kerstin Andre* explained the dual role of the Ombudsmen in Sweden as regards the Prosecutor's Office: on the one hand, according to the Constitution, every prosecutor is obliged to assist the Ombudsman for conducting criminal prosecution, i.e. there are prosecutors dealing with cases initiated by the Ombudsman, and on the other hand the Ombudsmen exercise certain supervision over the Prosecutor's Office. However, the practice of the Swedish Ombudsmen shows that the supervision over the Prosecutor's Office does not constitute substantial part of their activities and the number of such cases is relatively small (5-6 cases per year).

As to the scope of the Ombudsman's supervision over the Prosecutor's Office *Ms. Andre* explicitly underlined that the Ombudsmen in Sweden do not exercise supervision over the

work of an individual prosecutor on a specific case and do not interfere with the work in substance of the prosecutors. Nevertheless there are individual cases when as a result of the Ombudsman's intervention the Prosecutor's Office has renewed a criminal prosecution that has already been suspended.

In most Southeast European countries the relations between the Ombudsman and the Prosecutor's Office are limited to the Ombudsman's right to inform the Prosecutor's Office when in the course of his work he has established data about the commitment of a crime.

Another very important issue related to the activities of the Ombudsman concerns the relations between **the Ombudsman and the courts**. Generally, most countries worldwide provide for excluding the exercise of judicial power from the Ombudsman's scope of activities based on the principle of independence of the Judiciary. According to this principle the Ombudsman should not be allowed to exercise any powers in respect to the courts' activities on the merits. This approach for regulating the relations between the Ombudsman and the courts has been applied in Belgium, Macedonia, Bosnia and Herzegovina, and Croatia.

Sweden is among the few countries where the Ombudsmen are empowered to exercise supervision over the courts, which according to *Ms. Kerstin Andre* could be explained with the tradition dating back to XVIII century. However, despite the lack of formal limits for this supervision, some informal rules have been established that the Ombudsmen should not interfere with the courts' activities on the merits and should not examine the way courts render their judgments. Nevertheless, it is possible for the Ombudsmen to initiate a procedure against a judge who has irregularly applied the law, for instance by rendering a verdict and determining a penalty more severe than the one envisaged by the law. However, as a whole, the Swedish Ombudsmen observe primarily the procedure and the compliance with the deadlines on the cases, irrespective of the possibility provided for such violations to be appealed within the Judiciary before the Supreme Court. The lack of formal definition of the limits of the Ombudsmen's powers in this area is compensated by an informal agreement between the Ombudsmen and the Judiciary specifying the scope of their supervision.

While administration of justice by the courts in most countries is entirely excluded from the Ombudsman's scope of activities this does not apply to the activities regarding the **execution of judgements**. The irregularities related to the execution of court judgements are often among the reasons for the insufficient protection of citizens' rights in transition countries. Therefore, in many countries the Ombudsman has certain powers as regards the execution of court judgements. In Bosnia and Herzegovina, for instance, the Ombudsmen have the right to request from the court to execute its own judgement³ and could even determine a deadline for the execution. If the court fails to comply with such recommendation the Ombudsman is obliged to include the case in its annual report and to inform the Parliament thereof. *Professor Kino Lazarov*, Member of the Legislative Council with the National Assembly, underlined that the execution of judgments is always an administrative activity and does not represent administration of justice, regardless of the body responsible for the execution.

³ According to the legal system of Bosnia and Herzegovina and its Entities the courts are obliged to execute their own judgments pursuant to the Law on the Execution Procedure, which provides for the establishment of an "execution department" with every competent court. These departments are not part of the Executive, but constitute a separate element of the Judiciary exercising their own specific functions including the execution of court judgments.

Therefore, being an administrative activity, the execution of judgments, according to *Professor Lazarov*, should fall under the Ombudsman's scope of activities. However the Ombudsman could not replace or substitute the competent body but could only observe the administrative aspects of this activity such as the compliance with the relevant deadlines.

