



Speech by the Greek Ombudsman, Ms Calliope Spanou

15 years of the Greek Ombudsman: An overview

On October 1st 1998, the Independent Authority called “The Greek Ombudsman” started operating in Athens. On the occasion of the completion of its first 15-years, we wished to organize a conference with the support of the Council of Europe, which has been our long-standing partner and a basic reference point for our international activities. A conference of substantial consideration, not of a mere festive anniversary, as I believe it will become apparent further on in my presentation.

The institution has had a good start; it benefited from significant support, during its initial phase as shown by its high quality staffing. Gradually, it has been assigned further competences: children’s rights protection, Health Ombudsman, elimination of discriminations, gender equality in employment and access to services. Taking all this into consideration, the institution has one of the broadest mandates in terms of its scope of competences when compared to corresponding institutions in other countries.

The challenge for the Greek Ombudsman has always been and still is to reflect the symbol of a new relation between state and citizens, a new public administration, in terms of ethos, tone and capability of responding to citizens’ needs. A symbol of the fact that citizens count, matter, have rights and a voice to express their concerns. In a word, having the rule of law as a forceful instrument.

The public at large and individual citizens have quickly embraced the institution, with high expectations, also because it brought something new in their relations with the Greek state. They have found a good listener; they have experienced consideration and concern, standards that should characterize relations between the state and citizens. But they often have also managed to sort out the problem of their concern at no cost. Since its establishment, the Greek Ombudsman has dealt with [almost 167,000](#) complaints addressed by citizens. Complaints can also be submitted online since last year.

The Greek Ombudsman is a special institution. It controls, but does not impose any sanctions. It mediates, but also takes a stance by suggesting a possible solution. It implements the rule of law, but has to argue the case simultaneously. It defends citizens' rights, but is not their attorney. It is an independent Authority, so as to accomplish its role properly, but is not unaccountable.

These special characteristics have generated some confusion. The Ombudsman provides citizens with a voice. But is it an institution of civil society? What are the limits of its competences? Can it remedy everything that goes wrong?

No, simply said, it cannot. The Greek Ombudsman is a link in the chain, a stitch on the canvas of state institutions. It contributes to public administration or justice –without substituting them. It feeds into the political-administrative system ideas and suggestions emanating from the experience of the reality of problems and their consequences on the operation of administration and citizens' rights.

In the years that went by, part of this confusion was resolved whereas in some areas it continues to exist, thus showing the difficulty in understanding an institution of such a special type. This concerns in particular the vexing issue that the Ombudsman is a state institution, which empowers citizens and protects their rights vis-à-vis the state itself. The Greek Ombudsman nonetheless constitutes an expression of the state's self-commitment to consolidate crucial values of democracy, the rule of law and to substantially implement rights.

And if the Greek Ombudsman's credibility towards society is reflected in the number of complaints it receives, the value of its contribution to the accomplishment of good governance and to the improvement of relations between state and citizens is judged at the level of effective cooperation with other institutions. The leading challenge for every institution is to find its place in the institutional environment, vis-à-vis pre-existing institutions that on the basis of the Constitution have the upper hand, namely Public Administration, the Parliament and the Judiciary.

As a mediating institution, on the grounds of documented opinion and persuasion, the Greek Ombudsman ought to quickly acquire the credibility that would allow a relationship of trust with public administration, which is its main interlocutor. It is nevertheless hard to strike a balance in this relationship, since it involves the element of control, but not of sanction. And regarding control as a routine operation was not part of the Greek administration. Let me remind you that only in the 1990s did specialized administrative control bodies start operating or were the existing ones enhanced in terms of their mandate and resources.

Persuasion, in contrast to sanctions, appears as a “soft” method to secure compliance. In the end, nevertheless, it is an effective one, as shown by experience. Because the administration now realizes that the Greek Ombudsman’s mediation role can help it better fulfill its duties regarding the observance of the rule of law and providing services to citizens. On the other hand, the potential tension in the relationship with public administration is an intrinsic element of the Ombudsman’s mission. It is, however, a tension within a framework of mutual acknowledgement, trust and cooperation. This can also be seen in day-to-day activities. Within the 15-years of operation, [complaints that were successfully resolved](#) on the basis of the Authority’s recommendations in individual cases stood at 77 %, with an increasing trend during the past 5 years. In 2012, the figure reached 82 %.

