

Law on the Ombudsman

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CONSOLIDATED TEXT 1Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" nos. 60/2003, 114/2009, 181/2016, 189/2016 and 35/2018). Decision of the Constitutional Court of the Republic of Macedonia U. no. 111/2007 dated 29 October 2008, published in the "Official Gazette of the Republic of Macedonia" no. 143/2008.

I. BASIC PROVISIONS

Article 1

This Law shall regulate the competences, the manner of operation, as well as the conditions for election and dismissal of the Ombudsman.

Article 2

The Ombudsman shall be a body of the Republic of Macedonia which promotes and protects the constitutional and legal rights of the citizens and all other persons that are infringed by acts, actions and omissions by the state administrative bodies by the bodies of the local self-government units and by other bodies and organizations vested with public authorizations, and which undertakes actions and measures for protection of the principles of non-discrimination and equitable representation of community members in the bodies of the state authority, the bodies of the local self-government units and the public institutions and services, as well as which also carries out other activities determined by another law.

For the purpose of promoting the human rights and freedoms, the Ombudsman shall monitor the situation regarding the respect of the human rights and shall point out the need for their protection, shall do appropriate researches, shall organize education activities, shall inform the public on time and regularly, shall cooperate with the civil sector, the international organizations and the academic public, as well as shall give initiatives for harmonization of the legislation with the international and regional standards for human rights.

The human rights may be promoted through the public radio broadcasting service which shall be obliged, in the production and provision of the radio and television programs, to contribute to the respect and promotion of the basic human rights and freedoms, as well as through the education and promotional events directed towards strengthening the awareness among the citizens and the employees in the bodies of the state administration and the local authority.

The Ombudsman shall do prevention against torture and other types of cruel, inhuman or humiliating treatment or punishment by conducting regular and unannounced visits to the places where the persons are or may be deprived of the freedom.

Article 3

The Ombudsman shall be independent and autonomous in the exercise of the function and no one can influence his/her work and actions in the exercise of the function.

The Ombudsman shall carry out the works within his/her competence on the basis and within the framework of the Constitution, law and international agreements ratified in compliance with the Constitution.

The Ombudsman may also invoke the principle of equity in the course of procedure.

Article 4

The headquarters of the Ombudsman shall be in Skopje.

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

The name and the headquarters, the coat of arms, and the flag of the Republic of Macedonia shall be displayed on the building occupied by the Ombudsman.

II. REQUIREMENTS FOR ELECTION AND DISMISSAL OF THE OMBUDSMAN

Article 5

The Assembly of the Republic of Macedonia, on a proposal of the competent commission of the Assembly, shall elect and dismiss the Ombudsman with a majority vote of the total number of representatives in the Assembly, at the same time having a majority of votes of the total number of representatives who belong to the non-majority communities in the Republic of Macedonia. The Ombudsman shall be elected for a period of eight years with the right to one re-election.

The Ombudsman shall have more deputies. The number of Ombudsman's deputies shall be determined by the Assembly of the Republic of Macedonia upon a proposal of the Ombudsman.

The deputies of the Ombudsman, upon a proposal of the Ombudsman, shall be elected and dismissed by the Assembly of the Republic of Macedonia with a majority vote of the total number of representatives in the Assembly, at the same time having a majority of votes of

the total number of representatives who belong to the non-majority communities in the Republic of Macedonia. The Ombudsman's deputies shall be elected for a period of eight years with the right to re-election.

The procedure for election of the Ombudsman and his/her deputies shall commence three months prior to the expiration of their term of office.

Three months before the expiry of the term of office of the Ombudsman at the latest, the Assembly of the Republic of Macedonia shall publish an announcement. After the announcement, the competent commission shall determine a proposal and shall submit it to the Assembly of the Republic of Macedonia. Three months before the expiry of the term of office of the deputies at the latest, the Ombudsman shall determine proposals, where the two sexes should be appropriately represented and shall deliver them to the Assembly of the Republic of Macedonia.

The deputy shall replace the Ombudsman in cases of his/her absence or impediment according to a schedule determined by the Ombudsman.

Article 6

A person who fulfills the general requirements laid down by a law on employment, a graduated lawyer who has a work experience in legal affairs of over nine years, and whose activity has been proved in the field of protection of citizens' rights, and has a reputation for performing the duties of the Ombudsman, may be elected Ombudsman.

A person who fulfills the general requirements laid down by a law on employment, who has completed a university education with acquired 240 credits according to the ECTS at least, that is, a completed VII/1 level of education in the field of law, work experience in the field of law of at least 7 years, whose activity has been proved in the field of protection and promotion of the human rights, and has a reputation for practicing the profession, proved by the received marks for the practicing of the profession, relevant recommendations or acknowledgements that may be verified, may be elected deputy of the Ombudsman.

A person who fulfills the general requirements laid down by a law on employment, who has completed a university education with acquired 240 credits according to the ECTS at least, that is, a completed VII/1 level of education, work experience of at least 7 years, whose activity has been proved in the field of protection and promotion of the human rights, and has a reputation for practicing the profession, proved by the received marks for the practicing of the profession, relevant recommendations or acknowledgements that may be verified, may be elected as one of the deputies of the Ombudsman.

