



The present publication aims to provide a full report of the activities undertaken by the Greek Ombudsman during 1998, the institution's first year of operation. Since the office opened its doors to the public on 1 October, the report covers the three-month period from 1 October until 31 December 1998.

I. STRUCTURE OF THE REPORT

The report is divided into eight sections. The first section contains the report's main conclusions and a summary of basic points. The second section (Introduction) describes the Greek Ombudsman's broader aims, setting out the principles which should be applied in dealing with the public and also emphasising its mediating mission. The third section includes the chronology of the institution's establishment, organisation, and operation up to 31 December 1998, as well as providing information about staff selection. In order to stress the importance of transparency in the office's operations, this section describes the procedures followed by the Greek Ombudsman when processing complaints. The fourth section, the bulk of the report, presents an analysis of the work undertaken by the institution's four departments. Of particular importance in this section is the presentation of cases characteristic of the work undertaken by each department, and the specific proposals for legislative amendments or administrative interventions that would help solve problems revealed by an analysis of the complaints submitted during the first period of the office's operation. The fifth section includes a preliminary evaluation of the opinions held by both the public and the government about the Greek Ombudsman. It also presents preliminary conclusions about the public relations policy needed to provide the public and the government with as much information as possible about the office's nature and mission.

The sixth section briefly presents the rationale behind the anticipated decentralisation of the Ombudsman. It also describes the steps the Office will take in order to communicate with citizens living outside Attica until the decentralisation is carried out. The seventh section describes the international activities of the Greek Ombudsman during 1998 and the strategy behind these activities. Finally, the eighth section includes, as addenda: 1) the law establishing the Ombudsman and relevant supplementary legislation, 2) statistical data, 3) the staff list including personnel working in the Ombudsman's office up to the end of 1998, 4) the speech given by the Ombudsman at the institution's official opening on 24 September 1998 in the presence of the Prime Minister, 5) brief biographical notes about the Ombudsman and the Deputy Ombudsmen.

2. SYNOPSIS

The activities of the Ombudsman during 1998 were concentrated in five areas: 1) selecting the Deputy Ombudsmen, 2) processing citizens' complaints, 3) the staffing of the Office with the selection of senior and junior investigators, the secretariat, and administrative staff, 4) planning and promoting international co-operation with similar institutions abroad, 5) developing and implementing programmes to make the services of the Ombudsman accessible to people living outside Attica.

The Senior Staff of the Ombudsman's office

The Ombudsman is selected by the Council of Ministers, following a prior opinion rendered by the Parliamentary Standing Committee on Institutions and Transparency. P. Nikiforos Diamandouros, Professor of Political Science in the Department of Political Science and Public Administration at the University of Athens, was appointed as the first Greek Ombudsman. The Ombudsman then selected the following as



Deputy Ombudsmen:

George Kaminis, Assistant Professor of Constitutional Law at the University of Athens.
 Aliko Koutsoumari, lawyer, former Director General of the Ministry of the Interior, Public Administration, and Decentralisation.
 Maria Mitrossili-Assimakopoulou, Ph.D., lawyer, specialist in health and welfare issues.
 Yannis Michail, PhD, architect and urban planner, member of the German Academy of Urban Planning and Urban Design.

Processing of Complaints

Each complaint submitted to the Ombudsman is processed by one of the following four departments: 1) the Department of Human Rights, which deals with cases involving individual, political, or social rights, 2) the Department of Health and Social Welfare, which deals with cases involving social insurance, health, public health, and the care and welfare of the elderly, children, unemployed, and people with special needs, 3) the Department of the Quality of Life, which deals with cases involving land use, urban planning, public works, culture, and the environment, and 4) the Department of State-Citizen Relations, which deals in general with issues of maladministration and lack of adherence to legal principles, phenomena which are apparent in cases of inadequate information or poor communication between citizens and the public administration, of inadequate quality of services provided, when complaints submitted by citizens are answered late or not at all, when required action is not taken, and when there is too literal an adherence to the letter of the law and the implementation of regulations, with the result that the citizen is treated unfairly.

A total of 1,430 complaints were submitted to the Ombudsman during the first three months of operation. They were assigned to the Office's four departments as follows:

The Department of Human Rights:	172 cases, 12%
The Department of Health and Social Welfare:	383 cases, 27%

The Department of the Quality of Life:	417 cases, 29%
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The Department of State-Citizen Relations:	458 cases, 32%
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During the period covered by this report, 547 complaints or 38% of the total number submitted were investigated and closed.

The professional staff also responded to 4,986 queries from the public, asked either in person or over the telephone. Many of these cases were solved immediately, either by providing the appropriate information or explanation, or by referring the citizen to the public service responsible for the issue.

