





The creation of the Greek Ombudsman reflects the steadily increasing strength of democracy in Greece. The starting point occurred in 1974, with the establishment of the first genuinely democratic regime in the country's modern history. Consolidation of the democratic system in the late 1970s and early 1980s was a major historical achievement, indicating a new maturity of Greek society and political culture.

The consolidation of democracy in Greece, while now considered an indisputable fact, has still left considerable margins for an improvement in its quality. In this sense, consolidation of our democratic system should be considered as a springboard for the next logical stage, to improve the quality of our democracy.

Self-evaluation, the ability to create mechanisms of accountability easily accessible to citizens, is a critical aspect of democracy. Such mechanisms make it feasible to control the institutions and functions of the state and to take remedial action where necessary. In this sense, accountability and control are basic elements of contemporary, high quality democracy.

The Ombudsman is such an institution of accountability and control. It is an independent administrative authority, whose aim, according to its founding law, is to protect citizens, combat maladministration, and ensure observance of the laws. Thus, two of the institution's basic characteristics are its extrajudicial and mediatory role.

Vindication of the Citizen – lightening the judicial load – efficient use of resources. The Ombudsman's extrajudicial mission seeks to provide the citizen with the possibility of solving a problem which concerns him, without incurring the high cost in time and money involved in a recourse to the lawcourts. Success in this endeavour means a corresponding reduction in work for the courts, which, in turn, brings broader economic and social benefits.

The Ombudsman's mission as an intermediary has two equally important, interconnected, but distinctly different goals. The first is to examine and perhaps satisfy individual requests made by citizens, thereby protecting their rights. Equally important, however, is the formulation of proposals to remedy the underlying causes of infringements of citizens' rights. Effective confrontation of maladministration depends, in the final analysis, on the simultaneous and, as far as possible, balanced fulfillment of these two goals.

In this sense, the Ombudsman can be defined in somewhat broader terms as a mechanism for control, accountability, and transparency, whose aims are : (1) a fair remedy in cases of maladministration, (2) avoiding their repetition, (3) reducing the number of cases taken to court and thus lightening the burdens on the judicial system, (4) improving the functioning of the public administration by promoting "good practice".

How does the Ombudsman try to attain these goals? In other words, what specific means does he use in order to translate these general and, largely, abstract principles and ideas about protecting the rights of citizens into daily practice? In the remainder of this introduction, I will try to present some basic but tangible and practical principles which should govern the public sector's relations with the citizens and operate as basic rules for its behaviour.

The basic criterion in attempting to deal with citizens' concerns cannot be strict adherence to the letter of the law. Precisely because the Ombudsman is a non-judicial mechanism for the resolution of differences, the institution can turn to other, supplementary principles which can broaden the criteria upon which it is called to operate. One such principle for resolving differences is the concept of "equity," which is close to the Greek word **epieikia** and focuses on the moral rather than the legal dimension of the grounds on which an administrative decision is taken. This is a flexible and extraordinarily useful principle, precisely because it enables the public administration to apply the law at an individual level with "corrective"



interpretations. This, in turn, makes it possible to deal with citizens more justly and to provide more substantial protection of their rights.

In addition, applying the principle of equity improves the ability of the administration to develop model "rules of best practice" governing relations with citizens. Such rules offer a reference point which is clear, easily applied, and accessible to all and provides a standard for the evaluation of administrative actions.

What is the definition of a "good solution" for differences and how precise is this principle of "smoothly operating or good administration"? Following practices established after many years of functioning of Ombudsmen institutions in other countries (see, for example, the UK's Citizen's Charter, the principles of just administration contained in the Irish Ombudsman's annual report for 1995, and the relevant proposals being developed in France), I would say that the concept of "smoothly operating or good administration" embodies and at the same time refers to three basic rules of administrative best practice. According to these rules, citizens should be dealt with (a) appropriately, (b) justly, and (c) objectively.

### **1. Dealing with citizens appropriately means:**

- Taking well founded and reasoned decisions without delay.
- Proper behaviour according to the law or other rules concerning the rights of individuals.
- Being sensitive to their age, their ability to understand complicated rules, their individual needs and feelings, their privacy and legitimate expectations.
- Being obliging, simplifying procedures, forms, and information material about rights and services; maintaining proper archives; and providing clear and accurate information about deadlines and factors that may lead to their loss of rights.
- Being responsible, avoiding confrontational behaviour.

### **2. Dealing with citizens justly means:**

- Using the same procedures in similar cases.
- Flexibility and the avoidance of formalism. This entails acceptance of the principle that, although rules and regulations are important in ensuring that citizens are dealt with justly, they should not be applied extremely strictly without flexibility, which can lead to injustice.
- Maintaining a sense of proportion, that is, avoiding excessive penalties which are greater than is required to ensure compliance with the rules.
- A willingness to re-examine rules and procedures and to change them if necessary.
- Ample notification to citizens before any change in rules that may negatively affect their rights.
- Adopting an internal control system ensuring that the re-examination of negative decisions will be made by someone other than the person who made the original decision.
- Informing citizens how they can challenge a decision, providing full co-operation in such a case, and dealing positively with suggestions for remedies.

### **3. Finally, dealing with citizens objectively means:**

- Taking decisions based on relevant clauses in the law and ignoring those clauses that are irrelevant.
- Avoiding preconceptions based on an individual's colour, gender, family situation, ethnic origin, religion, sexual orientation, attitude, reputation, social position, or whom he knows.



- Ensuring transparency when the provision of services is based on some system of priority.
- Making an effort to ensure that personal preconceptions will not affect specific decisions.

The implementation of rules of best practice by the administration can make a substantial contribution to the reinforcement of the state of the law and the emergence of a new administrative culture, whose basic reference point is the principle that the main mission of the administration is to serve the citizen.

These are the goals which the institution of the Ombudsman has adopted from the very beginning. It is with these rules as its basic reference point that the Ombudsman aims to operate, to deal with the citizen, to engage in a continual process of self-evaluation and to be constantly aware of the extent to which its functioning approaches or is based upon these rules of best practice.

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