



Introduction to the annual report 2013

The institution of the Ombudsman was established to manage peripheral failures of the political-administrative system and the rule of law in a framework of smooth operation and in an environment of relevant stability. These conditions have been disrupted. The administration and the state's capacity to respond to citizens' needs in the new conditions are widely in question. The legislative framework is radically changing daily and no change is the last one.

In a crisis environment, of six-year economic recession and prolonged austerity, all the state functions are on trial. The social state is shrinking; the protection of rights is considered a luxury and the impacts on the quality of democracy raise concern. Relevant remarks have been made in the annual reports since 2010. Some additional dimensions, though, demand further consideration. The completion of 15 years since the commencement of the operation of the independent authority (1998-2013) gave a further opportunity for holistic consideration, for comparisons with past periods and also for posing new questions.

The state of the economy is presented as the reason for the increasing discordance to the rule of law, the rules and rights established in the last decades. This dimension is becoming more and more apparent. The question is posed of the allocation of burdens, the cost of reforms, and, in the end, the retreating limits of the citizens' rights and of the state from roles and responsibilities it has assumed in the previous decades. The determination of these limits is an especially critical issue of political nature in the current conditions. Politics is required to determine the tolerable limits between financial logic, which tends to prevail, and the safeguarding of the fundamental conquests of the legal culture. At the same time, it is important to also take into account the secondary effects of the financial logic and priority that potentially undermine fair goals.

This new landscape fosters the pre-existing mistrust towards the institutions. The known mistrust existing in our country is in direct relation with the lack of balance between rights and obligations. When there is no trust towards the institutions, then rights are more intensely asserted but obligations seem to be secondary. If this imbalance was the main characteristic of the previous decades, today it appears to apply in the reverse direction. While obligations become heavier and possible penalties stricter, the rights are more and more compressed and at the same time the services and goods provided by the state are on the decrease while the citizens' needs multiply.

Among the many and difficult concerns that are imposed, a major issue is the challenge of the so-called "collateral damages" deriving from the management of the crisis. The impacts of the fiscal priority constitute such a field of necessary concern. The effort of the state to increase its revenues and restrict its expenses is reflected in the legislator's choice giving a clear order of precedence to the cash interest of the state compared to any other interest or right. It may be understood under the current conditions, but the impacts of these measures on the already weak financial activity and multiply burdened society should not be underestimated, all the more so when the administration is not devoid of responsibility.

In this context, the obstacles in the exercise of business arising from the application of rules for the immediate collection and payment of debts were the focus of the independent authority. From the experience of one more year of crisis, the feeling is that the population groups that were mainly affected by the effort to improve the fiscal conditions cannot respond anymore, as their position has been degraded on many levels due to the increased obligations but also their degrading financial status due to the condition of the labour market with 27.8% unemployment.

Apart, therefore, from the bureaucratic inefficiencies that the Ombudsman usually faces, the problems are now systemic and arise from the disruption of the wider context in which it mediates.

Can the Ombudsman deal with such matters? It is obvious that it does not generate rules of law and does not deliver justice. It intervenes in-between, having the advantage of flexibility and daily contact with the problems and current reality. It is, therefore, a vivid and flexible organisation. And the citizens honor it with their trust. The 14,700 complaints in 2013 are a record number since the establishment of the independent authority. As an institution of good governance, the Ombudsman should highlight the deficits in the operation of the administration, the rule of law, and democracy and contribute to their handling with its recommendations. The special reports of 2013 confirm it in a wide range of fields: racist violence, obstacles, entrepreneurship, certification procedures of disability, simplification of administrative procedures, management of coastal zone.

At the same time, however, it faces a special challenge: the Ombudsman is requested to give solutions. It is not enough just to make a ruling on the legality or maladministration. It should formulate constructive proposals that can be actually implemented and give a way out. Compulsorily, therefore, it weighs the issues, especially when the matters affect a big number of people in distress, taking into account the existing conditions and always guided by the rule of law and human rights. The Ombudsman does not allocate resources, which is a predominantly political function. This does not mean, however, that it does not realize that the positions it takes constitute a proposal for allocation of resources, which should be characterized by transparency and justice in the sense of fairness. With its remarks and proposals it tries to take this dimension also into account in view of taking decisions.

The progress in human rights in recent years is at risk of being overturned by xenophobic and defensive attitudes and behaviours while the crisis leaves the weaker – poorer, unemployed, disabled and immigrants - behind. But all these people cannot be seen fatalistically as collateral damages. The Ombudsman, in the individual but also in its more general interventions, highlights this dimension, which tends to become endemic in the operation of the Greek state. It is a trend that should be dealt with consciously before we reach the point of wondering what has happened and how, when walls were “imperceptibly built” and the basic values of collective coexistence and its guarantee by the state were lost. The political management cannot be exhausted within a narrow fiscal logic which threatens to deprive rules, legal principles and constitutional rights of their value.

Under the current conditions, priorities are unavoidably redefined. However, it is not sure that they are rationalized. The stranglehold of fiscal logic on the political-administrative system meets the preexisting lack of rationalization and tends to fortify it. The Ombudsman is the natural ally of administrative reform. But this reform is held up. The administration withers away, suffering measures with significant impacts on leading services. It is very important for the administration to stand on its own two feet and respond to its extrovert mission creating the conditions for the development and support of various social and economic activities and initiatives. Focusing on the citizen, in any capacity, rationalizes administrative operation. The Ombudsman tries to contribute towards this direction with its interventions and proposals.

Finally, the attention seems to be drawn on the “big” issues and challenges and as a result the special cases are lost and their consequences are not taken into account on an individual level. This is another challenge for the Ombudsman. The institution of Ombudsman was established, inter alia, to deal with the impersonal character of bureaucracy, its tendency to ignore the special characteristics of each case and its indifference for everything which is not under the umbrella of mass handling. Today, the bureaucratic approach tends to be applied over entire fields of policy, while it supports the introversion of the administration, which focuses on its own way of perceiving problems and dealing with them. The feeling, therefore, of an unsatisfied demand of social justice is created, which is again expressed to the Ombudsman in the citizens’ complaints.

Through these difficulties, the Ombudsman ascertains its presence, insisting on sound administration and reminding the state of its responsibilities for the allocation of burdens having social justice as a criterion. It is reminded that the proper operation of the institutions in a state governed by the rule of law is not a luxury but the condensation of the public interest in favour and not in absence of the collective interest of the citizens. And it insists on constructive proposals and the perception of a positive total, which is a demanding answer for the institutions focused on consolidating the rule of law, without resorting to the easy solution of protest at no cost.

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