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approving the Regulation for Organization and Operation of the Ombudsman's Office

No. 164 dated 31.07.2015

Official Gazette No.267-273/504 of 02.10.2015

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For the purpose of enforcing the Law No.52 dated April 3, 2014 on Ombudsman,
The Parliament adopts the present organic law.

Art.1. – (1) To approve:

- a) the Regulation for Organization and Operation of the Ombudsman's Office, according to the Annex;
- b) the limit-number of personnel under the Ombudsman's Office accounting for 65 units.

(2) Upon the motivated proposal of the Ombudsman, the limit-number of personnel under the Ombudsman's Office may be modified by the Parliament.

Art.2. – To abrogate the [Parliament Decision No.57-XVI dated March 20, 2008](#) approving the Regulation of the Center for Human Rights, its structure, staffing and financing modality (Official Gazette of the Republic of Moldova, 2008, No.81, art.276), with subsequent modifications.

PRESIDENT OF THE PARLIAMENT Andrian CANDU

No.164. Chisinau, 31 July 2015.

Annex

REGULATION

for Organization and Operation of the Ombudsman's Office

I. GENERAL PROVISIONS

1. The Ombudsman's Office (hereinafter referred to as the *Office*) shall be organized and shall function in line with the provisions of the [Law No. 52 dated April 03, 2014](#) on Ombudsman and the present Regulation. The Office is an autonomous public authority, which is organizationally, functionally, operationally, and financially independent from any public authority, legal entity, regardless of the ownership type and legal organization form, as well as from any individual, including public officials of any level.
2. The Office is composed from the Ombudsman and his/her deputies, the Ombudsman for Children's Rights, the Secretary General and the personnel of the Office.
3. The Office is subordinated to the Ombudsman and provides organizational, legal, informational, and technical assistance to the Ombudsman for him/her to perform his duties.
4. The Office has the status of legal entity, has a seal and formulation with its name and the State Armory image.
5. The Internal Regulation of the Office shall be approved by the Ombudsman upon the proposal of the Secretary General.
6. The permanent headquarters of the Office is in Chisinau municipality.

II. FUNCTIONS AND RESPONSIBILITIES OF THE OFFICE

7. The Office performs the following main functions:
 - 1) contributes to improving the legislation and the practices in the area of human rights and freedoms;
 - 2) monitors the level of observance of human rights and freedoms by the public authorities, organizations, and enterprises, regardless of the ownership type and legal organization form, by non-commercial organizations and by public officials of any level;
 - 3) contributes to rehabilitation of rights of persons whose rights and freedoms were allegedly violated by the Republic of Moldova;

4) ensures promotion of human rights and freedoms in the society and the information of the general public about the activities of the Ombudsman;

5) ensures the collaboration with the national and international non-commercial organizations in the area of human rights' and freedoms' defense and with mass-media;

6) provides assistance for carrying out the duties of the Ombudsman, Ombudsman for Children's Rights and members of the Council for Torture Prevention.

8. For the purpose of efficient carrying out of the main functions, the Office has the following responsibilities:

1) provides the necessary assistance to the Ombudsman and Ombudsman for Children's Rights when developing proposals and recommendations for improving the legislation so as to eliminate the causes and conditions creating precondition for violation of human rights and freedoms;

2) develops opinions regarding the compatibility of the national legislation with the international legal tools in the area of human rights and freedoms, regarding the draft normative acts related to human rights and freedoms, and formulates viewpoints upon the request of the Constitutional Court;

3) prepares draft complaints to the Constitutional Court on constitutionality control of the laws and decisions of the Parliament, decrees of the President of the Republic of Moldova, decisions and ordinances of the Government, as well as of international treaties joined by the Republic of Moldova;

4) develops proposals and recommendations for ratification or joining international tools in the area of human rights and freedoms and provides methodological support for ensuring their implementation;

5) accumulates and analyzes information on violation of human rights and freedoms and develops studies or thematic reports on observance of human rights and freedoms;