Mr. Pierre-Yves Monette also referred to the Ombudsman's role in relation to the execution of judgments by sharing the experience of Belgium. If the administration in Belgium has denied to execute a court judgment the Ombudsman may contact the respective minister. If the minister has decided to support his administration and not to execute the judgment then the Ombudsman prepares a special report and submits it to the Parliament. If the case is of specific importance the Ombudsman may also inform the media.

In Macedonia the Ombudsman may approach the authorities responsible for the execution of the court judgment and to exert pressure on them through the means provided to him by the law. However, according to *Mr. Branko Naumovski*, in almost half of the cases the competent authorities do not take into consideration the Ombudsman's recommendations.

The right of the Ombudsman to observe the activities of the **administration of the Judiciary** was also considered as an important issue in regard to the relations between the Ombudsman and the courts. Many Southeast European countries have provided the Ombudsman with such powers because citizens' rights and freedoms are often violated by actions of the administration of the Judiciary.

The Ombudsman of Republika Srpska *Mr. Zlatko Kulenovic* pointed out some specific powers the Ombudsmen in Bosnia and Herzegovina are vested with. The Ombudsmen in Bosnia and Herzegovina have the right to initiate court proceedings and to participate in already constituted proceedings as well as to consult the parties in the proceedings, including the provision of recommendations to state authorities, if the latter are parties in court proceedings.

The Ombudsman and the citizens

The relations between the Ombudsman and the citizens are of key importance for the successful start of the institution. As stated by *Dr. Herman Wuyts*, in countries, which introduce the Ombudsman institution for the first time, the public lays great expectations on the institution, which in turn may lead to rapid disappointment and decrease of public confidence. Therefore, according to him, the provision of adequate information to the public about the functions of the Ombudsman, the limits to its powers and the procedure for filing and examination of complaints is of specific importance and could be achieved through the dissemination of various materials, brochures, etc. *Ms. Kerstin Andre* also supported this view by underlining that the public should be informed not only about the powers and functions of the institution, but also about their restrictions so that the public expectations could be adequate to the real capacity of the Ombudsman.

The Ombudsmen of Greece, Albania and Kosovo also shared their experience in relation to informing the general public. In Greece the Ombudsman issues and distributes a special brochure explaining what the institution is and how citizens could contact the Ombudsman. The brochure is published in different languages (Greek, Romanian, Albanian, French and English) in order to reach the broadest possible circle of people. In

Albania the Ombudsman and the officers in his administration organize regular meetings in different parts of the country informing the public about the opportunities for protection of their rights through the Ombudsman institution. In Kosovo the Ombudsman disseminates a special brochure among the citizens and organizes “open days” in all municipalities. The other countries in the region have also introduced similar practices.

The Ombudsman and the media

The relations between the Ombudsman and the media are of great importance for the effectiveness of the Ombudsman’s activities. According to *Branka Raguz* the media are extremely significant for the Ombudsman’s operation, especially in transition countries, where the lack of transparency in the activities of the Government often leads to corruption and other negative phenomena. However, the successful cooperation between the Ombudsman and the media depends also on the degree of independence of the media in the respective country.

The significance of the media for the Ombudsman’s activities was also noted by *Professor Nikiforos Diamandouros*, who paid attention to the delicate balance the Ombudsman should maintain in its relations with the media. According to him it could be equally harmful to the institution either if the Ombudsman appears too often in the media or if he keeps a too big distance or is isolated from it. In the first case, when the Ombudsman frequently publishes his statements in the media, this may lead to considerable increase of the number of complaints, which also increases the risk that the Ombudsman will not manage to deal with many of them. On the other hand the isolation of the Ombudsman from the media reduces the public interest in the activities of the institution and decreases its effectiveness, which is typical for countries, in which this institution is comparatively young and therefore its operation is closely followed by the media. Nevertheless, *Professor Diamandouros* concluded that the attention of the media towards the activities of the Ombudsman as a whole has positive rather than negative effect, notwithstanding that “the media in this part of the world are neither the most professional nor the most impartial ones”. The reason for this is that the administration feels the pressure of the media and this pressure contributes to the improvement of both its operation and its relations with the Ombudsman.