The judiciary sometimes comes in to review - with its own means - a case and therefore judge the quality of investigation, the views and the recommendations formulated by the Authority. The initially cautious attitude of the judiciary has clearly eased off. The investigation of cases by the Greek Ombudsman often assists courts to reach their own verdict, and they usually agree with or refer to the view of the Authority. Both this as well as the references of the European Court of Human Rights to the Greek Ombudsman’s ascertainments, especially with regard to cases associated with personal freedoms, such as deprivation and the protection of victims from police ill-treatment, reflect an acknowledgement of the Authority’s work and constitute a special honor to us.

In about 230 “conclusions”, [35 special reports](#) and in 15 annual reports, legislative, organizational and operational proposals that exceed individual cases are addressed to the Parliament, the government and the administration. I briefly mention the 4 special reports of this year. They focus on (i) business environment, (ii), simplification of administrative procedures, (iii) racist violence and (iv) disability certification centers.

These proposals are gradually adopted, although the time required until they bear fruit may vary. However, very few proposals are explicitly rejected. Most of them remain as a reserve of ideas and are brought in at the opportune moment. In fact, many times they are adopted without a reference to their origin at a later stage, so it is hard to systematically monitor their evolution.

Allow me now to elaborate on the Parliament. It is the body the Independent Authority is accountable to -more specifically to the Institutions and Transparency Committee- and the main recipient of the annual and our special reports, in which wide-ranging proposals are documented. Although a reference to it is not necessarily made, the Authority has contributed to the work of the Parliament both concerning the legislative process as well as to the process of parliamentary scrutiny. In addition, the role of the Authority was institutionally acknowledged in the process of good lawmaking by virtue of Law 4048/2012.

A reference to conclusions and reports of the Greek Ombudsman was made during the debate on the Revision of the Constitution, on the occasion of the discussion of issues that the Ombudsman had processed: freezing of property and expropriation, Local Authorities competences, religious freedom, and corruption have equally featured on the agenda. In other instances, both the government and the opposition have utilized the production of the Ombudsman during the discussion of law drafts and legislative proposals or amendments. On some occasions, the Greek Ombudsman has contributed to the formation of more than one provision of a draft bill, for instance on issues of taxation, administrative procedure, staff recruitment, immigration etc.

Although it is hard to have accurate data, the Authority attempts to monitor the degree of utilization and adoption of its proposals by the Parliament in its annual reports. To illustrate one such indicator: legislative proposals formulated in 2011 were adopted one year later at a percentage of 36 %.

Besides, also within the framework of parliamentary scrutiny, questions and interpellations by members of parliament of all parties, depending on the priorities of each party, refer to the Ombudsman's conclusions and reports, frequently in a positive way. The most prominent topics are related to staff recruitment, mobile telephony antennae, people from fire-stricken areas, immigrants, cases of suspects brought in for questioning by the police and disciplinary issues of police officers.

Although this may vary over time, the Parliament also expresses its interest in listening to and discussing the views and recommendations of the Greek Ombudsman. During the last few years in particular, apart from the Institutions and Transparency Committee, some other special [Parliamentary Committees](#) have been seeking more information and debate within the framework of their own concerns and priorities. In particular, during the past 2-year period, the Ombudsman was invited 11 times by the Parliament to discuss topics such as gender equality, immigration, the needs of the disabled, the elderly etc.

In any case, I think there is room for an even larger utilization of the work of the Authority, given the fact that it actually provides an assessment of the operation of administration, but also of the legislation itself. This material can contribute to the strengthening of legislative initiative and the deepening of parliamentary scrutiny.

As time went by, during the past 15 years the role of the Greek Ombudsman appeared as the institution of accountability that gives a voice to citizens and provides the institutional opportunity to contest administrative decisions, to voice concerns and receive an answer;

hence, familiarizing the administration to the culture of responsibility, accountability and transparency. The Greek Ombudsman's activities supplement the operation of political democracy and multiply the opportunities for checks and balances between powers, without substituting any one of them.

All this follows the rationale that everybody wins from the proper operation of institutions and the operation of the rule of law, even if they have to change positions, when they are informed that their view or interpretation is not correct. This is the "win-win" approach expressed by the Greek Ombudsman. It was first cultivated by the inaugural Greek Ombudsman and until recently the European Ombudsman, Nikiforos Diamandouros.

