

**ORGANISATIONAL AND FUNCTIONING  
REGULATIONS OF THE OMBUDSMAN,  
APPROVED BY THE PROCEDURES  
COMMITTEES OF CONGRESS AND SENATE, AT  
THE PROPOSAL OF THE OMBUDSMAN, IN  
THEIR JOINT MEETING OF 6 APRIL 1983<sup>1</sup>.**

(Official State Bulletin No. 92, of 18 April 1983)

The Procedures Committees of Congress and Senate, in their joint meeting of 6 April 1983, approved, at the proposal of the Ombudsman, the Organisational and Functioning Regulations of this latter Institution under the terms inserted hereinafter:

**I. GENERAL PROVISIONS**

**Article 1.** 1. The Ombudsman, as High Commissioner of Parliament for the defence of the rights included in Part I of the Constitution, shall be able to supervise the activities of the Administration and report thereon to Parliament.

2. The Ombudsman shall not be subject to any imperative mandate whatsoever. He shall receive instructions from no authority and shall undertake his duties with autonomy and in accordance with his judgement.

3. He shall exercise the duties entrusted to him by the Constitution and his Organic Act.

**Article 2** 1. The Ombudsman shall enjoy immunity, and he may not be arrested, disciplined, fined, persecuted or tried on account of the opinions he formulates or the acts he undertakes in the exercise of the powers inherent to his office.

2. In other cases, and while he remains in the exercise of his duties, the Ombudsman may not be held in custody except in the event of *in flagrante delicto*.

The decision on accusation, prison, prosecution and trial falls exclusively to the Criminal Courtroom of the Supreme Court.

---

<sup>1</sup>Modified by Resolutions of the Committees of the Congress of Deputies and of the Senate on 21 April 1992 and 26 September 2000 (Official State Bulletin No. 99 of 24 April 1992 and No. 261, of 31 October 2000)

3. The above rules shall be applicable to Deputy Ombudsmen in the performance of their duties.

4. The above points shall be expressly noted in the official document to be issued by Parliament accrediting his status and office.

**Article 3.** 1. The Ombudsman has sole responsibility to Parliament for his management.

2. The Deputies are directly responsible to the Ombudsman for their management and also to the Joint Congress-Senate Committee for liaison with the Ombudsman.<sup>1</sup>

**Article 4.** The election of Ombudsman and of the Deputies shall be done in accordance with the provisions contained in his Organic Act and in the Regulations of Congress of Deputies and of Senate, or of Parliament, as appropriate.

**Article 5.** 1. The governing and administrative functions of the institution of Ombudsman correspond to the holder of that office and to Deputies within the scope of their respective authorities.

2. For the exercise of his duties, the Ombudsman shall be assisted by a Coordination and Internal Regime Board.

**Article 6.** The appointment of Ombudsman or of the Deputies shall, if they are public civil servants, imply that they go over to a situation of special leave or equivalent in the Profession or Staff from whence they came.

**Article 7.** 1. The Ombudsman and the First and Second Deputies shall have the treatment that corresponds to their constitutional category. The Regulations of Parliament shall determine as appropriate with regard to their participation and order of precedence in official acts of the Houses or of Parliament.

2. Otherwise, that established in the general legislation on the matter shall be abided by.

## II. ON THE OMBUDSMAN

---

<sup>1</sup> Drawn up in conformity with the Procedures Committees of the Congress of Deputies and Senate on 21 April 1992.

**Article 8.** In addition to the basic competencies established in the Organic Act, it falls to the Ombudsman:

- a) To represent the institution.
- b) To propose Deputies, so that the Joint Congress-Senate Committee for liaison with the Ombudsman can grant its conformity prior to the appointment and resignation of them.
- c) To maintain direct liaison with Parliament via the Speaker of the Congress of Deputies, and with both Houses via their respective Speakers.
- d) To maintain direct liaison with the President and Vice-Presidents of the Government, Ministers and Secretaries of State, and with the Delegates of the Government in the Autonomous Communities.
- e) To maintain direct liaison with the Constitutional Court and with the General Council of the Judiciary, likewise via their Chief Justice and Chairman, respectively.
- f) To maintain direct liaison with the Attorney General.
- g) To maintain direct liaison with the Presidents of the Executive Councils of the Autonomous Communities and with similar bodies of Ombudsman that might be set up in those Communities.
- h) To convene and determine the agenda for meetings of the Coordination and Internal Regime Board and to direct its discussions.
- i) To establish the staff and proceed with the appointment and resignation of the General Secretary and personnel of the Institution's service.
- j) In accordance with the general guidelines set by the Committees of Congress and Senate, to approve the draft budget for the Institution and to agree to its being sent to the Speaker of Congress, for its final approval by those Committees and its incorporation into the budgets of Parliament.
- k) To set the guidelines for the enforcement of the budget.
- l) To exercise disciplinary powers.
- m) To approve the bases for the selection of staff and the contracting of works and supplies, pursuant to that established in articles 27 and 38 of these Regulations.
- n) To approve instructions of an internal nature that are issued for the better organisation of the services.
- o) To supervise the functioning of the Institution.

