

The *Saeima*¹ has adopted
and the President has proclaimed the following Law:

Ombudsman Law

Chapter I

General Provisions

Section 1. Purpose of this Law

The purpose of this Law is to promote the protection of human rights and to facilitate that the State authority is exercised legally, efficiently and in conformity with the principles of good administration.

Section 2. Application of this Law

- (1) This Law prescribes the legal status, functions and tasks of the Ombudsman, as well as the procedures by which the Ombudsman shall perform the functions and tasks specified by the Law.
- (2) This Law shall not release an institution from the duty to comply with the rights of private individuals. An institution within the meaning of this Law shall be a body of a public person, an institution or an official, as well as a person that implements the tasks of State administration.
- (3) Provisions specified by this Law shall not limit the rights of private individuals provided for by other regulatory enactments.

Chapter II

Ombudsman

Section 3. Ombudsman

- (1) The Ombudsman shall be an official approved in accordance with the procedures specified by this Law, who performs the functions and tasks specified by the law.

- (2) The Ombudsman shall have his or her own seal with the supplemented lesser State coat of arms.
- (3) The Ombudsman shall have a State budget account in the State Treasury.

Section 4. Independence and Immunity of the Ombudsman

- (1) The Ombudsman shall be independent in his or her activities and shall be governed exclusively by the law. No one has the right to influence the Ombudsman in the performance of his or her functions and tasks.
- (2) The office of the Ombudsman may not be combined with a membership in a political party.
- (3) Commencement of criminal prosecution against the Ombudsman, his or her detention, subjection to a search, arrest, forced conveyance or other types of restriction of his or her freedom, as well as imposition of administrative sanction shall be permitted only with the consent of the *Saeima*.

Section 5. Approval of the Ombudsman in Office

- (1) The Ombudsman shall be approved in the office by the *Saeima* pursuant to the proposal of not less than five members of the *Saeima*.
- (2) A citizen of Latvia having unimpeachable reputation, who has attained 30 years of age, has a higher education, has knowledge and work experience in the field of law enforcement and who in accordance with the requirements of the law is entitled to receive a special permit for access to the official secret may be approved as the Ombudsman. A citizen with dual citizenship may not be approved as the Ombudsman.

Section 6. Ombudsman's Oath (Solemn Vow)

Upon assuming office the Ombudsman shall give the following oath (solemn vow) at the *Saeima* session:

“Taking upon the duties of the Ombudsman, I, _____, am fully aware of the responsibility laid upon me, and swear (solemnly vow) to be honest and fair in the protection of the rights and freedoms of persons in accordance with the *Satversme* (Constitution) of the Republic of Latvia, laws and international agreements.”

Section 7. Term of Office of the Ombudsman

- (1) The term of office of the Ombudsman shall be four years from the day when he or she gives the oath (solemn vow) in accordance with Section 6 of this Law.
- (2) The Ombudsman may be re-approved in the office.

Section 8. Suspension of the Ombudsman's Powers

If the *Saeima* has given the consent for the commencement of criminal prosecution against the Ombudsman, his or her powers shall be suspended until the time, when a court judgement of acquittal comes into effect in the relevant criminal case or the criminal prosecution against the Ombudsman is terminated.

Section 9. Termination of the Ombudsman's Powers

The Ombudsman's powers shall terminate in the following cases:

- 1) due to the release of the Ombudsman from the office;
- 2) due to the termination of the powers of the Ombudsman;
- 3) if the Ombudsman has been convicted of committing a criminal offence and the judgement has come into legal effect; or
- 4) due to the death of the Ombudsman.

Section 10. Release of the Ombudsman from Office

(1) The *Saeima* shall release the Ombudsman from the office if he or she:

- 1) resigns of his or her own free will, notifying the *Saeima* in writing thereof;
- 2) is unable to perform the duties of the office due to his or her state of health;
- 3) has allowed a shameful act that is incompatible with the status of the Ombudsman;
- 4) without a justified reason does not perform his or her duties; or
- 5) has been elected or appointed to another office.

(2) The matter regarding the release of the Ombudsman from the office may be proposed by not less than five members of the *Saeima*.

Section 11. Functions of the Ombudsman

The Ombudsman shall have the following functions:

- 1) to promote the protection of the rights and lawful interests of a private individual;
- 2) to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination;
- 3) to evaluate and promote the compliance with the principles of good administration in the State administration;
- 4) to discover deficiencies in the legislation and the application thereof regarding the issues related to the observance of human rights and the principle of good administration, as well as to promote the rectification of such deficiencies; and
- 5) to promote the public awareness and understanding of human rights, of the mechanisms for the protection of such rights and the activities of the Ombudsman.

