



## Resolution 1959 (2013)<sup>1</sup>

Final version

# Strengthening the institution of ombudsman in Europe

Parliamentary Assembly

1. The Parliamentary Assembly, referring to its Recommendations [757 \(1975\)](#) on the conclusions of the meeting of the Assembly's Legal Affairs Committee with the Ombudsmen and Parliamentary Commissioners in Council of Europe member states and [1615 \(2003\)](#) on the institution of Ombudsman, reaffirms that ombudsman institutions, which have the responsibility of protecting citizens against maladministration, play a crucial role in consolidating democracy, the rule of law and human rights.

2. The Assembly notes that there is no standardised model for the ombudsman institution in Europe and across the world. Some countries have set up an institution consisting of a single-member generalist ombudsman, while others have chosen a multi-institutional system, including regional and/or local ombudsmen and/or ombudsmen specialised in areas such as combating discrimination, the protection of minorities or children's rights. Taking into account the variety of legal systems and traditions, it would not be appropriate to advocate a single model for the institution of ombudsman.

3. The Assembly nevertheless recalls the Council of Europe's previous work on promoting ombudsman institutions, including its own recommendations and the Committee of Ministers Recommendations Nos. R (80) 2, R (85) 13 and R (97) 14, and calls on its member States to implement them. It also invites them to pay particular attention to the document of the European Commission for Democracy through Law (Venice Commission) "Compilation on the ombudsman institution" of 1 December 2011.

4. The Assembly calls on the member States of the Council of Europe which have set up ombudsman institutions to:

4.1. ensure that such institutions fulfil the criteria stemming from its Recommendation 1615, the Committee of Ministers' relevant recommendations and the Venice Commission's work on the ombudsman, in particular as regards:

4.1.1. the independence and impartiality of these institutions, whose existence shall be enshrined in law and, if possible, in the constitution;

4.1.2. the appointment procedure: the ombudsman shall be appointed by parliament and report to it;

4.1.3. their remit, which should cover reviewing cases of maladministration by all bodies of the executive branch, as well as the protection of human rights and fundamental freedoms;

4.1.4. their access to documents and investigative powers, as well as unrestricted access to all detention facilities;

4.1.5. their access to the Constitutional Court in order to challenge the constitutionality of flawed legislation;

4.1.6. direct access to the ombudsman for all persons, including legal persons, concerned by maladministration cases, irrespective of their nationality;

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1. *Assembly debate* on 4 October 2013 (36th Sitting) (see [Doc. 13236](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Xuclà). *Text adopted by the Assembly* on 4 October 2013 (36th Sitting).



- 4.2. review, if need be, their legislation, in light of international and European standards on ombudsman institutions;
  - 4.3. refrain from multiplying ombudsman-type institutions, if it is not strictly necessary for the protection of human rights and fundamental freedoms; a proliferation of such bodies could confuse individuals' understanding of the means of redress available to them;
  - 4.4. strengthen the ombudsman institutions' visibility, especially in the media, and promote an "ombudsman-friendly" climate, in particular by guaranteeing easy and unhindered access to the ombudsman institution(s) and providing appropriate information/documentation in this respect, especially where the ombudsman institution does not yet have a long-standing tradition; provide ombudsman institutions with sufficient financial and human resources, enabling them to effectively carry out their tasks, and, if need be, taking into account the new functions assigned to them on the basis of international and/or European law;
  - 4.5. consider seeking ombudspersons' accreditation at the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in light of the Paris Principles.
5. The Assembly calls on member States which have established several ombudsman institutions, such as local, regional and/or specialised ones, to ensure appropriate co-ordination of these bodies and individuals' easy and unimpeded access to them.
  6. The Assembly calls on member States to make all efforts to avoid budget cuts resulting in the loss of independence of ombudsman institutions or even their disappearance altogether. Particularly in those States with parliaments legislating on rights and freedoms not only at national but also at regional level, there is a definite role for bodies supervising the application of the law by public administrations, as the institution of ombudsman does by definition.
  7. The Assembly encourages member States which have not yet set up a national generalist ombudsman to promptly establish such a body with a broad mandate, allowing individuals to complain about maladministration cases and violations of their human rights and fundamental freedoms, while ensuring a clear division of competences between ombudsman institutions and judicial review of administrative acts, which must be available at least in case of violations of human rights and fundamental freedoms.
  8. The Assembly recognises the crucial role played by the European Ombudsman of the European Union and the Council of Europe Commissioner for Human Rights in co-ordinating the activities of member States' ombudsmen.