The confrontational rationale that so much torments our country is neither a solution nor the modus operandi of the institution. Conflict and denunciation are easy, because they utterly put the blame on the other party. Nevertheless, problems are not solved in this manner. Constructive criticism, understanding of the problems faced by the other party and formation of a joint will towards finding a solution are required. Besides, the goal is common: good governance, respect of the rule of law and citizens' rights. Such a goal unites, it does not divide.

Independent Authorities – and their representatives are honoring us with their presence here today- most of which were established in the 1990s, and which the Constitution guaranteed for with the 2001 revision, underline a move towards administrative modernization. Enhancing the institutional operation of the Greek administration takes place in areas such as a provision to safeguard rights and freedoms, the pluralism and multiplicity of controls, establishing institutional counterweights to administrative monolithicism and domination.

The Greek Ombudsman as an institutional channel for claiming rights, control of decisions and activation of administrative accountability, investigates complaints and thus integrates submitted grievances within the normal, legitimate and democratic operation of the state. It seeks institutional solutions far away from the reasoning of clientelism or any other form of deviation from the legal procedure. It offers a form of a quasi-participation of citizens towards achieving good governance.

The distrust of the Greek society towards state institutions is well known. Equally known is the risk of habit -if not compulsion- of society to deviate from the institutional path for better effectiveness and speed in transactions with public services. What is similarly to be expected is the tendency to utilize these deviations for any possible unlawful requirements from both sides. Within a framework of distrust and the quest for alternative routes, preconditions of corruption are created. However, the Greek Ombudsman offers an alternative institutional avenue that not only gives the possibility of control and accountability, but also -through

mediation- seeks to identify solutions to a given problem, without the use of any extra-institutional methods and resources.

During this 15-year period, the Greek Ombudsman has also worked on the response to – sometimes unjustified- contestation from citizens pertaining to decisions and acts of the administration. Complaints that after examination are deemed to be unfounded, do not merely constitute an indication of the trust the Ombudsman enjoys among citizens; they furthermore provide an opportunity for the Authority to contribute to increase trust in institutions, since an external, impartial body affirms or disaffirms the soundness of a dispute. The Greek Ombudsman therefore enhances the confidence among citizens that problems can be resolved through the legitimate track. In fact, this also works as a sort of education for citizens and services in different forms of interactions between them.

Lastly, the Greek Ombudsman does not defend individuals or groups, but values, as they should be fulfilled in a modern democratic rule of law. Within this rationale, the Authority has taken a stance vis-à-vis crucial issues concerning the Hellenic state and society, such as the property tax and the abusive cut-offs of power supplies, disability certification procedures or the delay in awarding pensions. It has pointed out some established or conjunctural weaknesses that have had adverse consequences on citizens and has formulated targeted recommendations. It has contributed to the consolidation of the European Union's *acquis communautaire*, e.g. in the field of professional rights, thus defending free circulation of labour as a central component of European integration.

The Greek Ombudsman has found itself at the forefront of human rights advocacy and the fight against discrimination. Those who do not comprehend their significance mockingly talk about “the Immigrant’s Advocate”. Yes, indeed. Because all people are of equal value and only legality and the rule of law can guarantee for it. But it is also the Ombudsman of vulnerable groups, when the failures or delays of the Greek state grow into a source of problems between them and other population groups, when problems become more complex and harder to deal with, due to social stereotypes and the state’s neglectfulness, as is the case with Roma or concerning irregular immigrants. Other cases include employer’s abusive behavior towards women, the weakest constituency in the labor market.

From the beginning of its operation, the Authority has fought and continues to uphold the ideals of equality and justice, equal treatment as a basic rule-of-law principle in all fields of administrative action. And defending the principle of equality is even more opportune: we cannot possibly let the economic and financial crisis put the value of social coexistence and rule of law into doubt.

This basic challenge is currently reflected in fighting against discriminations, but also more generally in the provision of quality services by public administration. Good administration, administration that serves the citizen is the heart of the matter. The Ombudsman is every person's Ombudsman, when facing a problem in his/her relationship with the Greek state and its services. It is the Ombudsman of the Hellenic society in the quest for a lawful, modern and effective public administration.