The Ombudsman of Federation Bosnia and Herzegovina and the Ombudsman of Kosovo shared their experience in terms of organizing their relations with the media by assigning these functions to officers from their own personnel. Thus, in Federation Bosnia and Herzegovina the contacts with the media are assigned to one of the Deputy Ombudsmen, while in Kosovo they are within the competence of the Ombudsman’s Parliamentary Secretary.

Funding and organization of the institution

In many countries the **expenditures related to the Ombudsman’s activities** are funded by the state budget and the amount of these resources is determined on an annual basis by the Parliament. Southeast European countries have also adopted this approach. However, the majority of the Ombudsmen from these countries concluded that these resources are often inadequate which seriously hampers their effective operation. Therefore securing the Ombudsman’s financial autonomy becomes extremely important

as a guarantee for its independence. Such financial autonomy could be achieved by providing the Ombudsman with the right to propose the amount of these resources without being restricted by other state institutions and in particular by the Executive (i.e. the Government). Such approach has been adopted in Sweden and will be soon introduced in Macedonia⁴. The Bulgarian National Assembly is also expected to adopt a similar approach when passing the Bulgarian Ombudsman legislation.

The **organization of the activities of the Ombudsman** in individual countries reveals different specifics. In many countries the Ombudsman is a one-person institution, but in other countries there are several Ombudsmen operating on national level. Thus, for instance in Sweden there are four Parliamentary Ombudsmen and one of them is the Chief Parliamentary Ombudsman. The Chief Parliamentary Ombudsman is responsible for the administrative activities of the entire institution but he does not have the power to interfere with the investigations carried out by the other Ombudsmen. In Belgium there are two Federal Ombudsmen. In each of the two Entities of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina and Republika Srpska) there are three Ombudsmen representing the three ethnic communities – the Muslims, the Croats, and the Serbs.

Everywhere the Ombudsman is assisted in its activities by a respective **administration**, but the regulation of its structure and organization is different in individual countries. In Sweden there are 55 employees working with the institution and 40 of them are lawyers. *Ms. Kerstin Andre* explained that the lawyers working with the Ombudsman in Sweden usually come from the Judiciary. Most of them have worked as judges and after a period of 4-5 years with the Ombudsman's office they continue their careers back in the Judiciary. In Slovenia the Ombudsman has three Deputies and its office consists of 11 departments and 33 employees (including a separate department for protection of personal data and another one for protection of children). However, in the opinion of *Mr. Jernej Rovsek*, this personnel appears to be inadequate compared to the number of complaints received by the Ombudsman (about 3,500 complaints per year) so the Ombudsman has to identify in advance the priority areas for its activities. In Macedonia the Ombudsman has four Deputies, a Secretary General and a specialized office, including 13 advisors dealing with the complaints together with a technical staff of three persons. The experts are divided into 5 groups dealing with different areas of public life. The groups are under the management of the Ombudsman and his four Deputies and each group consists of three advisors with legal background. In Albania the office of the Ombudsman incorporates three specialized divisions which are assisted by a bookkeeping department and other technical staff. The total number of the personnel of the Albanian Ombudsman is 47 people.

One of the most important issues related to the Ombudsman's administration refers to the **selection and appointment of the employees**. *Professor Nikiforos Diamandouros* underlined that "the Ombudsman needs to be granted full powers to select the persons who will work with him, because otherwise conflicts of interests may occur that will undermine the legitimacy of the institution". The opinion, expressed by *Professor Diamandouros*, was supported also by the Ombudsmen of Macedonia, Albania and Croatia.

⁴ The Ombudsman of Macedonia *Mr. Branko Naumovski* indicated that "pursuant to the new Draft Law on the Ombudsman no provisions on the funding of the institution could be passed without proposal by the Ombudsman, i.e. the law shall not be adopted if the Ombudsman has not approved the resources".

