



Republika e Kosovës • Republika Kosovo • Republic of Kosovo
Institucioni i Avokatit të Popullit • Institucija Ombudsmana • Ombudsperson Institution

STRATEGY AND DEVELOPMENT PLAN OF THE OMBUDSPERSON INSTITUTION

2017-2019

Prishtina, December 2016

Contents

INTRODUCTION	3
MANDATE AND THE ROLE OF THE OMBUDSPERSON	4
VISION	6
MISSION	6
PURPOSE	6
STRATEGIC OBJECTIVES	6
IMPLEMENTATION AND MEASUREMENT	11
RISK	12

INTRODUCTION

Ombudsperson Institution is pleased to present its first strategic document, which will serve as a guide of our work for the three upcoming years 2017-2019, as the only independent, national human rights institution defined by the Constitution of the Republic of Kosovo, which is an essential protector and guarantor for the execution of monitoring, protection and promotion of human rights and fundamental freedoms in the Republic of Kosovo.

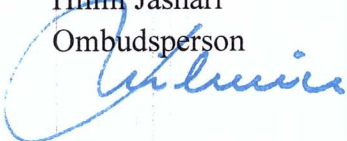
This strategy is based on vision, mission and principles set forth by Law on Ombudsperson¹ and are in conformity with Paris Principles,² which serve as the basement for the functioning of national human rights institutions and are the minimum criteria that such institutions should meet in order to be considered credible in the international arena.

Our purposes are clear; we will make sure to raise reliability and consciousness in our society on the role of the Ombudsperson, human rights and their protection mechanisms. This Strategy, therefore, is a product drafted according to the contribution deriving from a wide consultation with all departments of the Institution about the current circumstances, and as such, it lays down the indispensable path to be taken according to an accurate midterm planning. By means of this Strategy, we will be able not only to assess and measure the impact of our work, but it will also be a powerful indicator for a better improvement of our future performance.

This Strategy has clearly defined objectives and priorities to be achieved in order to improve the situation of human rights and freedoms through the work of the Ombudsperson Institution. We are aware that the implementation of these objectives will not be easy, especially after the increase of the mandates from the human rights legal package, as the Institution has constantly faced limited human and financial resources, however we are certain that we would be able to partially rely on the assistance of our international partners in order to be able to implement this Strategy.

Finally, I would like to point out that we will be committed so that the activities envisioned in the Strategy are put into practice and through them, on the one hand, we will achieve our objectives for monitoring, protection and promotion of human rights in the Republic of Kosovo, and on the other hand, we will challenge bad governance, discrimination and inequality. We are convinced that our assiduous commitment to work will yield expected results.

Hilmi Jashari
Ombudsperson



¹ Law on Ombudsperson: http://ombudspersonkosovo.org/repository/docs/LIGJI_NR._05_L-019_P%C3%8BR_AVOKATIN_E_POPULLIT_276695.pdf

² Resolution of the General Assembly on Paris Principles on the functioning of National Human Rights Institutions, No: 48/134

I. MANDATE AND THE ROLE OF OMBUDSPERSON

The Office of the Ombudsperson was established for the first time in 2000. Constitution of the Republic of Kosovo, in its Chapter XII, determines the role and competences of the Ombudsperson Institution in Kosovo, in addition, Law on Ombudsperson, No.05/L-019, regulates organisation and functioning of the Ombudsperson Institution (OI), the OI's responsibilities and the method of work, as well as the procedures for filing complaints and their investigation.

OI is a legal mechanism for the protection, monitoring and promotion of human rights and fundamental freedoms of natural and legal persons against illegal and irregular actions or omission to act of public authorities, institutions and persons or other authorities, which are exercising public authorisations in the Republic of Kosovo, and acts as a National Preventive Mechanism against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment in all places where persons deprived of liberty are held, including police detention, detention on remand, stay at health institutions, customs detention, detention of emigration and all other places when it is suspected that there are violations of human rights and freedoms.

In addition, Ombudsperson is a mechanism of equality for promotion, monitoring and support of equal treatment without discrimination on the basis defended by Law on Gender Equality and Law on Protection from Discrimination, which, along with the Law on Ombudsperson comprise human rights legal package.

Ombudsperson shall be independent in the discharge of its duties and shall receive no instructions or interventions from the bodies, institutions or other authorities, which are exercising power in the Republic of Kosovo. As an independent institution, OI is governed by the principles of impartiality, independence, pre-eminence of human rights, confidentiality and professionalism.