6) develops and submits to public authorities, organizations, and enterprises, regardless of their ownership types and legal organization form, noncommercial organizations and public officials of any level objections and general proposals securing human rights and freedoms, and improving their activity;

7) monitors the implementation of the legislation in the area of human rights and freedoms;

8) proposes and participates in drafting policy documents preventing violations and securing the observance of human rights and freedoms;

9) analyses the experience and the practice of other states, the caselaw of national and international courts, its own practices, and practices of other subjects with a mandate in the area of promoting and protecting human rights and freedoms, accumulates statistical data;

10) ensures the reception and examination of complainants' applications, as well as examines the ex-officio notifications of the Ombudsman;

- 11) contributes to solving amiably the conflicts between individuals and public authorities, organizations, and enterprises, regardless of the ownership type and legal organization form, non-commercial organizations, public officials of any level;
- 12) develops recommendations regarding the measures to be undertaken for immediate rehabilitation of complainant's rights;
- 13) ensures the submission of actions to the court and intervenes in the trial with conclusions for the purpose of defending human rights and freedoms;
- 14) raises society's awareness through mass-media and other available means in relation to observance of human rights and freedoms;
- 15) covers in the media the cases of violation of human rights and freedoms;
- 16) familiarizes the society with the mechanisms for defending human rights and freedoms, contributes to consolidating education in the area of human rights and freedoms and training of professional groups in this area;
- 17) participates in developing formal and informal educational programs in the area of human rights and freedoms, develops and disseminates informative materials about human rights and freedoms;
- 18) develops and implements projects together with national and international non-commercial organizations in the area of promotion and protection of human rights and freedoms, as well as with other interested organizations;
- 19) collaborates with international organizations with duties in the area of promotion and protection of human rights and freedoms, with similar institutions from other states, cooperates with other national and international institutions for the purpose of exchange of experience and implementation of good practices in the area of promotion and protection of human rights and freedoms, and provides specialized assistance in developing external relations of the Ombudsman;
- 20) organizes and participates in conferences, workshops, round tables, and other meetings in the area of promotion and protection of human rights and freedoms, carried out in the country and abroad;
- 21) ensures the management of human resources, and implementation of personnel policies;
- 22) ensures the management of budgetary resources and financial-accounting activity;
- 23) ensures the management of information resources;
- 24) performs other functions meant to ensure the full and operative exercise of Ombudsman's responsibilities.

9. The Ombudsman and his/her deputies, the Ombudsman for Children's Rights, the Secretary General and the personnel of the Office shall not disclose state secrets and other data and information protected by law, and shall disclose confidential information and personal data that were communicated during

their activities, only with the consent of the concerned person. The information, documents and materials accumulated during the examination of the applications submitted by complainants, which conform or infirm the violation of human rights, are confidential and should be protected after the application's examination as well.

III. ORGANIZATION OF OFFICE ACTIVITIES

Structure of the Office

10. From structural point of view, the Office is composed of the Ombudsman and his/her deputies, the Ombudsman for Children's Rights, the Secretary General, structural subdivisions with status of divisions, sections, services and territorial branches. The structural subdivisions shall be created via an administrative act of the Ombudsman.

11. The organizational structure, the staffing plan and the recruitment scheme of the Office shall be approved by the Ombudsman, upon the proposal of the General Secretary, in the established way.

12. The structural subdivisions of the Office work based on their own regulations approved by the Ombudsman.

Office Leadership

13. The general management of the Office shall be performed by the Ombudsman:

1) approves the activity plans of the Office;

2) organizes the system of financial management and control, as well as the internal audit activity;

3) approves the staffing plan of the Office or modifies the staffing plan within the limits of the payroll funds and the limit-number of employees approved by the Parliament, according to the legislation in force;

4) as budget executor, ensures the financial-economic activity of the Office, organizes the development of the draft annual budgets of the Office and ensures their submission to the Parliament, exercises the right to spend from the budget within the limits of approved allocations. The quality of budget executor may be delegated to the Secretary General in the established way;