Without violating the requirements prescribed by law, an equitable representation of citizens belonging to all communities in the Republic of Macedonia shall be provided when appointing deputies of the Ombudsman.

Article 7

The Ombudsman, prior to taking the office, shall make a solemn declaration in front of the President of the Assembly of the Republic of Macedonia, which shall read:

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

Article 8

The office of the Ombudsman shall be incompatible with the performance of another public function and profession or with political party membership.

Article 8-a

The Ombudsman shall represent the institution, shall manage and ensure lawful and efficient performance of the works and tasks.

The Ombudsman shall adopt acts he/she is authorized for, shall carry out other activities within the competence of the institution in accordance with the law.

The Ombudsman may transfer certain authorizations to a deputy of the Ombudsman or to a managing person from the Expert Service.

Article 9

The office of the Ombudsman shall terminate:

- 1) if he/she requests so;
- 2) if he/she is elected or appointed to another public office;
- 3) if he/she fulfills the requirements for an old-age pension.

The Ombudsman shall be dismissed before the expiry of the term of office:

- 1) if he/she permanently loses the ability to exercise the office;
- 2) if he/she is sentenced for a crime to unconditional imprisonment of at least six months.

Article 10

The provisions of Articles 7, 8, and 9 of this Law shall also apply to the Ombudsman's deputies.

III. COMPETENCE AND MANNER OF WORK

Article 11

The Ombudsman, in the exercise of the functions within his/her competence, shall take activities and measures for which he/she is granted authorization under this Law for the purpose of promoting and protecting the constitutional and legal rights of the citizens and

protecting the principles of non-discrimination and equitable representation of citizens belonging to all communities in the cases of their infringement by the bodies referred to in Article 2 of this Law.

Article 11-a

The Ombudsman shall take actions for promotion of the human rights and freedoms, that may be implemented through appropriate researches within the scope of human freedoms and rights, campaigns and different forms of strengthening the awareness and the education among the wider public, as well as joint promotional activities in cooperation with the civil sector, the international organizations and the academic public.

Article 11-b

The Ombudsman shall prevent and provide special protection of the rights of the children and of the persons with disability, shall prevent and protect against torture and other type of cruel, inhuman and humiliating behavior or punishment in the places where the persons are or may be deprived of the freedom, as well as shall prevent and provide special protection of the principles of non-discrimination and equitable representation of the members of the communities in the bodies of the state authority, the bodies of the units of local self-government, and the public institutions and services.

Article 11-c

The Ombudsman, together with representatives from the non-governmental organizations (associations), shall take actions and measures to ensure support and protection of the victim/s, their rights and to present their interests in all procedures that are conducted in the state administrative bodies, as well as procedures before the prosecution office and the courts through efficient and transparent research of the actions taken by persons vested with police powers and by members of penitentiary police in the course of exercising an official duty which constitute criminal offenses and criminal offenses committed off duty by using serious threat, force or coercive means resulting in death, severe bodily injury, bodily injury, unlawful deprivation of freedom, torture and other cruel, inhuman or humiliating treatment or punishment if criminal prosecution *ex officio* is foreseen by law.

The Ombudsman, in cases it is needed, in accordance with the powers referred to in Article 32 of this Law, shall propose to repeat a particular procedure before the competent public prosecution office.

Article 11-d

For the purpose of exercising the competence referred to in Article 11-c of this Law, the Ombudsman - Civil Control Mechanism, along with the powers determined in Articles 24 and 32 of this Law, shall take the following actions and measures:

- follow and monitor the manner of taking actions by all the bodies, organizations and institutions involved,

- review all the documents of the internal police investigations and the other internal investigations conducted by a competent body, having the right to examine the cases, to access all relevant documents (medical documentation, statements from victims and witnesses, as well as offenders, and alike), to obtain material and verbal evidence, to conduct its own interviews with victims, witnesses and offenders,
- visit the bodies, organizations, institutions involved in the cases and propose to repeat a particular procedure before a competent body and the public prosecution office,
- legal support for the victims and their families,
- early warning of the persons vested with police powers and the members of the penitentiary police,
- follow the application of the regulations, identification of the omissions and submission of initiatives for amendments to laws and other bylaws and their harmonization with international agreements ratified in accordance with the Constitution of the Republic of Macedonia, and
- take other measures laid down by law.

Article 11-e

Three external members of associations shall be part of the Ombudsman - Civil Control Mechanism.

The Assembly of the Republic of Macedonia shall publish a public announcement for selection of an association working in the field of human rights, police law and judiciary.

The public announcement shall be published in at least two daily newspapers one of which is a newspaper printed in the Macedonian language and the other one, in a language spoken by at least 20% of the citizens who speak an official language other than the Macedonian.

The selected associations shall nominate one representative each as an external member in the Ombudsman - Civil Control Mechanism, with a term of office of one year.