**Article 9.** 1. The Ombudsman shall resign from his office for the reasons and in accordance with that set down in articles 5 and 7 of the Organic Act.

2. In these events, the Deputies shall carry out his duties, on an interim basis, and in their order of seniority.

**Article 10.** 1. The Ombudsman shall be able to be assisted by a Technical Office, under the direction of one of the Advisors, which shall be freely appointed and dismissed.

2. It falls to the Technical Office to organise and manage the private Secretariat of the Ombudsman, conduct studies and reports assigned to them and exercise the functions of protocol.

3. The Ombudsman shall be able to establish a Press and Information Office under his immediate dependency or that of the Deputy in whom he delegates this task. And he shall be able to set up any other assistance body that he considers necessary for the exercise of his duties.

**Article 11.** The annual report which, according to articles 32 and 33 of the Organic Act of the Ombudsman, the latter must provide for Parliament, shall be previously submitted to the Joint Committee for liaison with the Ombudsman 1.

Notwithstanding that report, and any extraordinary reports that he might present to the Standing Committees of the Houses when so advised by the gravity or urgency of events, the Ombudsman shall also be able to inform that Committee periodically of his activities in relation to a particular period or a specific topic, and the Committee shall be able to obtain information from him<sup>1</sup>.

### III. THE DEPUTY OMBUDSMEN

**Article 12.** 1. The following powers shall fall to the Deputy Ombudsmen:

*a)* To perform the duties of Ombudsman in cases of delegation and substitution provided for in the Organic Act.

*b)* To direct the processing, checking and investigation of complaints that are brought and of actions that are instigated

---

<sup>1</sup> Drawn up in accordance with the Resolution of the Procedures Committees of the Congress of Deputies and Senate of 21 April 1992.

ex officio, proposing to the Ombudsman as appropriate the admission for processing or the rejection of the complaints and the decisions that are considered proper, and carrying out the relevant actions, communications and notifications.

c) To collaborate with the Ombudsman in liaison with Parliament and the Procedures Committee in it constituted for the purpose and in supervising the activities of the Autonomous Communities and within them, coordination with similar bodies that exercise their functions within this scope<sup>1</sup>.

d) To draw up the annual report or extraordinary reports that are to be placed before Parliament and to propose them to the Ombudsman.

e) To take on the remaining duties entrusted to them by law and by the regulating provisions in force.

2. The demarcation of the respective scopes of duties of the two Deputies shall be drawn by the Ombudsman, who shall give notice of this to the Procedures Committee constituted in Parliament with regard to the said Ombudsman. For this purpose, each Deputy shall be responsible for the areas assigned to him 1.

Notwithstanding that established in article 8 of these Regulations, the First Deputy shall take on the coordination of the services coming under the Ombudsman, and also the ordinary business of the General Secretary. In his absence, these duties shall be performed by the Second Deputy <sup>1</sup>.

3. The final acceptance or rejection and, as the case might be, the ultimate decision on complaints that are brought, falls to the Ombudsman or to the Deputy in whom this is delegated or who stands in for him.

4. The Ombudsman shall, having first listened to the Coordination and Internal Regime Board, be able to ask for a hearing, management or treatment of any complaint or investigation that it falls to the Deputies to deal with.

**Article 13.** 1. The Deputies shall be proposed by the Ombudsman via the Speaker of Congress, for which purpose, the Joint Congress-Senate Committee in charge of liaison with the Ombudsman shall grant its prior conformity to that appointment <sup>1</sup>.

---

<sup>1</sup> Drawn up in accordance with the Resolution of the Procedures Committees of the Congress of Deputies and Senate of 21 April 1992.

2. Within a period of fifteen days, the proposal for appointment of Deputies shall proceed to take place, as provided for in the Organic Act and in these Regulations.