5) issues, in unipersonal manner, administrative acts within the limits of his/her competence;

6) sets forth the activity areas of his/her deputies;

7) approved the activity regulation of the structural subdivisions of the Office and personnel job descriptions;

8) appoints in public positions, modifies, suspends, and terminates labor relations with the civil servants of the Office under the conditions set in the [Law No. 158-XVI dated July 4, 2008](#) on Public Position and Status of Civil Servant;

9) awards qualification degrees, incentives and applies disciplinary sanctions according to the legislation in force;

10) appoints and dismisses the personnel from his/her own cabinet, according to the legislation in force;

11) employs the technical service personnel and other personnel, modifies, suspends, and terminates the labor relations with them;

12) represents the Office in its relations with the central and local public administration authorities, with other public authorities, with the representatives of civil society, individuals and legal entities from the Republic of Moldova and from abroad;

13) performs other competences attributed to him/her according to the legislation in force.

14. The duties of the Ombudsman for Children's Rights are regulated in art.17 of the [Law on Ombudsman](#). The Ombudsman for Children's Rights shall submit to the Ombudsman proposals related to Office activity planning, development of the draft budget, and reports.

15. While performing his/her duties, the Ombudsman shall issue orders, decisions, dispositions, and other administrative acts.

16. In his/her activity, the Ombudsman shall be assisted by two deputies. In needed, the Ombudsman may delegate to his/her deputies some of the duties provided in the [Law on Ombudsman](#), except for the duties specified in art. 26 of the mentioned law.

17. During the temporary absence of the Ombudsman, his/her duties shall be carried out by one of his/her deputies, appointed by the Ombudsman.

18. The duties of the deputies shall be determined by the Ombudsman, depending on the tasks, objectives and strategic directions of the Office activity, modifications may be made during the exercise of the function.

19. The organizational and administrative activity of the Office shall be led by the Secretary General, appointed on competition basis, based on criteria of professionalism, via the order of the Ombudsman.

20. Secretary General:

1) develops and suggest modalities for fulfilling the objectives and the strategic directions of the Office activity;

- 2) ensures the functional relations and collaboration between the Ombudsman, the Ombudsman for Children's Rights and the personnel of the Office, the heads of structural subdivisions of the Office, as well as among its internal subdivisions;
- 3) organizes the human resources' management system;
- 4) coordinates and ensures the development of programs, activity plans and reports to be submitted to the Ombudsman;
- 5) ensures the monitoring and evaluation over the carrying out of objectives and activity strategic directions of the Office, as well as reporting on their implementation;
- 6) coordinates the activity of the structural subdivisions of the Office for fulfilling the objectives and activity strategic directions;
- 7) ensures the operative collaboration between the Ombudsman, the Ombudsman for Children's rights and heads of the structural subdivisions of the Office;
- 8) organizes the development of the activity regulations of the structural subdivisions, job descriptions, and instructions regulations the specific activity procedures of the Office and submits them for approval, in the established way;
- 9) presents proposals regarding the structure, staffing plan, and recruitment scheme of the Office;
- 10) manages the flow of information necessary in the activity of the Ombudsman and Ombudsman for Children's Rights;
- 11) ensures the enforcement of the administrative acts of the Ombudsman;
- 12) ensures control over observance of the deadline set for performing certain tasks by the structural subdivisions of the Office;
- 13) ensures the development of the draft budget of the Office and submits it for approval to the Ombudsman;
- 14) ensures collaboration with similar institutions from other states;
- 15) comes up with recommendations and consults the Ombudsman in matters related to the general management of the Office;
- 16) signs the correspondence related to his/her area of activity, in the established manner;
- 17) holds, via delegation, the position of budget executor;
- 18) organizes the management of the institution's patrimony and takes measures to ensure its integrity;
- 19) performs other duties and specific responsibilities assigned by the Ombudsman and Ombudsman for Children's Rights.

21. While performing the established duties, the Secretary General shall issue orders, decisions, and dispositions.

Office Personnel

22. The Office personnel shall be composed of public servants, personnel employed in the cabinet of the Ombudsman, technical service personnel, and other personnel.