The external members should meet the following requirements:

- to be a citizen of the Republic of Macedonia,
- not to be issued a sentence or misdemeanor sanction banning him/her from exercising a profession, business or office by an effective court ruling,
- to have at least 240 credits under ECTS or completed VII degree of education, and
- to have at least five years of work experience in non-governmental organizations (associations) working in the field of human rights, police law and judiciary.

The Ombudsman shall conclude an engagement agreement with the nominated persons determining in details their rights and duties.

The manner of work of the external members shall be regulated in details by a special Methodology for Work which shall be determined by all the members of the Ombudsman - Civil Control Mechanism and approved by the Ombudsman.

Article 11-f

The Ombudsman - Civil Control Mechanism shall initiate a procedure on request of the party - victim or a member of his/her family, on initiative of representatives from the non-governmental sector, as well as on its own initiative upon knowledge (rumors) for possible violations of the right to life and prohibition of torture as of the European Convention on Human Rights ratified in accordance with the Constitution of the Republic of Macedonia.

Article 12

The Ombudsman shall take activities and measures for protection against unjustified prolongation of court proceedings, for respect of the principle of a trial within a reasonable time or unconscientious and irresponsible performance of the works of court's services, without violating the principles of independence and autonomy of the judicial authority.

For the purpose of protecting the human freedoms and rights in the cases where the party or the Ombudsman requires so, the court may enable the Ombudsman to act as a friend of the court (*amicus curiae*).

The Ombudsman shall not take actions upon cases for which court proceedings are pending, except for the cases referred to in paragraphs 1 and 2 of this Article.

Article 13

The procedure for protection of the constitutional and legal rights of citizens before the Ombudsman shall be initiated by filing a complaint.

Anyone may file a complaint to the Ombudsman if he/she assesses that his/her constitutional and legal rights have been infringed or if the principles of non-discrimination and equitable representation of community members in the bodies referred to in Article 2 of this Law have been violated.

The Ombudsman may institute a procedure on his/her own initiative if he/she assesses that the constitutional and legal rights of citizens determined in Article 2 of this Law have been breached.

Article 14

The Macedonian language and its Cyrillic letter shall be the official language in the procedure before the Ombudsman.

Any other language spoken by at least 20% of the citizens and its letter shall also be the official language in the procedure before the Ombudsman.

The provisions of the Law on General Administrative Procedure referring to the use of languages shall appropriately apply to the procedure before the Ombudsman.

Article 15

Everyone, in his/her communication with the Ombudsman, may use one of the official languages and its letter, and the Ombudsman shall respond in Macedonian and its Cyrillic letter, as well as in the official language and the letter used by the person filing the complaint.

Article 16

The complaint filed with the Ombudsman must be signed and contain personal data about the person filing it and the circumstances, facts and evidence on which the complaint is grounded.

The body, organization, institution or person to whom the complaint refers to must be stated in the complaint, as well as whether the person filing the complaint has already used legal instruments and which instruments he/she has used.

The complaint for initiation of a procedure shall be filed in writing or orally in minutes.

The complaint that initiates the procedure shall not have a prescribed form.

The person filing the complaint shall be exempted from paying taxes for the procedure before the Ombudsman.

Article 17

The Ombudsman shall be obliged to act upon the complaint conscientiously, impartially, efficiently and responsibly.

In the course of taking actions upon the complaint, the Ombudsman shall be obliged to obtain from the interested parties all the facts and evidence which are of significant importance for making a decision on the complaint.

Article 18

The Ombudsman, during the complaint procedure, shall be obliged to respect the privacy and the confidentiality of data on the persons filing the complaint referred to in Article 16 of this Law.

Article 19

The Ombudsman, in the course of taking actions upon the complaint, may:

- not initiate a procedure;
- initiate a procedure; and
- discontinue or terminate the procedure.

Article 20

The Ombudsman shall not initiate a complaint procedure if:

- the complaint is anonymous, except if it is a matter of general interest;
- *abolished ; 2*
- the complaint is incomplete and if the person filing the complaint has not completed the complaint upon prior instruction by the Ombudsman;
- it is concluded from the complaint that it is a less important case which would not yield adequate results even after the end of the investigation;
- the complaint, the circumstances and the presented facts and evidence themselves show that there is no infringement of the constitutional and legal rights of the person filing the complaint, or the person on whose behalf the complaint has been filed, by the bodies referred to in Article 2 of this Law;
- he/she is not competent to act upon;
- more than a year has passed since the action or the last decision of the body, organization or institution, except if he/she assesses that the person filing the complaint has missed the deadline due to justified reasons; and
- a court proceedings on the complaint's subject matter are pending, except for the matters referred to in Article 12 paragraphs 1 and 2 of this Law.

Where the Ombudsman does not initiate a complaint procedure, in accordance with paragraph 1 of this Article, he/she shall be obliged, within 15 days as of the day of receipt of the complaint, to notify the person filing the complaint and to explain to him/her the reasons for which he/she rejects the complaint and, if possible, to clarify the manner in which he/she can fulfill his/her right.