In order to identify problems and to obtain data on the alleged violations, Constitution and Law on Ombudsperson shall oblige every organ, institution or other authority, exercising legitimate authority in the Republic of Kosovo, to respond to the Ombudsperson's requests and to present him/her all documents and the data requested.

Ombudsperson conducts investigation, makes recommendations, and publishes reports and advocates on human rights and freedoms. In cases when investigations conducted by legal advisors of OI result in finding violations of human rights, Ombudsperson may require additional information from public authorities and may make recommendations to relevant authorities. In cases when Ombudsperson considers that a practice or a general situation is not in accordance with domestic or international standards on human rights, it affects an individual or wider, then special reports are made, which include recommendations addressed to the Assembly of Kosovo and other relevant institutions, in order to improve the situation created and harmonise it with domestic and international human rights standards.

Ombudsperson can also conduct advocacy and can impact enhancing human rights and freedoms through media.

OI may investigate on his own initiative (*ex officio*) without individual complaint on the suspicion of human rights violation. Its mission is to observe approved policies and laws by domestic authorities to ensure that they are in accordance with human rights standards and with good governance requirements.

OI deals with investigations regarding delays of judicial proceedings in the settlement of cases, but it does not substitute the court and cannot investigate crimes directly or change the court's decisions or make binding decisions.

Ombudsperson may be present as a court's friend (*amicus curiae*) in the judicial proceedings dealing with human rights, issues of equality and protection from discrimination.

Ombudsperson can initiate matters at the Constitutional Court of Kosovo in accordance with the Constitution and the Law on Constitutional Court. Ombudsperson discharges its own competences through mediation and reconciliation. However, it does not deal with the investigation of matters dealing with disputes arising among natural persons. The services offered by the Ombudsperson are free-of-charge.

OI may also provide services to the citizens' complaints, which are addressed against the public authorities outside Kosovo and may address them to the relevant institution (in the majority of cases to the counterpart institutions – Ombudsman), in another country, or to another counterpart institution.

The OI's challenge and main objective is its creation and development, which is called a good governance culture, which means good administration, transparency and accountability of public authorities before Kosovo citizens, as well as overall strengthening of the rule of law. The OI's engagement to make a balance of relations between the public administration and citizens, to whom this administration intends to serve, has the same purpose. Ombudsperson's recommendations aim at bringing improvements to standards and the quality of services of public authorities to citizens.

The aim of the efficient activity of Ombudsperson is increase of trust of people on Institution and administration, ensuring coherent relation between the citizen and the public administration. This is indispensable for the functioning of democracy. Owing to this reason, Ombudsperson is part of those institutions considered as guardians of democracy, state of law and human rights.

Legal and natural persons' complaints may be filed to OI according to a simple and free-of-charge procedure. The admission of complaints is made with the main Office and with regional OI offices. These complaints may be referred to the actions, inactions or decisions of public authorities that by the complainants may be considered unfair or unfavourable. When reviewing such complaints, actions of relevant legal officers are dealing with the provision of legal advice, requesting data and information from relevant public authorities, from courts and other relevant institutions concerning the complaints filed, as well as with monitoring of certain administrative and judicial proceedings. In cases that require immediate actions, the Ombudsperson submits requests for interim measures. In this regard, the method of action changes depending on the nature of individual cases.

II. VISION

The vision of Ombudsperson Institution is to create a favourable environment for effective implementation of human rights and fundamental freedoms in accordance with international standards, being a driving force in putting citizens at the centre of administrative culture in the Republic of Kosovo.

III. MISSION

The mission of OI, as a legal mechanism, is protection, monitoring and promotion of fundamental human rights and freedoms of legal and natural persons from unlawful and irregular actions or inactions of the public authorities, institutions and other persons or authorities, exercising public authority in Kosovo by: receiving and investigating complaints of alleged violations of human rights by public authorities in Kosovo, torture prevention and other cruel, inhuman and degrading treatment or punishment, protection from discrimination and gender equality in order to contribute to good governance, transparency and accountability of public administration to Kosovo citizens and strengthen the rule of law with the ultimate goal of protection of and respect for human rights in Kosovo.

IV. PURPOSE

The essential purpose of Ombudsperson Institution is the implementation of standards on human rights and fundamental freedoms, through raising accountability of public authorities, monitoring of systematic violations and re-establishment of the right by strengthening culture of accountability and good administration.

In accordance with the role of Ombudsperson, our purpose is to take up an important position in our society and among public authorities, to attract the attention of the public to Ombudsperson and make a true and positive impact on the public administration.