3. Having obtained conformity, the corresponding appointments shall be published in the *Official State Bulletin*.

**Article 14.** The Deputies shall take possession of their post before the Speakers of both Houses and the Ombudsman, giving oath or promise to observe the Constitution and to carry out their duties faithfully.

**Article 15.** 1. Within fifteen days of their appointment and before taking office, the Deputies must terminate any situation of incompatibility that may affect them, it being understood that in failing to do so they thereby reject their appointment.

2. If the incompatibility should arise after taking office, it is understood that he shall resign therefrom on the date that the incompatibility occurs.

**Article 16.** 1. The Deputy Ombudsmen shall be relieved of their duties in any of the following cases:

a) Resignation

b) Expiry of their term of office.

c) Death or unexpected incapacity.

d) Flagrant negligence in fulfilling the obligations and duties of their office. In this case, removal shall require a reasoned proposal from the Ombudsman, which must have been approved by the Joint Congress-Senate Committee, in accordance with the same procedure and majority required for granting prior conformity to their appointment, and after having heard the concerned party<sup>1</sup>.

e) Non-appealable criminal conviction.

2. The relief of Deputies shall be published in the *Official State Bulletin* and in those for both Houses.

#### IV. ON THE COORDINATION AND INTERNAL REGIME BOARD

---

<sup>1</sup> Drawn up in accordance with the Resolution of the Procedures Committees of the Congress of Deputies and Senate of 21 April 1992.

**Article 17.** The Coordination and Internal Regime Board shall be composed of the Ombudsman, the Deputies and the General Secretary, who shall act as Secretary and attend its meeting with voice and without vote.

**Article 18.** 1. In order to perform its duties, the Coordination and Internal Regime Board shall have the following powers:

*a)* To inform on matters affecting the determination of the staff, and on the appointment and relief of personnel in the service of the Institution.

*b)* To know and be informed on the possible filing of writs of relief and appeals of unconstitutionality before the Constitutional Court.

*c)* To know and be informed on any matters corresponding to the drawing up of the draft budget and its enforcement, as well as its settlement formulated by the General Secretary, prior to its referral by the Ombudsman to Parliament.

*d)* To discuss proposals for works, services and supplies.

*e)* To assist the Ombudsman in the exercise of its powers with regard to personnel and economic-financial matters:

*f)* To cooperate with the Ombudsman in the work of coordinating the activities of the different areas and in the best performance of the services.

*g)* To know and inform the Ombudsman on the annual report and on extraordinary reports that are placed before Parliament.

*h)* To know and report on the appointment and relief of the General Secretary.

*i)* To report and advise on the project for reforming these Regulations.

*j)* To advise the Ombudsman on whatsoever questions that he considers are appropriate for being submitted to his consideration.

2. Meetings of the Coordination and Internal Regime Board shall be able to be attended by the area managers, for the purposes of information and having been duly summoned by the Ombudsman.

Likewise, any other person considered appropriate by the Ombudsman shall be able to attend for the purposes of information and for the better resolution of the matters subject to his consideration.

3. The topics forming the object of deliberation shall be noted in the Agenda of the summons, and the agreements

adopted by the Coordination and Internal Regime Board shall be communicated to all its members.

## V. ON THE GENERAL SECRETARY

**Article 19.** 1. The General Secretary shall have the following powers:

*a)* The governing and disciplinary system of all personnel, exercising the powers not specifically attributed to the Ombudsman, the Deputies or the Coordination and Internal Regime Board.

*b)* Directing the services coming under the General Secretariat.

*c)* Preparing and presenting to the Coordination and Internal Regime Board the proposals for the selection of Advisors and other personnel, for their report and subsequent decision by the Ombudsman.

*d)* Preparing the draft Budget and bringing it before the Coordination and Internal Regime Board.

*e)* Administrating credits for expenses of the Ombudsman's Budget.

*f)* Drawing up minutes and giving notification of the resolutions of the Coordination and Internal Regime Board.

2. In the event of vacancy, absence or illness, the General Secretary shall be replaced on an interim basis by the Manager designated by the Ombudsman, after hearing the Coordination and Internal Regime Board.

**Article 20.** The General Secretariat shall be structured into two services: the Economic Regime and the Internal, Studies, Documentation and Publications Regime.

An Advisor shall be able to assist the General Secretary in his duties.

**Article 21.** The Economic Regime Service shall be structured into the following units:

*a)* Economic Affairs and Accounting Section.

*b)* Authorisations Section.

*c)* Personnel and General Affairs Section.