Article 21

The Ombudsman shall initiate a procedure upon a submitted complaint, or on his/her own initiative if the allegations, evidence and facts enclosed to the complaint or the information obtained by other means justifiably show that the constitutional and legal rights of the citizens or the principles of non-discrimination and equitable representation of community members have been infringed by the bodies referred to in Article 2 of this Law.

If the Ombudsman institutes a procedure on his/her own initiative, or if another person addresses him/her with a complaint on behalf of the aggrieved person, a consent from the aggrieved person whose constitutional and legal rights have been infringed or if the principles of non-discrimination and equitable representation of community members have been violated shall be necessary in order to initiate the procedure.

The Ombudsman shall inform the person filling the complaint or the other person who has filled the complaint on behalf of the aggrieved person about the initiation of the procedure within a period of 15 days as of the day of receipt of the complaint.

If the Ombudsman institutes a procedure on his/her own initiative for a breach of the constitutional and legal rights of a larger number of citizens, minors, weak, disabled persons, persons deprived of capacity to contract, as well as persons being subjected to torture and other type of cruel, inhuman or humiliating behavior or punishment in the bodies, organizations and institutions where the freedom of movement is or may be limited, the consent referred to in paragraph 2 of this Article shall not be necessary.

Article 22

If the Ombudsman decides to initiate a procedure, he/she shall notify the person filing the complaint thereof, within 15 days as of the day of receipt of the complaint.

Article 23

The Ombudsman shall discontinue or terminate the complaint procedure if:

- after the completion of the complaint procedure, it is concluded that there is no infringement of the constitutional and legal rights of the person filing the complaint by the bodies referred to in Article 2 of this Law;
- the person filing the complaint initiates a court proceedings during the complaint procedure;
- the person filing the complaint does not show interest for further course of the procedure;
- the person filing the complaint withdraws it during the procedure;
- the person filing the complaint dies during the procedure, unless his/her successors demand continuation of the commenced procedure; and
- the person filing the complaint has fulfilled the right referred to in the complaint in the meantime.

If the Ombudsman discontinues or terminates the complaint procedure, he/she shall be obliged to notify the person filing the complaint immediately, but no later than 15 days as of the day of occurrence of the circumstances of discontinuing or terminating the procedure, and to explain to him/her the reasons for which he/she discontinues or terminates the procedure and, if possible, to clarify the manner in which the person may fulfill his/her right.

Article 24

For the purpose of investigating the complaint, the Ombudsman, within the framework of his/her competence, may undertake the following activities and measures regarding the bodies referred to in Article 2 of this Law:

- request necessary explanations, information and evidence regarding the allegations in the complaint;
- enter the office premises and have a direct insight into the files and affairs within their competence, as well as to provide material and verbal proofs.
- interview an elected or appointed person, an official and any other person who may

provide certain information for the procedure;

- request an opinion of scientific and specialized institutions and experts; and
- undertake other activities and measures stipulated by law or another regulation.

The bodies referred to in Article 2 of this Law shall be obliged to submit the requested explanations, information and evidence referred to in paragraph 1 line 1 of this Article to the Ombudsman immediately and no later than eight days as of the day of receipt of the request for submission of data. If they are impeded from submitting the data due to justified reasons, they shall be obliged, without any delay, to notify the Ombudsman in writing about the reasons for which they are unable to take action.

If the Ombudsman assesses that the reasons referred to in paragraph 2 of this Article are justified, he/she shall set a new deadline for submission of the requested explanations, information and evidence.

The rejection of, and disrespect for, the requests of the Ombudsman for undertaking the activities referred to in paragraphs 1 and 2 of this Article shall be deemed obstruction of the work of the Ombudsman.

Article 25

The Ombudsman, by a special report, may notify the immediate superior body, the official heading the body referred to in Article 2 of this Law, or the Government of the Republic of Macedonia of the obstruction of the work referred to in Article 24 paragraph 4 and, if they do not undertake the necessary measures, the Assembly of the Republic of Macedonia.

The Government of the Republic of Macedonia, upon the receipt of the special report of the obstruction of the work of the Ombudsman shall discuss it and take a position along with a proposal of measures at a session where the presence of the functionary or the official heading the body referred to in Article 2 of this Law to which the special report refers to, as well as of the Ombudsman is obligatory, and shall inform the Ombudsman about the measures taken within the deadline set in the special report.

The Ombudsman may publicize the case in the mass media, at the expense of the body referred to in Article 2 of this Law to which the case refers to if infringement of the constitutional and legal rights is ascertained.

Article 26

The persons referred to in Article 24 paragraph 1 line 3 of this Law shall be obliged to appear before the Ombudsman on his/her invitation and to give the necessary explanations regarding the filed complaint.

At request of the Ombudsman, the President of the Republic of Macedonia, the President of the Assembly of the Republic of Macedonia, the President of the Government of the Republic of Macedonia and other officials heading the bodies referred to in Article 2 of this Law shall be obliged to receive him/her personally without any delay.

Article 27

The bodies referred to in Article 2 of this Law shall be obliged to cooperate with the Ombudsman and at his/her request to furnish him/her with all the evidence, data and information, regardless of the degree of confidentiality, and to enable him/her to conduct the procedure.