Professional Staff

In addition to the Ombudsman and the four Deputy Ombudsmen, 80 people joined the Ombudsman's staff between the beginning of October and the end of December 1998, 32 of them seconded from other civil service posts and 48 newly hired. Of these 80 people, 44 joined as senior investigators (25 seconded and 19 newly hired), 25 as junior investigators, and 11 as secretarial and administrative staff. Of the 25 staff members seconded to the Office, 11 are graduates of the National School of Public Administration. Of the total of 69 senior and junior investigators, 25 (36.23%) are graduates of universities either in Greece or abroad, 31 (44.93%) have postgraduate qualifications, and 13 (18.84%) hold Ph.Ds. In terms of age, 51% of the professional staff are between 30 and 40 years old; 29% are between 40 and 50 years old; 16% are between 20 and 30 years old; and 4% are over 50 years old. In terms of gender, 52% of the senior investigators are women and 48% are men. If the junior investigators are included, the proportions are 70% women and 30% men. The senior and junior investigators were selected in accordance with the provisions of the law establishing the Greek Ombudsman, which specifies high qualifications for these posts. The final selection of senior and junior investigators was made after a public call for applications,



published in the daily and weekly press; a preliminary selection by the Ombudsman and Deputy Ombudsmen; and a public interview, attended by 293 applicants who had successfully passed the preliminary stage. The total number of applicants for the positions of senior and junior investigators was 1,486. As can be seen in appendix 3, the professional staff selected have a wide range of professional skills, work experience, and personal interests.

Co-operation with Ombudsmen Abroad

It is a basic principle in the functioning of the Greek Ombudsman that regular and systematic international contacts are of fundamental assistance in helping the office deal with the wide range of complex issues raised by citizens' complaints in accordance with the principles of transparency, accountability, meritocracy, and best practice. Increasingly, these principles are coming to define the relations between citizens and the state in modern, progressive, democracies. The institution of the Ombudsman has a long tradition in Europe, where it was first established in the early 19th century (Sweden, 1809). The institution now functions in more than 90 countries throughout the world, 27 of them in Europe.

Accordingly, during the first year of operation, the Greek Ombudsman undertook the following four initiatives: 1) a visit to the European Ombudsman, 2) the organisation of a workshop in Athens with European ombudsmen, 3) a visit to the British Parliamentary Committee for Administration, 4) participation in the annual meeting of European Ombudsmen.

First steps Towards Decentralisation

The law establishing the Greek Ombudsman provides for the creation of regional offices outside Attica, throughout the country. For this to be done, however, the Athens Office of the Ombudsman must first be fully staffed and, more importantly, must develop a clear

institutional identity and adopt a uniform practice in its daily interactions with the public. Until the office of the Ombudsman can be decentralised, communication between the office and citizens living outside Attica will be achieved by sending groups from the office to visit different cities throughout the country for a few days in order to hold information meetings with the providers of services, representatives of agencies, and citizens. The first two of these visits were planned to take place early in 1999 (to Corinth in February and Thessaloniki after Easter).

3. ACTIVITIES OF THE FOUR DEPARTMENTS

The report of the activities of the four departments of the Ombudsman for the first three months of the office's operation is as follows:

The Department of Human Rights

The Department of Human Rights undertakes cases involving individual, political, or social rights. These cases cover the full spectrum of public administration: violations of personal freedom by the police; unjustified discrimination on the basis of nationality or ethnic origin in the provision of administrative services or in the field of sports; violations of the principle of meritocracy in selection procedures for public sector posts or for admission to educational institutions; denial of the right of petition or the right to effective legal protection, as a result of a refusal by the public authorities to answer petitions submitted by citizens or to implement irrevocable legal decisions.

Between the beginning of October and the end of December, 1998, 172 cases had been assigned to the Department of Human Rights. Of these cases, 67 concerned issues outside the Ombudsman's mandate or were manifestly vague, 22 were found to be without foundation, and 5 were resolved in the complainants' favour



before the end of 1998. The remaining 78 cases were still under investigation as of 31 December 1998.

The basic conclusion that can already be drawn after the first three months of operation of the Department of Human Rights is that, on occasion, the stance of the Greek state concerning human rights is highly inconsistent. On the one hand, the Constitution, international agreements, and common legislation have shaped, overall, a legislative framework favourable for the protection of human rights. On the other hand, however, in practice, when called upon to implement this legislation, the administration responds with considerable procrastination. Despite some evident improvement in recent years, there continues to be a gulf between the legal framework and daily administrative practice, substantially delaying consolidation of the rule of law in our country.