Section 12. Tasks of the Ombudsman

In the performance of the functions specified by this Law, the Ombudsman shall:

- 1) accept and examine submissions, complaints and proposals of private individuals;
- 2) initiate a verification procedure for the clarification of circumstances;
- 3) request that institutions within the scope of their competence and within the time limits provided for by the law clarify the necessary circumstances of the matter and inform the Ombudsman thereof;
- 4) upon the examination of the verification procedure or after the termination thereof, shall provide the institution with recommendations and opinions regarding the lawfulness and effectiveness of their activities, as well as the compliance with the principle of good administration;
- 5) in accordance with the procedures specified by this Law, shall resolve disputes between private individuals and institutions, as well as disputes in respect of human rights between private individuals;
- 6) facilitate conciliation between the parties to the dispute;
- 7) in resolving disputes in respect of human rights issues, shall provide opinions and recommendations to private individuals regarding the prevention of human rights violations;
- 8) provide the *Saeima*, the Cabinet, local governments or other institutions with recommendations in respect of the issuance of or amendments to the legislation;
- 9) provide persons with consultations regarding human rights issues; and
- 10) conduct research and analyse the situation in the field of human rights, as well as provide opinions regarding the topical human rights issues.

Section 13. Rights of the Ombudsman

In the performance of the functions and tasks specified by this Law, the Ombudsman has the right:

- 1) to request and receive free of charge from an institution the documents necessary for a verification procedure (administrative acts, procedural decisions, letters), explanations and other information;
- 2) to visit institutions in order to obtain the information necessary for a verification procedure;
- 3) at any time and without a special permit to visit closed-type institutions, to move freely within the territory of the institutions, to visit all premises and to meet in private the persons held in closed-type institutions;
- 4) to hear the opinion of a child without the presence of his or her parents, guardians, employees of educational or child care and instructional institutions, if the child so wishes;
- 5) to invite any private individual to submit documents, provide explanations and other information regarding the issues of fundamental importance in a verification procedure;
- 6) to initiate a verification procedure on his or her own initiative;
- 7) to request and receive opinions of specialists in a verification procedure;

8) to submit an application regarding the initiation of proceedings in the Constitutional Court if an institution that has issued the disputable act has not rectified the established deficiencies within the time limit specified by the Ombudsman;

9) upon termination of a verification procedure and establishment of a violation, to defend the rights and interests of a private individual in court, if that is necessary in the public interest;

10) upon termination of a verification procedure and establishment of a violation, to apply to a court in such civil cases, where the nature of the action is related to a violation of the prohibition of differential treatment; and

11) on the basis of the materials at his or her disposal, to consult other competent institutions in order to decide the issue regarding the initiation of proceedings.

Section 14. Advisory Councils and Working Groups

(1) The Ombudsman may establish advisory councils, as well as working groups for the development of specific projects or the preparation of issues.

(2) The membership and by-laws of advisory councils, as well as the membership of working groups shall be approved by the Ombudsman.

Section 15. Reports of the Ombudsman

(1) The Ombudsman once a year shall provide the *Saeima* and the State President with a written report regarding the activities of the Ombudsman's Office.

(2) The Ombudsman has the right to provide the *Saeima*, its commissions, the President, the Cabinet, the State administrative institutions and international organisations with reports in respect of specific issues.

Section 16. Deputy Ombudsman

(1) The Ombudsman shall appoint the Deputy Ombudsman.

(2) During the absence of the Ombudsman his or her functions and tasks shall be performed by the Deputy Ombudsman, who during this period of time shall have the same powers as the Ombudsman has.

(3) The Deputy Ombudsman shall perform the duties, functions and tasks of the Ombudsman in cases provided for by Sections 8 and 9 of this Law until the *Saeima* approves an ombudsman in the office or the criminal proceedings against the Ombudsman are terminated, or a court judgement of the acquittal of the Ombudsman comes into effect.

Section 17. Remuneration and Social Guarantees of the Ombudsman and the Deputy Ombudsman

(1) The base salary of the Ombudsman shall be fixed to the amount of the average annual wage rounded to full lats in the previous year of persons working in the State public sector, which is

published in the official statistics report of the Central Statistics Bureau. In determination of the base salary of the Ombudsman, the coefficient 6.75 shall be applied.

(2) The remuneration of the Deputy Ombudsman shall be determined taking into account the official statistics report of the Central Statistics Bureau referred to in Paragraph one of this Section and applying the coefficient 5.5.

(3) The Ombudsman and the Deputy Ombudsman have the right to the same allowances and compensations as are determined for civil servants.

Chapter III

Ombudsman's Office

Section 18. Ombudsman's Office

(1) In order to ensure the activities of the Ombudsman, the Ombudsman's Office shall be established.

(2) The structure and internal working regulations of the Ombudsman's Office shall be regulated by the by-law of the Office approved by the Ombudsman.

Section 19. Financing of the Ombudsman's Office

(1) The Ombudsman's Office shall be financed by the State budget.

(2) The budget request of the Ombudsman's Office until the submission of a draft budget law to the Cabinet shall not be amended without the consent of the Ombudsman's Office.

Section 20. Employees of the Ombudsman's Office, Their Remuneration and Social Guarantees

(1) Employment relationships of the employees of the Ombudsman's Office shall be regulated by the Labour Law.

(2) The Ombudsman shall determine the remuneration of the employees of the Ombudsman's Office within the scope of the allocated budget.

(3) The employees of the Ombudsman's Office have the right to the same allowances and compensations as are determined for civil servants.