The Ombudsman shall be obliged to keep the state and official secret in a manner and under conditions determined by law and any other regulation.

Article 28

The Ombudsman may present his/her opinion in respect of the protection of the constitutional and legal rights and the protection of the principles of non-discrimination and equitable representation of community members regarding the case for which procedure is pending, regardless of the type and degree of the pending procedure before the bodies referred to in Article 2 and Article 12 paragraph 1 of this Law.

The Ombudsman, within the framework of his/her competence, on his/her own initiative, may give recommendations, opinions and criticisms to the bodies referred to in Article 2 and Article 12 paragraph 1 of this Law with regard to the situation in ensuring respect and protection of the constitutional and legal rights and the principles of non-discrimination and equitable representation of community members.

Article 29

The Ombudsman, within the framework of his/her competence, shall also monitor the situation regarding the respect and protection of the constitutional and legal rights of citizens and respect of the principles of non-discrimination and equitable representation of community members by visits and insights into the bodies referred to in Article 2 of this Law.

Article 30

The Ombudsman may propose initiatives to the authorized proposers for amendments to laws and other by-laws, and their harmonization with international agreements ratified in compliance with the Constitution of the Republic of Macedonia, as well as for ratification of international agreements and conventions that refer to issues for protection and promotion of the human freedoms and rights.

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 30-a

In cases of breach of the constitutional and legal rights of a larger number of citizens, minors and disabled persons, the Ombudsman may submit a request to the Permanent Committee of Inquiry for Protection of the Freedoms and the Rights of the Citizen of the Assembly of the Republic of Macedonia for the purpose of investigating the cases and taking measures.

The Committee referred to in paragraph 1 of this Article shall consider the request and shall submit a report.

The Assembly of the Republic of Macedonia shall consider the submitted report of the Committee referred to in paragraph 2 at a session and shall define measures.

Article 30-b

If the Ombudsman in order to protect the human freedoms and rights acts as a friend of the court, in such capacity:

- he/she shall participate in all the phases of the procedure, and shall have the right to be informed about the scheduled court hearings, to be enabled inspection in the documents, and to give proposals and opinions.
- the court shall take into consideration his/her requests and proposals, recommendations or indications given to the bodies which are within its competence regarding the procedures conducted before the Ombudsman.

Article 31

The Ombudsman shall put special attention to the protection of the constitutional and legal rights of the persons deprived of freedom.

For the purpose of protecting the persons deprived of freedom, the Ombudsman may make insights and talk to the persons accommodated in such places at any time, without prior notice and approval, without the presence of officials employed in the institution.

The persons deprived of their freedom shall have the right to file a complaint to the Ombudsman in a closed envelope without being checked by the officials of the body, organization or institution where they are institutionalized, and to receive a response in a closed envelope without being checked by the officials.

Article 31-a

The Ombudsman - National Preventive Mechanism for prevention against torture and other types of cruel, inhuman or humiliating treatment or punishment shall have the competence to regularly investigate the treatment of persons who are deprived of freedom, to give recommendations to the relevant bodies in order to improve the treatment and the conditions in the places for deprivation of freedom, as well as to propose amendments to the legislation.

The Ombudsman - National Preventive Mechanism, for the purpose of implementing the activities referred to in paragraph 1 of this Article, shall perform regular and successive visits to the places where the persons are or may be deprived of freedom. The deprivation of freedom means any form of custody or imprisonment, or detention of persons in public or private facilities which the person is not allowed to leave freely, and by order of a court, administrative or another body.

The Ombudsman - National Preventive Mechanism shall have an unobstructed access to all places for deprivation of freedom and their facilities, an access to all information referring to the number of persons deprived of freedom, as well as to the number of places and their locations, an access to all information referring to the treatment of the persons, as well as the conditions for their deprivation of freedom, as well as possibility to have a conversation with the persons deprived of freedom without supervision, personally or together with a translator, if that is considered necessary.

The Ombudsman - National Preventive Mechanism shall prepare an Annual Report for the visits which it shall announce publicly.

The Ombudsman shall adopt a general act regarding the manner of making the visits referred to in paragraph 2 of this Article.

Article 31-b

The managerial servants and the authorized official persons in the bodies, organizations and institutions where the persons are deprived of freedom shall be obliged to enable an unobstructed access for the Ombudsman - National Preventive Mechanism to the documents and information referred to in Article 31-a paragraph 3 of this Law referring to the persons who are deprived of freedom, as well as an unobstructed access to the places for deprivation of freedom and their facilities referred to in Article 31-a paragraph 3 of this Law.

The managerial official persons and the authorized official persons in the bodies, organizations and institutions where the persons are deprived of freedom shall be obliged to investigate the indications and recommendations of the Ombudsman - National Preventive Mechanism and to notify it within 30 days as of the day of receipt of the special report for possible measures for application at the latest.

Article 31-c

The Ombudsman - Civil Control Mechanism, in order to exercise the powers referred to in Articles 11-c, 11-d, 11-e, and 11-f of this Law, for the purpose of determining the situation related to the actions taken by persons vested with police powers and members of the penitentiary police, may visit the bodies and institutions without prior notice.