**Article 22.** 1. Coming under the Internal, Studies, Documentation and Publications Regime Service shall be a General Registry and an Information Office.



All letters written to the Ombudsman shall be received via the Registry Office, where they shall be examined and classified.

The General Secretary, by virtue of being in charge of the Registry, shall inform the First Deputy or otherwise the Second Deputy, of the number and nature of letters written to the Office of the Ombudsman, for the appropriate purposes.

2. The Archives Section shall be set up under the direct responsibility of the General Secretary. The appropriate measures shall be adopted in order to protect and safeguard confidential or secret documents, in accordance with the provisions of article 22 of the Organic Act and article 26 of these Regulations.

3. The Information Office, which shall be headed by an Advisor, shall inform people who so request in relation to the powers of the Ombudsman, and it shall provide guidance on the manner and means of filing a complaint with him.

The library, which shall include all means of reproduction of documents, shall also come under this Service.

## VI. PRESENTATION, INSTRUCTION AND INVESTIGATION OF COMPLAINTS

**Article 23.** 1. In the exercise of the powers inherent to the Ombudsman and the Deputies, as well as in the processing and investigation of complaints, the provisions contained in the Organic Act and in these Regulations shall be abided by.

2. The presentation of a complaint before the Ombudsman, and its later admission as appropriate, shall in no case suspend the appeal periods provided in Law, whether via administrative or jurisdictional routes, nor the enforcement of the resolution or act concerned.

**Article 24.** 1. For the better exercise of the duties attributed to him by the Organic Act, the Ombudsman shall, with respect to all Public Administrations, exercise top-level coordination between his own powers and those attributed to similar bodies which might be set up in the Autonomous Communities, without prejudice to the autonomy corresponding to them in monitoring the activity of the respective autonomous administrations.

2. In the exercise of his own powers, the Ombudsman shall be able to request the collaboration and assistance of similar bodies of the Autonomous Communities.

3. The Ombudsman may not delegate to similar bodies of the Autonomous Communities the powers attributed to him by article 54 of the Constitution regarding the defence of the rights contained in its part one.

**Article 25.** 1. When the Ombudsman receives complaints referring to the functioning of the Administration of Justice, these must be passed on to the Attorney General's Office so that it can investigate into their reality and adopt the appropriate measures pursuant to the Law or pass them on the General Council of the Judiciary, depending on the type of complaint it concerns.

2. In ex officio actions, the Ombudsman shall act in coordination with the Chairman of the General Council of the Judiciary and with the Attorney General, as the case might be, to whom he shall report the result of his investigations.

3. The actions that might be undertaken in relation to the Administration of Justice and the result of them shall be reported by the Ombudsman to Parliament in his periodical reports or in his Annual Report.

**Article 26.** 1. Only the Ombudsman and, as appropriate, the Deputies and the General Secretary shall have knowledge of documents officially classified as secret or confidential.

2. Such documents shall be duly safeguarded under the Ombudsman's direct responsibility.

3. The Ombudsman shall order that which is appropriate with regard to the classification of "confidential" for documents of an internal nature.

4. In no case may reference be made to the content of secret documents in the Ombudsman's reports or in his replies to persons who have presented a complaint or asked for his intervention.

5. References to confidential documents in reports to Congress and Senate shall be appraised with prudence by the Ombudsman.

## VII. STAFF IN THE OMBUDSMAN'S SERVICE

**Article 27.** 1. The staff in the service of the Ombudsman shall have the consideration of being staff in

the service of Parliament, without prejudice to the organic and functional dependence of the Ombudsman.

2. When staff coming from other public administrations join the Ombudsman's service, they shall be in the situation provided for in article 35.2, of the Organic Act.

3. The selection of staff in the Ombudsman's service shall be freely made by him, in accordance with the principles of merit and ability. In making these appointments, the aim shall be to give priority to public civil servants.

4. Other staff who do not meet the conditions of being career servants of the public administrations shall have the nature of being temporary civil servants in the Ombudsman's service.

**Article 28.** Staff in the service of the Institution of the Ombudsman shall be composed of Area manager advisors, Technical advisers, clerks, assistants and subordinates.

**Article 29.** 1. The Advisers shall provide the Ombudsman and Deputies with the technical and juridical cooperation they need for carrying out their duties.

2. They shall be freely appointed and relieved by the Ombudsman, in accordance with the provisions of these Regulations and shall in all cases be relieved when the provisions of article 36 of the Organic Act occur.