Through this Strategy, we also aim at ensuring a multi-year framework on the economic, efficient and effective use of human and financial resources based on the OI's budget and it constitutes a reference point for external actors to assess performance and accountability.

V. STRATEGIC OBJECTIVES

Strategy 2017-2019 is an underlying document for annual planning of work and activities of the Ombudsperson Institution. This document also intends to serve as a guide along the three years in the promotion, protection and enhancing of human rights in the Republic of Kosovo in accordance with Constitution and Law, and in full accordance with the Ombudsperson's vision.

This Strategy will serve to the following objectives:

1. Building of citizens' trust to the Ombudsperson Institution and promotion of human rights and fundamental freedoms;

2. Protection of human rights and fundamental freedoms, with special focus on systematic issues which are more important to the citizen's interest and concerns;
3. Increase of the degree of implementation of recommendations of Ombudsperson Institution;
4. Empowerment of the Ombudsperson Institution capacities in order to increase the impact and effectiveness in the protection of human rights and fundamental freedoms.

1. Building of citizens' trust to the Ombudsperson Institution and promotion of human rights and fundamental freedoms

The achievement of this objective is based on one of the pillars of constitutional and legal mission of the Ombudsperson Institution for the promotion of human rights, through awareness raising and public information by means of media and direct communication, as well as transparency of activities and OI's work, as one of the forms of accountability before citizens, through which the reliability of all citizens of the Republic of Kosovo is increased before the Ombudsperson Institution, without distinction, including minorities.

Ombudsperson's priorities:

- 1.1 Public awareness raising on human rights and fundamental freedoms, promotion of the mandate and education on human rights with relevant institutions for the implementation of constitutional and legal standards in the country;
- 1.2 Empowerment of the image of Ombudsperson Institution and maximisation of its impact;
- 1.3 Strengthening of the role of OI in the promotion of transparency, accountability, integrity and its recognition as an Institution exercising its mandate independently, impartially and professionally;
- 1.4 Networking and promoting activities of Ombudsperson Institution through institutional communication in the country;
- 1.5 Empowerment of cooperation with media and civil society;
- 1.6 Public challenging of discrimination and inequality.

2. Protection of human rights and fundamental freedoms, with special focus on systematic issues which are more important to the citizen's interest and concerns;

The role of Ombudsperson has already proved to be very significant in the building of democracy and good administration. This is due to the dedication of new democracies in

achieving international standards on human rights on the one hand, and facing the challenges of the past concerning the culture of the respect of human rights on the other hand.

Considering that during 2016, Ombudsperson through the investigation of cases on its own initiative (ex officio), especially on the systematic issues on human rights violation, has had a great positive impact on the promotion and protection of human rights and fundamental freedoms, which included a considerable number of citizens. It also had a positive impact on the relevant authorities involved in these issues. Ombudsperson will, therefore, use its competences and will continue to be focused on identification and investigation of systematic issues in order to impact on the building of democracy and good administration, thereby protecting human rights and fundamental freedoms.

Ombudsperson's priorities:

- 2.1 Focusing on potential systematic violations of human rights and fundamental freedoms through on-going and regular monitoring of media and other public information, or through complaints filed which reflect systematic violations in order to identify areas of bad administration by public institutions and the possibilities of their improvement with the use of Ombudsperson's mechanisms, by initiating investigations on its own initiative.³
- 2.2 Cooperation with stakeholders from the Non-Governmental Sector in order to use common capacities in investigating cases of systematic violations and provision of advices, opinions, and recommendations for enhancing human rights and fundamental freedoms.
- 2.3 Ensuring monitoring concerning the compliance of laws with Constitution and international human rights standards, and urging public relevant institutions in the harmonisation of all laws, Administrative Instructions, policies and programmes with the human rights standards, by recommending drafting of new laws in order to provide a more suitable protection for human rights and fundamental freedoms.
- 2.4 Cooperation with president judges of regular courts concerning the identification of systematic issues filed with courts and using these pieces of information to act according to the amicus curiae⁴ mandate.