The Ombudsman - Civil Control Mechanism shall have access to classified information in accordance with the regulations referring to classified information and to evidence no matter the degree of confidentiality.

The bodies, organizations and institutions shall be obliged to cooperate with the Ombudsman - Civil Control Mechanism and on its request, to provide it with all evidence, data and information no matter the degree of confidentiality, and to enable unhindered conduct of the procedure.

The Ombudsman - Civil Control Mechanism shall prepare a report for its work and the actions taken as a part of the Annual Report referring to the level to which the respect, promotion and protection of the constitutional and legal rights of the citizens are ensured, which is submitted to the Assembly of the Republic of Macedonia, and it shall publicly announce it.

The Ombudsman - Civil Control Mechanism may also prepare special reports for particular cases.

Article 32

Where the Ombudsman ascertains that the constitutional and legal rights of the person filing a complaint are violated by the bodies referred to in Article 2 and Article 12 paragraph 1 of this Law or that some other irregularities have occurred, he/she may:

- give recommendations, proposals, opinions and indications on the manner of elimination of the determined violations;
- propose to reconduct a certain procedure in accordance with law;
- raise an initiative for initiation of a disciplinary or misdemeanor procedure against an official, that is, responsible person; and
- file a motion with the competent public prosecutor for initiation of a procedure in order to determine a criminal liability against an official, that is, responsible person, as well as may actively participate in the procedure and have the right to give proposals and opinions.

Article 33

Where the Ombudsman ascertains that the constitutional and legal rights of the person filing a complaint are infringed by the state administrative bodies and by other bodies and organizations vested with public powers, or that the principles of non-discrimination and equitable representation of community members in the state administrative bodies, bodies

of the local self-government units and public institutions and services has been breached, or some other irregularities have occurred, and if he/she assesses that the implementation of the administrative act may cause irreparable damage to the right of the interested person, he/she shall request:

- temporary postponement of the implementation of the administrative act or another act until a decision by the second-instance body is adopted and
- temporary postponement of the implementation of the administrative act or another act until a decision by the competent court is reached.

The bodies referred to in Article 2 of this Law shall be obliged, immediately, and within three days as of the day of receipt of the request submitted by the Ombudsman at the latest, to adopt and submit to the Ombudsman the decision on temporary postponement of the implementation of the administrative act or the other act.

The competent bodies, upon termination of the procedure, shall be obliged to submit the decision to the Ombudsman as well.

Article 34

The bodies referred to in Article 2 and Article 12 paragraph 1 of this Law shall be obliged to notify the Ombudsman of the measures taken for fulfilling his/her requests, proposals, opinions, recommendations or indications, within the deadline that he/she shall set, and no later than 30 days as of the day of receipt of the request submitted by the Ombudsman.

If the body does not notify the Ombudsman in accordance with paragraph 1 of this Article, or if it only partly accepts his/her conclusions, requests, proposals, opinions, recommendations or indications, the Ombudsman, by a special report, shall notify the immediate superior body, the official heading the body referred to in Article 2 and Article 12 paragraph 1 of this Law, or the Government of the Republic of Macedonia, and if they do not take the necessary measures, the Assembly of the Republic of Macedonia.

The Government of the Republic of Macedonia, after the receipt of the special report for the failure to comply and implement his/her requests, proposals, opinions, recommendations or indications, shall discuss it and take a position along with proposal of measures at a session where the presence of the functionary or the official heading the body referred to in Article 2 of this Law to which the special report refers to, as well as of the Ombudsman is obligatory, and shall inform the Ombudsman about the measures taken within the deadline set in the special report.

The Ombudsman may publicize the case in the mass media, at the expense of the body referred to in paragraph 2 of this Law to which the case refers to, if infringement of the constitutional and legal rights is ascertained.

Article 34-a

Fine in the amount of Euro 1000 to 1.500 in Denar counter-value shall be imposed for a misdemeanor on the managerial official person and the authorized official person in the bodies referred to in Article 2 of this Law who does not act in accordance with the provisions of Article 24 paragraph (1) line 1, 2 and 3 and paragraph (2), 31-b paragraph 2 and 34 paragraph (1) of this Law.

Fine in the amount of Euro 1500 to 2000 in Denar counter-value shall be imposed for a misdemeanor on the functionary of the bodies referred to in Article 2 of this Law who does not act in accordance with the provisions of Article 24 paragraph (1) line 1, 2 and 3 and paragraph (2), 31-b paragraph (2) and 34 paragraph (1) of this Law.

A competent court shall conduct the misdemeanor procedure and shall impose the misdemeanor sanctions for the misdemeanors referred to in paragraphs 1 and 2 of this Article.

Article 35

If the bodies referred to in Article 2 of this Law act upon the requests, recommendations, opinions, proposals and indications referred to in Article 34 of this Law within the deadline set, the Ombudsman shall conclude that the procedure is completed and shall immediately notify the person that has filed the complaint.