The reasons for this are basically clear and well-known. They are caused by traditional ailments of the Greek public service (mainly ideological and organisational in nature), which are summed up in an insistence on juxtaposing and often subordinating human rights to a vague notion of "public" or "national" interest.

The Department of Health and Social Welfare

The Department of Health and Social Welfare is responsible for issues of social security; health; public hygiene; and the care and welfare of the elderly, children, people with special needs and the unemployed.

During the period between early October and the end of December, 1998, the department received 383 complaints. Of these, 53 were judged to be outside the Ombudsman's mandate, 61 were resolved during 1998, and 269 complaints were under investigation at the beginning of 1999. Of the 61 cases resolved during 1998, 38 were resolved in favour of the complainant, while the remaining 23 complaints were without substance or legal foundation.

Of the cases resolved, most concerned issues of pension rights, sickness benefits in kind, and welfare payments. Problems arising in these three areas concern such issues as the establishment of entitlements (e.g. retirement pay and allowances), differences in calculating amounts (retirement pay or allowances), recognizing the period an individual has been insured, etc. Most forms of maladministration here concern delays in taking decisions and making payments and, in general, with providing the public either with incomplete or inaccurate information. The public services in which most of these problems have arisen are the insurance funds - in particular the Social Insurance Fund (IKA) and the Agricultural Insurance Fund (OGA) - as well as the Ministry of Finance Treasury Department, and the welfare departments of the prefectural administrations.

In cases of more general interest, either due to a high number of such cases or because of the particular nature of the case, the Department of Health and Social Welfare develops proposals either to improve the functioning of the administration or to amend legislative regulations. An example of the former is the proposal for "the issue of an edict about the mode of payment for out-patient medical care for individuals insured with OGA". Examples of the latter include the proposals for : 1) amending legislation and ensuring its uniform application for transfusions of blood, blood plasma, and plasma products, and 2) amending the terms of Law 2084/92 about early retirement in order to apply the principle of gender equality in social security.

In conclusion, the problems that came to light in the complaints handled during the first three months of operation of the Department of Health and Social Welfare reflect the non-rational structure of the welfare state in Greece and, in particular, the weaknesses in the structure, organisation, and operation of insurance organisations and funds.



The Department of the Quality of Life

Issues falling within the mandate of the Department of the Quality of Life include land use, urban planning, public works, culture, and the environment. The department also deals with issues of administrative transparency, information, and communication between the civil service and the public.

During the period between the beginning of October and the end of December 1998, the Department of the Quality of Life dealt with 417 complaints, 29% of the total number received by the Ombudsman.

Most of these complaints (65%) concerned issues at all administrative levels (municipal, prefectural, central administration) in the field of responsibility of the Ministry of the Environment, Urban Planning, and Public Works. Other major categories of complaints concern issues for which the Ministry of Culture (7.8%) and the Ministry of Agriculture (4.4%) are responsible. Of the 417 complaints submitted, 140 cases were resolved by the end of 1998. (For administrative reasons, citizens' complaints which raise more than one issue are counted by the number of issues raised. For example, a petition raising three issues is counted as three complaints.) Of these 140 cases, 113 were judged to be outside the Ombudsman's mandate, 16 were resolved in favour of the complainant, and 11 were judged to be without foundation. The remaining 277 are still under investigation.

In general, complaints submitted to the Department of the Quality of Life are concerned with guaranteeing acceptable conditions of life and protecting the legal rights of citizens from administrative acts or omissions, a high proportion of which end up in the lawcourts, thus burdening both public services and the courts themselves.

Overall, co-operation with the administration was constructive and effective, with the exception of certain instances of inappropriate conduct.

The Department of State-Citizen Relations

The Department of State-Citizen Relations is responsible for citizens' complaints concerning general issues of maladministration and the failure to maintain legality. In particular, it examines issues concerned with the absence of information and poor communication between the administration and the public, issues involving the quality of services provided by public bodies, the failure to reply or undue delay in replying to petitions submitted by the public, the absence of a legally required action, and the inflexible application of legal regulations.

Between the beginning of October and the end of December 1998, the department received 458 complaints, most of which were concerned with the Ministry of Finance/Tax Offices; local government; the Ministry of Education/Centre for the Recognition of Foreign Academic Titles; public corporations, especially the Greek Telecommunications Organisation, the Public Power Corporation, the Athens Public Water and Drainage Corporation and the Greek Post Office; and other public bodies such as the Organisation for Workers' Housing; and prefectural administrations.