3. Increase of the degree of implementation of recommendations of Ombudsperson Institution;

Following the completion of investigations, if the Ombudsperson concludes that public authorities have committed violations, he/she drafts a report which contains recommendations to relevant authorities to correct the right violated. In order to increase the level of implementation of the recommendations made, which contributes to good

³ Requests for Interim Measures; Amicus Curiae; Opinions, Special reports and recommendations

⁴ Article 16, paragraph 9 of Law on Ombudsperson and Article 9, paragraph 2.13 of Law on Protection from Discrimination.

governance, transparency and accountability of public administration before citizens, Ombudsperson will engage to:

- 3.1 Create an internal system of monitoring of recommendations approved by Ombudsperson through the use of electronic database in order to identify relevant public institutions which have failed to implement the recommendations addressed to. This is so with the purpose to use additional mechanisms of Ombudsperson to achieve the recommendations made.⁵
- 3.2 Empowerment of cooperation with the functional Commission of the Assembly on Human Rights, Gender Equality, Missing Persons and Petitions, through regular meetings, reporting and communications on the applicability of Ombudsperson's recommendations.
- 3.3 Intensification of cooperation and dialogue with the institutions of central and local authority and other stakeholders to support awareness-raising concerning the implementation of Ombudsperson's recommendations.
- 3.4 Disclosure of Ombudsperson's recommendations as well as findings on public authorities failure to implement recommendations within time limits determined by the Ombudsperson comprises the sufficient base for enhance of accountability of responsible institutions.⁶

4. Empowerment of the Ombudsperson Institution capacities in order to increase the impact and effectiveness in the protection of human rights and fundamental freedoms

The Ombudsperson Institution as the only mechanism for the protection of human rights is established by Constitution. The adoption of the legal package on human rights, Law on Ombudsperson 05/L-019, on Gender Equality 05/L-020 and on Protection from Discrimination 05/L-021, have set additional competences and new legal institutes, for which Ombudsperson is authorised (Amicus Curiae, National Preventive Mechanism against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment, competences in the investigation of cases of discrimination in the private sector). These legal factors require the indispensability to increase Ombudsperson Institution's capacities for appropriate implementation of the above-mentioned mandates.

In addition, the impact of new laws as a necessity lays down the adequacy of internal organisational structure of the Ombudsperson Institution in accordance with the regulation

⁵ Annual Report, Inter-ministerial Commission on Human Rights; Harmonisation of data with the data of the Office for Good Governance in OPM; Article 24 paragraph 4 and Article 25 paragraph 2 and 3 of Law on Ombudsperson.

⁶ Strategy of the Ombudsperson for Public and Media relations 2016-2018 (communications concerning the failure to implement recommendations).

4.6 Different training for the entire OI staff in the issues of organisational communication, team/group work and team/group building, inter-personal communication, conflict management and mediation, problem solving, and time management.

4.7 Training OI staff in more important issues on the work of national human rights institutions, the knowledge which is necessary to renew and refresh on on-going basis, in order that the performance of staff's duties is in compliance with the best international practices, such as:

- National human rights legislation, particularly that envisioned in the Law on Ombudsperson, and in the Law on Protection from Discrimination and Law on Gender Equality;
- Interpretation of human rights in accordance with case-law of European Court of Human Rights during the treatment of cases in OI (Article 53 of Constitution);
- International standards, documents and mechanisms on human rights, including the Preventive Mechanism against Torture and other forms of Cruel, Inhuman or Degrading Treatment and Punishment;
- The role of Amicus Curiae;
- Promotion of human rights;
- Legal reasoning and writing skills;

Moreover, the practical aspect of the training programme should be provided by using different, modern and interactive training techniques and adapted methods of specific nature of training for adults, as well as the contents and characteristics of professional participants' activities (in investigating real cases).

VI. IMPLEMENTATION AND MEASUREMENT

In order to achieve the above given objectives, concrete actions should be undertaken, priorities should be planned and assessed on annual basis as well as through the processes.

With the intention to plan, monitor and implement the strategy as accurately as possible and in order to be able to measure the progress in achievement of priorities and objectives, an Action Plan, Risk Management Strategic Plan as well as Training Strategic Plan will be drafted, which will be reviewed at the end of each calendar year.

With the Ombudsperson's decision a Working Group will be appointed for implementation of the strategy and also a Working Group for drafting of above given documents, which can be assisted externally.

The above-mentioned documents on priorities' implementation and measurement, to achieve the objectives determined in the Strategy ought to be approved by the Ombudsperson.

VII. RISK

An important part of the strategic plan is to actively identify and manage the risk. This will be done by identifying strategic and operational risks, by assessing the possibility and their impact to determine how they will be managed in an active manner in accordance with the budget of the Ombudsperson Institution. Due to this the Risk Management Strategic Plan will be drafted.

Risks will be managed and reviewed regularly based on Risk Management Strategic Plan by the Group for Assessment and Risk Management Performance Monitoring, which will be established on Ombudsperson's decision.