The Ombudsman shall conclude that the procedure is completed and shall inform the person that has filed the complaint thereof in the cases where all measures and activities are taken in accordance with the competence determined by this Law.

IV. PUBLICITY OF THE WORK

Article 36

The Ombudsman shall notify the Assembly of the Republic of Macedonia by an annual report. The annual report shall include an analysis of the work of the Ombudsman, of the level at which the respect, promotion and protection of the constitutional and legal rights of the citizens, respect of the principles of non-discrimination and equitable representation of community members are ensured by the bodies referred to in Article 2 of this Law, as well as recommendations for the purpose of overcoming the established problems.

The report referred to in paragraph 1 of this Article shall be reviewed by the Assembly of the Republic of Macedonia at Assembly's session compulsorily attended by members of the Government of the Republic of Macedonia, i.e. its representatives.

The Assembly of the Republic of Macedonia, after reviewing the report referred to in paragraph 2 of this Article, shall establish measures for implementation of the recommendations and shall deliver it to the Government for further actions.

The Government of the Republic of Macedonia shall inform the Assembly of the Republic of Macedonia about the implementation of the recommendations referred to in paragraph 3 of this Article every six months.

The information of the Government referred to in paragraph 4 of this Article shall be considered at a session of the competent working body of the Assembly of the Republic of Macedonia. The Ombudsman shall be invited at the session and a representative of the Government of the Republic of Macedonia shall also attend it.

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

Article 37

The Ombudsman may submit a special report about the activities within his/her competence to the bodies of the local self-government units where an office is established as an organizational unit of the Ombudsman.

The Ombudsman may publicize the special reports referred to in paragraph 1 of this Article, the statements and other undertaken activities in the mass media.

V. LEGAL POSITION OF THE OMBUDSMAN

Article 38

The Ombudsman and his/her deputies cannot be hold liable for a given opinion and actions, measures and activities undertaken in the exercise of their functions.

Article 39

The Ombudsman, the deputies of the Ombudsman and the employees in the Ombudsman's expert service shall have an official identification card.

The form, content, procedure and manner of issuance, usage and revocation of the official identification card shall be prescribed by the Ombudsman by a general act.

Article 40

The Ombudsman and his/her deputies, who have been employed prior to their election, shall have the right to return to the job that corresponds to the level of their professional education, within 30 days following the termination of their term of office.

Article 41

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

Funds from the Budget designated for the Ombudsman shall be provided for the needs of professional training and development.

Article 42

The following shall be considered special rights of the Ombudsman and of his/her deputies in the exercise of their functions:

- the right to enter and have a free pass at the stations, airports and ports, only by displaying the official identification card;
- the right to freely use the means of transport for public, land or lake traffic on the territory of the Republic of Macedonia, as well as the highways, the area intended for parking at the central and local level.
- the right to special protection of his/her personality, family and property, at his/her request submitted to the police in his/her place of residence, whenever there are serious threats to his/her safety.

The bodies, the other entities and enterprises referred to in Article 2 of this Law shall be obliged, without any delay, to enable the Ombudsman and the deputies of the Ombudsman exercise of the special rights under this Article.

VI. EXPERT SERVICE

Article 43

An Expert Service of the Ombudsman shall be established for the purpose of carrying out the expert, administrative-technical and other tasks.

The Ombudsman shall adopt general acts on the organization of the work and systematization of the jobs in the Expert Service, the National Preventive Mechanism team, the special units and the offices of the Ombudsman, determining the jobs, the job descriptions, the total number of employees and the conditions for each job, and the Assembly of the Republic of Macedonia shall give its consent.

The annual employment plans shall be adopted by the Ombudsman in accordance with law, without a prior consent or opinion prescribed by the law.

Article 43-a

The Ombudsman shall decide about employment, promotion and entering into labor relations in the Expert Service within the framework of allocated funds in the section of the Budget of the Republic of Macedonia dedicated to the Ombudsman, without a prior consent or an opinion prescribed by the law.

The procedures for employment and termination of employment at the Ombudsman shall be carried out based on the legal regulations that regulate the status of administrative servants, the Law on the Ombudsman and the general acts on organization of the work and systematization of the jobs in the Expert Service, the special units and the offices of the Ombudsman.

The principle of equitable representation of citizens that belong to all communities shall apply for the employment at the Ombudsman.

Article 44

The following offices shall be organized as regional organizational units of the Ombudsman for the purpose of performing the works within the competence of the Ombudsman:

1. Office of the Ombudsman in Tetovo;
2. Office of the Ombudsman in Kichevo;
3. Office of the Ombudsman in Shtip;
4. Office of the Ombudsman in Strumica;
5. Office of the Ombudsman in Kumanovo; and
6. Office of the Ombudsman in Bitola.

A deputy ombudsman shall manage the offices of the Ombudsman.

The Ombudsman shall regulate in detail the manner of operation and the number of employees in the offices of the Ombudsman who perform the duties within the competence of the Ombudsman by a general act.

Article 45

The Ombudsman may establish and organize departments for the purpose of more efficient and more successful protection of the constitutional and legal rights of the citizens in particular areas or certain vulnerable groups of persons.