Local Ombudsman type institutions

The establishment and operation of local Ombudsman type institutions reveal a variety of alternative solutions. In some countries the Ombudsman is organized as a centralized institution with no explicitly provided opportunities for establishment of local ombudsmen. This is the approach adopted in Croatia where the Ombudsman is a centralized institution and there are no district (local) ombudsmen. The headquarters of the institution are situated in the capital Zagreb and until now no local offices have been opened. According to *Mr. Ante Klaric* currently there is no need of establishing such local offices because the Ombudsman keeps in touch with the citizens in writing or by telephone. The Ombudsman institution in Macedonia is based on the same model: it is a centralized institution with no local offices. For that reason, according to *Mr. Branko Naumovski*, the Ombudsman in Macedonia travels in person several times a year to individual municipalities in order to get acquainted with the problems of their citizens.

In many countries with a centralized Ombudsman institution the Office of the Ombudsman has local units along the country which however do not have the status of local ombudsmen and their main function consists of receiving complaints from the citizens and forwarding them to the Ombudsman for examination. This model has been implemented in Kosovo where the Ombudsman has 4 regional offices and also in the two Entities of Bosnia and Herzegovina: 11 regional units in Federation Bosnia and Herzegovina and 4 regional units in Republika Srpska. According to *Ms. Branka Raguz* this model is very effective because of the opportunities it creates for reacting rapidly to the citizens' complaints, which in turn increases the authority of the institution.

Professor Nikiforos Diamandouros defined the Ombudsman as a traditionally centralized institution and expressed his concerns that a decentralized Ombudsman institution may lead to contradictory decisions by the local ombudsmen from different regions regarding the same issue, which in turn may undermine the legitimacy of the entire institution.

Dr. Herman Wuyts outlined several models of local ombudsman institutions, mentioning Great Britain and its Local Government Ombudsman operating on a national level, and the Netherlands, where the National Ombudsman has competence in some municipalities while other municipalities have their own local ombudsmen. Referring to Belgium *Dr. Wuyts* stated that the most appropriate solution would be to oblige all local authorities either to establish their own ombudsman or to secure access for the citizens from the respective municipality to the Federal or the regional Ombudsman. Thus, every citizen would receive equal access to such type of institution.

In Bulgaria, despite the lack of national Ombudsman, local ombudsman type institutions have been established in individual municipalities as a result of the cooperation between the local self-government authorities and non-governmental organizations. The Bulgarian experience with the development of ombudsman type institutions on the local level was presented by the Public Mediator (Ombudsman) of Sofia *Ms. Antoaneta Tsoneva*. She pointed out that in Bulgaria the strong local self-governance and the considerable authority concentrated on a municipal level create the necessity of establishing local ombudsmen to observe the operation of local authorities. *Ms. Tsoneva* presented the local ombudsman as

an additional guarantee securing good environment for the respect of human rights and an effective mechanism for exchange of information about the degree of human rights protection from the local level to the Parliament. Thus, the signals and analysis of the local ombudsmen would serve as a good basis for the Parliamentary Ombudsman to initiate a parliamentary debate as well as to insist on the application of all relevant parliamentary control mechanisms in order to increase the quality and fairness of governance. In conclusion *Ms. Tsoneva* emphasized on the need of legal regulation of the opportunities for establishment of local ombudsman type institutions.

The accumulated successful experience with the operation of these institutions raised the issue of their legal regulation in the future Ombudsman law with one of the suggestions providing for the election of the local ombudsmen by the Municipal Councils.⁵ According to *Dr. Maria Yordanova*, Director of the Law Program of the Center for the Study of Democracy and Member of the Task Force, which prepared one of the Draft Laws on the Ombudsman, the election of the local ombudsmen by the Municipal Councils should be combined with opportunities for operating in cooperation with and under the methodological guidance of the National Ombudsman. Possible mechanisms for such cooperation could be the right of the National Ombudsman to assign to the local ombudsmen the investigation of individual cases and the obligation of the local ombudsmen to present their annual reports not only to the Municipal Councils but also to the National Ombudsman.