**Article 30.** All persons in the service of the Ombudsman are subject to the obligation to maintain strict confidentiality in relation to the matters being dealt with as part of that service. Breach of this obligation shall be sanctioned in accordance with the provisions of these Regulations.

**Article 31.** 1. The system for the rendering of services shall be full-time for all staff.

2. The position of advisor to the Ombudsman shall also be incompatible with any representative mandate, with any public office or the exercise of managerial duties of a political party, trade union, association or foundation and with employment at the service of the same; and also with the exercise of whatsoever other professional, liberal, mercantile or labour activity. Nevertheless, with prior acknowledgement of compatibility granted in accordance with the provisions contained in the Statute of Institution Staff, advisors to the Ombudsman shall be able to be

contracted for carrying out teaching or research duties in universities or other academic institutions having a similar nature and ends. In all cases, such activities shall be carried out on a part-time basis and they may not impair the rendering of services to the Ombudsman. Those wishing to obtain acknowledgement of compatibility must present an application, which shall be accompanied by all necessary data so that a pronouncement can be made. The Ombudsman, having heard the Coordination and Internal Regime Board and with a prior report from the General Secretary, shall decide as appropriate 1.

## VIII. DISCIPLINARY REGIME

**Article 32.** 1. Staff in the service of the Ombudsman shall be able to be sanctioned for committing disciplinary offences as a result of breach of their duties in accordance with Law.

2. The offences may be minor, serious or very serious.

3. Minor offences shall have a prescription of two months; serious ones, six months; and very serious ones, one year. The same periods shall apply to the prescription on sanctions, starting from the day on which the decisions that are imposed become definite, or their enforcement is violated.

**Article 33.** 1. Sanctions shall be imposed and shall accord with the greater or lesser severity of the offence, and shall be as follows:

*a)* For minor offences, those of warning and suspension of employment and salary for between one and ten days.

*b)* For serious offences, suspension of employment and salary for a period of up to six months.

*c)* For very serious offences, suspension or employment and salary or dismissal from the service, for between six months and six years.

**Article 34.** 1. Sanctions for minor offences shall be imposed by the hierarchical superior of the civil servant, they shall not lead to the opening of proceedings, though the offender must in all cases be heard.

---

<sup>1</sup> Drawn up in accordance with the Resolution of the Procedures Committees of the Congress of Deputies and Senate of 26 September 2000.

2. Sanctions for serious and very serious offences shall be imposed by virtue of proceedings opened for the purpose and which consist of the procedures of charge sheet, evidence as the case might be, and proposed decision, with the civil servant having to be allowed to formulate pleadings in them.

3. The instigation of proceedings and the imposition of sanctions fall to the General Secretary. Nevertheless, the sanctions of suspension and dismissal from the service may only be imposed by the Ombudsman.

4. Notes made in the service sheet relating to sanctions imposed may be cancelled at the request of the civil servant once a period has passed equivalent to the prescription of the offence, always provided that no new proceedings have been instigated against the civil servant giving rise to a sanction. Cancellation shall not prevent the appraisal of re-incidence if the civil servant again commits an offence; in this case, the cancellation periods shall be double the duration.

## IX. ECONOMIC SYSTEM

**Article 35.** 1. The budget for the Institution of the Ombudsman shall be included in the budgetary section of the budget for Parliament as a further service of the same.

2. The accounting and auditing system that shall apply in the Ombudsman shall be that of Parliament.

3. The Auditor of Parliament shall perform the critical and auditing function in conformity with the rules applicable to Parliament.

**Article 36.** 1. The structure of the budget for the Institution of the Ombudsman shall be accommodated to the budget for Parliament.

2. The rules applying in Parliament for the transfer of credits among budgetary items shall apply.

3. Authorisation for transfers shall be made by the Ombudsman, with a report from the Auditor of Parliament.

**Article 37.** The powers with regard to the ordering of payments shall correspond to the Coordination and Internal Regime Board; to the Ombudsman and to the General Secretary depending on the amount and the manner in which

this is determined by said Board, at the proposal of the Ombudsman.

The ordering of the payment corresponds to the Ombudsman.

**Article 38.** The system of contracting and of acquisition in general in the Ombudsman shall be that which governs for Parliament.

#### ADDITIONAL PROVISION

The Ombudsman shall propose the reform of these Regulations, as appropriate, to the competent bodies of Parliament, via the Speaker of Congress.

#### FINAL PROVISION

These Regulations shall be published in the *Official Bulletin of Congress*, and in the *Official State Bulletin*, and they shall come into force on the day following their publication in the latter.