The Ombudsman - National Preventive Mechanism shall form a team for prevention against torture and other types of cruel, inhuman and humiliating behavior or punishment.

The Ombudsman shall form a special department for monitoring the state and protection of the rights of the children, as well as of the disabled persons and a special department for monitoring the state and protection against discrimination and equitable representation of the members of the communities.

(4) The Ombudsman, for the purpose of exercising the competences referred to in Articles 11-c and 11-d of this Law, within the expert service, shall form a special organizational unit the Ombudsman - Civil Control Mechanism.

The Ombudsman shall regulate in detail the manner of operation and the number of employees in the departments who shall perform the duties in the area of competence of the Ombudsman by a general act.

Article 46

The Ombudsman shall appoint a secretary general from among the managing civil servants.

The term of office of the Ombudsman's secretary general shall equal the length of the term of office of the Ombudsman.

The secretary general of the Ombudsman shall manage the expert service.

Article 47

The Ombudsman shall adopt Rules of Procedure of the Ombudsman.

The Rules of Procedure of the Ombudsman shall regulate in detail the manner of work and the procedure in front of the Ombudsman.

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

VII. FUNDS FOR THE WORK

Article 48

The funds for the work of the Ombudsman, the Ombudsman - Civil Control Mechanism, as well as the the Ombudsman - National Preventive Mechanism, shall be provided from the Budget of the Republic of Macedonia.

The Ombudsman shall submit the draft calculation for the budget to the Ministry of Finance based on which the section in the Budget of the Republic of Macedonia designated for the Ombudsman is harmonized, and if no agreement is reached, the Ombudsman shall prepare a report and shall submit it to the Government.

The Ombudsman shall be mandatorily present at the session of the Government at which the draft calculation for the budget of the Ombudsman is discussed and established.

The Ombudsman shall mandatorily attend the sessions of the Assembly of the Republic of Macedonia working bodies considering the proposal of the Budget of the Republic of Macedonia, concerning the funds for the Ombudsman from the Budget of the Republic of Macedonia and he/she may propose amendments to the authorized proposer.

The funds for work of the Ombudsman - National Preventive Mechanism should be determined in the budget of the Ombudsman as a special budget sub-program.

The funds for work of the Ombudsman - Civil Control Mechanism should be determined in the budget of the Ombudsman as a special budget sub-program.

The Ombudsman shall mandatorily be present at the session of the Assembly of the Republic of Macedonia at which the Budget of the Republic of Macedonia is discussed, and the Ombudsman shall elaborate the draft calculation of the budget designated for the

Ombudsman. The assembly of the Republic of Macedonia shall separately vote for the section of the Budget of the Republic of Macedonia designated for the Ombudsman.

The Ombudsman shall independently manage the use, allocation and purpose of the funds for work provided in the section of the Budget of the Republic of Macedonia designated for the Ombudsman.

Article 49

The salary and the other allowances of the Ombudsman and his/her deputies shall be determined by law.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 50

The Rules of Procedure of the Ombudsman and the acts on the organization of the work and the systematization of the jobs shall be harmonized with the provisions of this Law within a period of 6 months as of the day of entry into force of this Law.

The act on the manner of exercising the special rights of the Ombudsman, his/her deputies and the persons authorized by the Ombudsman referred to in Article 42 of this Law and the act on the manner of operation and the number of employees in the organizational units of the Ombudsman referred to in Article 44, paragraph 3 of this Law shall be adopted within a period of 6 months as of the day of entry into force of this Law.

The decision on the number of Ombudsman's deputies referred to in Article 5, paragraph 2 of this Law shall be adopted by the Assembly of the Republic of Macedonia within a period of 30 days as of the day of entry into force of this Law.

Article 51

The organizational units shall start working no later than 6 months as of the day of entry into force of this Law.

Article 52

The Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 7/97) shall cease to be valid as of the day of entry into force of this Law.

Article 53

This Law shall enter into force on the eighth day as of the day of its publication in the "Official Gazette of the Republic of Macedonia".

PROVISIONS OF OTHER LAWS

Law Amending the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 114/2009):

Article 7

The by-laws envisaged by this Law shall be adopted within six months as of the day of entry into force of this Law.

Law Amending the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 181/2016):

Article 32

The by-laws envisaged by this Law shall be adopted within three months as of the day of entry into force of this Law.

Law Amending the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 181/2016):

Article 33

This Law shall enter into force on the eight day as of the day of its publication in the "Official Gazette of the Republic of Macedonia" and shall start to apply after six months as of the day of entry into force of this Law.

Law Amending the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 189/2016):

Article 11

This Law shall enter into force on the eight day as of the day of its publication in the "Official Gazette of the Republic of Macedonia" and shall start to apply after six months as of the day of entry into force of this Law.

Law Amending the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia" no. 35/2018):

Article 5

The acts on the organization of the work and systematization of the jobs in the Expert Service, the National Preventive Mechanism team, the special units and the offices of the Ombudsman shall be harmonized with the provisions of this Law within a period of three months as of the day of its entry into force.

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