Specialized Ombudsmen

The practice of introducing specialized Ombudsmen exercising powers in specific areas of public life exists in many countries. The need of establishing such specialized institutions especially in the area of children's rights protection and minority issues is a matter of discussion in many Southeast European countries as well. However, in the opinion of the majority of the Ombudsmen from the region the establishment and operation of specialized Ombudsmen would lead to decreasing the effectiveness of the institution due to the overlapping of functions which may occur between the specialized Ombudsmen and the central one. As an alternative to the establishment of specialized Ombudsmen the participants pointed out the setting up of specialized units within the central Ombudsman's administration. *Professor Nikiforos Diamandouros* underlined that in countries with long established Ombudsman institution a trend is observed to gradually decrease the unreasonably large number of different Ombudsmen.

Referring to the issue of specialized Ombudsmen *Mr. Jernej Rovsek* raised the question of establishing Ombudsmen not only in the public sphere but also in the private sector. As an example of such institution *Mr. Rovsek* pointed out the Banking Ombudsman, established in a number of countries and operating upon agreement with the persons supervised.

⁵ According to the Ombudsman of Croatia *Mr. Ante Klaric* and the Ombudsman of Republika Srpska *Mr. Zlatko Kulenovic* local ombudsmen should not be elected by the local authorities but should rather be under the jurisdiction of and elected by the National Ombudsman.

International cooperation. International Ombudsman Institute

The activities of the International Ombudsman Institute were presented by two of its Directors for Europe – the Parliamentary Ombudsman of Sweden *Ms. Kerstin Andre* and the Federal Ombudsman of Belgium *Dr. Herman Wuyts*.

The International Ombudsman Institute is a worldwide organization of Ombudsman offices, including federal, national, local, and specialized Ombudsmen. It is based in Edmonton, Canada, its structure is organized on a regional basis and depending on the number of Ombudsmen operating within each Regional Constituency a certain number of Directors are appointed. For instance, Europe represents one Regional Constituency with four Directors appointed – each responsible for certain part of the continent. The Board of Directors consists of 20 members and meets once a year. At these annual meetings the Directors present their reports on the ongoing processes in the Regional Constituencies they are responsible for. International Ombudsman Conferences are organized and held every four years.

The objective of the International Ombudsman Institute is to encourage the development of Ombudsman institution through regularly organizing seminars on various topics. The most important part of the organization's activities in this respect is the exchange of information among Ombudsmen from different countries and a number of initiatives in support of this process are currently under preparation.

At present the International Ombudsman Institute has more than 100 members. In order to become a member of the Institute an Ombudsman should meet the following main criteria: it is created by enactment of a legislative body whether or not it is also provided for in a Constitution; its role is to protect any person or body of persons against maladministration, violation of rights, unfairness, abuse, corruption, or any injustice caused by a public authority; it has the necessary powers to investigate the respective authorities, against which complaints have been submitted, including the right to make recommendations to these authorities regarding cases of human rights violations; it has the power to make recommendations in order to improve the respective conduct or activity and to propose administrative or legislative reforms for better governance; it reports publicly to the Parliament; it has national, regional or local competence.

* * *

Prior to the conference and during the discussions the foreign participants had the opportunity to get acquainted with the three Draft Laws on the Ombudsman adopted by the Bulgarian National Assembly on a first reading. Following the end of the event the Parliamentary Ombudsman of Sweden *Ms. Kerstin Andre*, the Ombudsman of Greece *Professor Nikiforos Diamandouros*, the Federal Ombudsmen of Belgium *Dr. Herman Wuyts* and *Mr. Pierre-Yves Monette* and the former Ombudsman of Slovenia *Mr. Ivan Bizjak* provided their comments and recommendations on the drafts. All materials received were presented to the Chair and the Deputy Chairs of the National Assembly and to the Parliamentary Committee on Human Rights and Religions with the purpose of facilitating the work on preparing of the final version of the Draft Law on the Ombudsman.