Section 21. Rights of the Employees of the Ombudsman's Office

In performance of their employment duties the employees of the Ombudsman's Office within the scope of their competence shall have the rights referred to in Section 13, Clauses 1, 2, 3, 4, 5, and 7 of this Law.

Section 22. Restrictions and Duties of the Employees of the Ombudsman's Office

Restrictions and duties of the employees of the Ombudsman's Office shall be determined by the Law On Prevention of Conflict of Interest in Activities of Public Officials.

Chapter IV.

Procedures for the Examination of Submissions and Verification Procedures

Section 23. Right to Apply to the Ombudsman's Office

- (1) Any private individual has the right to apply to the Ombudsman's Office with a submission, complaint or proposal.
- (2) Submissions, complaints and proposals shall be examined in accordance with the procedures prescribed by regulatory enactments, unless specified otherwise by this Law.
- (3) It is prohibited to apply sanctions to a submitter or to otherwise directly or indirectly cause adverse consequences for him or her due to the fact that a submission, complaint or proposal has been submitted to the Ombudsman's Office or due to the co-operation with the Ombudsman's Office.
- (4) The submissions, complaints or proposals addressed to the Ombudsman's Office and sent by persons who are in the military service, out-of-family care and instructional institutions or closed-type institutions, as well as the replies of the Ombudsman's Office thereto shall not be subject to the examination prescribed by regulatory enactments and shall be delivered to the addressee without delay.
- (5) For a failure to submit in due time to the Ombudsman's Office the submissions, complaints or proposals referred to in Paragraph four of this Section or for the examination and disclosure of the content thereof, the responsible persons shall be held liable in accordance with the procedures prescribed by the law
- (6) The Ombudsman's Office shall not disclose information regarding the submitter or other persons, if this is necessary for the protection of the rights of such persons, except for the case, when the relevant information is requested by the performer of the criminal procedures.

Section 24. Procedures for the Initiation and Examination of a Verification Procedure

- (1) After the examination of a submission, complaint or proposal of a person or upon his or her own initiative, the Ombudsman shall decide on the initiation of a verification procedure.
- (2) After the examination of a submission, complaint or proposal of a person, the Ombudsman shall initiate a verification procedure if that is in conformity with the functions and tasks of the Ombudsman and there is a possibility to solve the issue specified by the person.
- (3) The initiation of a verification procedure shall not suspend the validity of regulatory enactments, court judgement, administrative or other individual legal instruments, as well as the procedural time periods specified by the law.
- (4) A verification procedure shall be examined within a period of three months. If a procedure is

complicated or the deadline may not be observed due to other objective reasons, the Ombudsman may extend the time limit for a time period not exceeding two years from the day when the verification procedure was initiated, notifying the submitter thereof and specifying the reasons for the extension of the time limit.

(5) In the examination of a verification procedure, explanations of the parties and other persons shall be heard, opinions of specialists shall be requested, as well as other activities specified by the Law that are necessary for the examination of the verification procedure shall be performed.

(6) In the examination of a verification procedure, the conciliation between the parties at a dispute shall be promoted.

Section 25. Completion or Termination of a Verification Procedure

(1) A verification procedure shall be completed pursuant to the conciliation of the persons involved in the procedure or an opinion of the Ombudsman.

(2) If the parties are unable to agree on the conciliation, the Ombudsman shall provide an opinion containing the evaluation of the facts established in the verification procedure.

(3) The opinion of the Ombudsman may contain a recommendation regarding the rectification of the established violation, as well as, where necessary, other recommendations.

(4) The opinion shall be of a recommending nature.

(5) If it is impossible or unnecessary to continue a verification procedure, the Ombudsman shall decide on the termination thereof.

(6) Materials of a verification procedure shall be the restricted access information and shall be available in accordance with the Freedom of Information Law.

Section 26. Rules of Verification Procedures

The initiation, examination and completion of verification procedures shall be determined by the rules approved by the Ombudsman.

Transitional Provisions

1. With the coming into force of this Law the Law On the Latvian National Human Rights Office (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1997, No. 1; 2005, No. 18; 2006, No. 2) is repealed.

2. The Ombudsman's Office shall be a successor in rights and obligations of the Latvian National Human Rights Office.

3. The Director of the Latvian National Human Rights Office shall perform the functions of the Ombudsman until the approval of the Ombudsman in the office.

4. Examination of the submissions, complaints and proposals which have been submitted to the Latvian National Human Rights Office before the day of coming into force of this Law and pursuant to which investigations have been commenced shall be completed in accordance with the regulatory enactments in force on the day of the submission thereof.

5. By 1 January 2007 the Cabinet shall develop and submit to the *Saeima* the draft laws regarding the necessary amendments to other laws.

Informative Reference to European Union Directives

These Regulations contain legal norms arising from:

1) Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;

2) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

3) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;

4) Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and

5) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

This Law shall come into force on 1 January 2007.

This Law has been adopted by the *Saeima* on 6 April 2006.

President

V. Vīķe-Freiberga

Rīga, 25 April 2006