The Greek Ombudsman is the natural ally in the effort for reform and modernization of the administration. Its contribution in this endeavour is expressed with its input in legislation drafting committees, in simplification of procedures committees, as well as in the [proposals](#) (TABLES 7-9) it formulates concerning the reinforcement of citizens' procedural rights. These are important in areas such as the complicated system of insurance benefits and active employment policies, and the access to administrative documents that safeguard his/her judicial protection. Proposals of the Authority have been integrated -among others- in the amendments of the code of administrative procedure, whereas in collaboration with the Ministry of Administrative Reform, there have already been two editions of the *Code of Good Administrative Behavior*, which also exists in many other countries and has been produced by the European Ombudsman at EU level.

Cooperation with citizens and NGOs is a basic strategic component of the institution. Drawing up for instance a legal guide on the environment with the WWF in 2009 serves a double objective: first, the obvious goal of informing citizens about the rights they may exercise in relation to the environment as a constitutionally guaranteed public good; second, it aims at empowering civil society, which the Ombudsman does not aspire to substitute, but on the contrary, to enhance.

Apart from visits for on-site investigations in individual cases, there is a systematic effort that the Ombudsman also be present in the [Greek periphery](#) for the promotion of its mission and so as to inform citizens and services. We also want to hear the citizens' and future citizens' –i.e. children's–voice; in fact, since last year children have also received an electronic platform on the Ombudsman's website.

Let me say a few words about the international presence and cooperation of the Authority. Since its early days, the Greek Ombudsman has been focusing on interacting with [international networks](#), developing relations with European bodies, institutions and [international organizations](#), and all the more with respective institutions in other countries. Today's presence of the Ombudsmen of the Netherlands, Serbia, Belgium, Turkey, Portugal, Bosnia – Herzegovina and Cyprus honors us. It also underlines –over time- our will to cooperate in a series of common interest issues, not only within the framework of international or European organizations and networks, but also in the context of bilateral relations.

Amongst other international activities, it is worth mentioning the institutional collaboration [programs](#), with the most recent one being the project of twinning with the Serbian Ombudsman, on which we worked particularly harmoniously and effectively with the Dutch Ombudsman.

It is also worth referring to the [EUNOMIA project](#) that -from 2001 until 2009- attempted to contribute to the creation and support of the operation of newly- founded mediation institutions in countries of South-Eastern Europe. This program gave an opportunity for cooperation with institutional counterparts in the countries of our neighborhood and has led to the development of institutional friendship and collaborative relations.

The conference also casts an eye to the future. And the Greek Ombudsman expresses its view of a democratic state with eunomy and eutaxy, where rights and obligations are the two sides of the same coin. They should therefore be equally respected. These are the preconditions for the respect of everybody's rights, for social justice and solidarity. Its vision is an administration at the service of citizens. With employees that should focus on service delivery, and justify the respect awarded to those who work for and in public administration.

I believe that the culture of a society determines the cost of action, inaction and their limits. The Greek Ombudsman is merely one among many agents pushing towards reform. Its effectiveness cannot be seen in isolation. It also depends on the way other institutions operate. It lies within the discretionary power of the political-administrative system to tackle the issues brought forward by the Independent Authority.

More specifically, however, the Ombudsman expresses the resistance to a culture of complaint and denunciation that in reality ends up accepting the *status quo*, if not perpetuating it.

This is why –as I said earlier- we want this event to be a substantial conference that will bring issues forward, develop joint reflections and inspire us in charting a course for the future; neither an anniversary celebration nor an academic conference. However, today, with no doubt, there is a lot to talk about.

We have invited peer institutions, international organizations and specialized scientists, so as to broaden the scope for reflection. We wish to see the issues the Ombudsman deals with through other people's eyes. Fifteen years is sufficient time so as to have an overview of what has been done, what can be improved and where we need to change course. It is no longer the newly-established institution seeking its space and role. It is not seen through theoretical expectations about what one imagines it could do. There are indications of what it can do, on the basis of its

social and institutional environment, but also based on its own actions and way of operation. And most certainly, no one is ever going to claim that there is no significant margin for improvement.

I personally do not believe in perfection, but in a continuous will to improve. Complacency and self-righteousness are a mistake. The effort for a new public administration, a new relation between state and citizens continues. It is an ongoing endeavour that each time has to deal with different problems, in different conjunctures, with different means. In short, it is a work in progress.

We therefore invite other citizens and institutions to judge the degree of our performance. In our view, success is primarily anchored on continuous improvement. And this is a perpetual effort, in which the role of the Authority's staff remains crucial. Thus, I would like to thank them, from this podium, for their contribution and engagement.