Of the total of 458 complaints, 114 were judged to be fall outside the Ombudsman's mandate. Of the 344 complaints remaining, 52 were resolved in the favour of the complainant, 33 were judged to be without foundation and have been filed in the archives, and the remaining 259 are still being examined.

In general and with the reservation that the conclusions presented below are based only on the first three months of operation, we can say that the large number of complaints submitted to the Ombudsman indicates the need for such a mechanism for resolving problems between individuals and the public administration without resorting to the law courts.

In a large number of cases, simply providing information resolves the issue. It is clear that the administration applies the principle of



transparency hesitantly and cautiously. In the case of the Tax Office, problems arise mainly due to the existence of too many laws for each case; the complex manner in which income tax forms are filled in; the long delays in responding to petitions or supplementary information submitted by taxpayers; and, finally, the inadequate information provided by tax office employees about how taxpayers are required to act, either when reacting to decisions taken by the Tax Office or when complying with legal procedures.

Finally, the report notes complaints judged to be of general interest, either because they concern a large category of people or because they are particularly significant. Specific legislative amendments or administrative improvements on the basis of existing legal provisions are proposed, in order to correct such instances of maladministration.

4. PRELIMINARY ASSESSMENT

Drawing conclusions on the basis of three months' operation of the institution is, of necessity, uncertain. It would be more prudent to try to identify trends and assessments which can be continually and systematically monitored throughout 1999, in order to ascertain their validity.

With this in mind, the experience of the Ombudsman during 1998 can, in general, be considered positive. The combination of material infrastructure and highly qualified personnel enabled the office to respond to complaints and the responsibilities of its mission promptly and effectively. Four factors support this assessment: (a) the relatively satisfactory rate of processing of complaints, (b) the number of letters written by members of the public, appreciative of both the services provided by the Ombudsman and the way in which these services were provided, (c) the mainly positive coverage in the mass media,

(d) and the generally good co-operation with both public services and the political leadership. This assessment enables the Ombudsman to face the future with guarded optimism. At the same time, however, a whole range of issues and challenges have emerged which require continual institutional vigilance and intensification of the office's efforts, so this positive beginning may continue without any regression or backsliding.

To this end, at least four areas require attention:

First, due to the increasing numbers of citizens' complaints (both written and oral), the completion of the staffing of the office, with both professional and managerial staff as provided by law, is becoming increasingly urgent. This will enable the Ombudsman to continue handling citizens' requests competently. It is estimated, on the basis of current trends, that in a full year of operation, the Greek Ombudsman will receive some 6,000 complaints – approximately the same number as the French Ombudsman received throughout the first eight years of operation (1973-1980), while the population of France is more than five times greater than the population of Greece. Meanwhile, the Irish Ombudsman received only 3,181 complaints during the twelfth year of operation (1996).

Second, it is necessary to ensure greater co-operation from government departments concerning the seconding of employees from different branches of the administration to the office of the Ombudsman, as provided by law. The experience of the first three months has shown that this issue is one of the most important and time-consuming problems with which the office has had to deal in its attempts to acquire competent staff. The employment of new staff was completed promptly, but the secondment of staff to the office of the Ombudsman has been quite difficult. At the end of 1998, of the 28 employees due to be seconded, 11 (i.e. almost 40%) still had not been transferred. The main reason for this delay



is the negative stance taken by the civil service and the political leadership on this issue, despite the fact that such secondment is provided for by law, as an exception to the regulations in force. Since the law establishing the Ombudsman rightly makes no provision for second choices, the fact that secondments remain pending for so long deprives the office of much-needed personnel. The only solution is to repeat the entire process of staff selection, but even such a time-consuming and labour-intensive procedure provides no guarantee that the problem will not recur again.

The third area to which particular attention must be paid is that of the office's public relations policy, so that the office and its particular mission and activities can become more widely known.

The fourth area of concern, in order to ensure the office's smooth functioning in the future, is to create mechanisms for control and evaluation, which will contribute to a climate of institutional reflexivity and vigilance. These mechanisms will facilitate the adoption of

effective policies and their amendment whenever they prove to be ineffective or to have outlasted their usefulness. One step in this direction is the use of external monitoring committees to evaluate specific aspects, such as the organisation of the office, the effectiveness of the computer system, staffing and public relations policy. The workshop with the participation of the Ombudsmen of Denmark, Ireland, the Netherlands, and Slovenia also marked a step in this direction.

These measures are intended to improve the way in which the Ombudsman functions, to generate an internal management culture of institutional reflexivity, and to ingrain the principle that the office's mission is to provide high quality services to the public. At the same time, they provide practical evidence of the institution's sense of responsibility and firm determination to carry out effectively the mission entrusted to it by the state.