**LIST OF PARTICIPANTS
IN THE INTERNATIONAL CONFERENCE
“EUROPEAN STANDARDS AND OMBUDSMAN
INSTITUTIONS IN SOUTHEAST EUROPE”**

June 6-8, 2002

Sofia, Bulgaria

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Roumen Kroumov	– Expert, Human Rights and Religions Committee, National Assembly
Sevdalin Bozhikov	– Deputy Minister of Justice, Bulgaria
Slavyana Ivanova	– Applied Research and Communications Fund
Snezhana Nacheva	– Law Faculty, Sofia University “St. Kliment Ohridski”
Svetla Tsacheva	– Justice, Supreme Court of Cassation
Svetoslav Georgiev	– Legal Expert, Office of the Sofia Municipality Civic Mediator
Teodora Kaleynska	– Director, CoE Information Centre, Veliko Tarnovo
Valentin Terziev	– Supreme Bar Council
Valeria Bouharska	– Executive Secretary, <i>Coalition 2000</i>
Vanya Veleva	– Vantra Company
Veneta Pavlova	– Radio Bulgaria
Vladislav Slavov	– Chair, Supreme Administrative Court
Yanaki Stoilov	– Member of the Parliament, Coalition for Bulgaria
Zhivka Damyanova	– Coordinator, <i>Coalition 2000</i>

III Guests

Albena Rasheva	– CoE Information Centre, Veliko Tarnovo
Aionisia Herologu	– Embassy of Greece in Bulgaria
Cedomir Radojkovic	– Embassy of Yougoslavia in Bulgaria
Diana Sakan	– Embassy of Yougoslavia in Bulgaria
Elisabet Roos Ljungberg	– EC Delegation to Sofia
I. Teodor	– Embassy of Romania in Bulgaria
Irina Faion	– Project Manager, OGI, USAID, Sofia
Jan Wahlberg	– Embassy of Finland in Bulgaria
Luise Drucke	– Representative, UNHCR, Sofia
Maria Zlatareva-Pernishka	– Program Director, UNDP, Sofia
Ole Bjornoy	– Embassy of Norway in Bulgaria
Plamen Kirov	– Legal Secretary to the President
Sabrie Sapundjieva	– Legal Secretary to the President
Schafer Sillu	– UNHCR, Sofia
Slav Stanchev	– UNHCR, Sofia
Stela Trifonova	– Ministry of Foreign Affairs, Bulgaria
Svetozara Petkova	– ABA/CEELI, Sofia
Tsvetan Sivkov	– President’s Administration
Veselin Pejnovic	– Embassy of Croatia in Bulgaria
Vladimir Filipov	– President’s Administration

**CO-ORGANIZERS OF THE
INTERNATIONAL CONFERENCE
"EUROPEAN STANDARDS AND OMBUDSMAN
INSTITUTIONS IN SOUTHEAST EUROPE"**

June 6-8, 2002

Sofia, Bulgaria

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Ms. Kerstin Andre – Parliamentary Ombudsman of Sweden and Regional Vice-President for Europe of the International Ombudsman Institute



Mr. Anton Stankov, Minister of Justice, Bulgaria (left) and Dr. Ognian Shentov, Chairman, Center for the Study of Democracy



Prof. Nikiforos Diamandouros, National Ombudsman of Greece (left) and Dr. Herman Wuyts, Federal Ombudsman of Belgium



From right to left –
Mr. Arnold Wehmhoerner,
Director, Regional Office – Sofia,
Skopje, Tirana, Friedrich Ebert
Foundation,
Dr. Ognian Shentov,
Chairman,
Center for the Study of
Democracy,
Mr. Anton Stankov,
Minister of Justice, Bulgaria and
Dr. Maria Yordanova, Director of
the Law Program, Center for the
Study of Democracy



During the conference
(from right to left):
Mr. Meho Omerovic,
Member of Parliament of Serbia
and President of the
Commission for Inter-ethnic
Relations,
Mr. Milisav Coguric,
Head of the International
Assistance Division, Ministry
of Justice, Serbia,
Mr. Slaven Lekic, Director,
Council for Encouragement of
Citizens' Participation in Local
Self-government, Montenegro,
Mr. Branko Naumovski,
Ombudsman of Macedonia,
and Mr. Ante Klaric,
Ombudsman of Croatia



Participants in the conference