23. In his/her activity, the Ombudsman may be assisted by the personnel employed in his/her own cabinet, according to the provisions of the [Law No. 80 dated May 7, 2010](#) on status of the personnel from cabinets of people with public dignity positions.

24. The Office personnel shall have service cards; the model and the mechanism for approving, issuing, using, and withdrawing the service cards shall be approved by the Ombudsman in line with the internal regulation.

25. The remuneration conditions for the Office personnel shall be established in line with the legislation on salaries in the budgetary sector.

26. The main tasks, duties, rights and responsibilities of the Office personnel shall be established in the job descriptions, which are approved by the Ombudsman.

27. The heads of the structural subdivisions shall be responsible for organizing the activity of the subdivision, establishing the tasks and duties of the personnel working in the respective subdivision, submitting proposals to foster the personnel under subordination, and shall fulfill other duties under their competence via internal acts of the Office.

28. The personnel of the Office shall perform the service duties and function observing the exigencies and standards of professional conduct and labor discipline provided in the legislation in force and in the internal regulation of the Office.

29. The personnel of the Office shall be disciplinary liable under the conditions set in the [Law on Public Position and Status of Civil Servant](#) and other normative acts, including for violating the rules for documents' storage.

30. The organization and fulfilment of secretariat works shall be carried out in line with the provisions of the internal instructions regulating the procedures for working with documents and documents' flow, approved in the established manner.

31. Subordination and collaboration relations shall be established among the structural subdivisions of the Office. The subordination relations shall reflect the transmission of tasks and the reporting over the way in which they are performed based on the hierarchical structure. The collaboration relations shall be established depending on the tasks and duties set in the present regulation and the activity regulations of the structural subdivisions.

Experts and councils of experts

- 32.** The Office may contract experts with experience in the area of protecting human rights and freedoms, and related areas. The Ombudsman and the Ombudsman for Children's Rights may empower the experts to act for the purpose of performing some specific tasks for carrying out their mandate.
- 33.** For the purpose of providing consultative assistance to the Ombudsman, councils of experts may be created within the Office.
- 34.** The members of the councils of experts shall have experience in the area of protection of human rights and freedoms, and related areas.
- 35.** The nominal composition and the organizational and functional regulations of the councils of experts shall be approved by the Ombudsman.
- 36.** The councils of experts shall be convened, as needed, by the Ombudsman, the Ombudsman for Children's Rights and deputies of the Ombudsman.

Office Branches

- 37.** Office branches may be created in other municipalities and cities, as territorial subdivisions.
- 38.** Office branches shall be created and liquidated based on the decision of the Ombudsman, depending on the place, number of population, specific activities, autonomy level, and other factors.
- 39.** The tasks, duties, and jurisdiction of the Office branches shall be established in the regulation approved by the Ombudsman.
- 40.** The personnel of the Office branch, based on a specific mandate, may act on behalf of the Ombudsman, having the following rights:
- 1) to receive and examine applications related to violation of human rights and freedoms and to contribute to solving amiably conflicts between individuals and public authorities;
 - 2) to verify the observance over compliant performance by public authorities, organizations and enterprises, regardless of the ownership type and legal organization form, non-commercial organizations, and public officials of their duties related to observance of human rights and freedoms;
 - 3) to represent, upon request, individuals or groups of individuals in front of public authorities and courts in complex cases related to human rights and freedoms or in cases of public interest;
 - 4) to act ex-officio in the cases established by the legislation in force;

5) to have free access to all public authorities, to assist during the meetings of their subdivisions, including the meetings of their collective bodies;

6) to have free and immediate access to institutions, organizations, and enterprises, regardless of their ownership type and legal organization form, police inspectorates and detention premises from such inspectorates, penitentiary institutions, criminal investigation remand offices, centers for placing immigrants or asylum seekers, institutions providing social, medical or psychiatric assistance, special education and re-education institutions or curative institutions for reeducation of minors, as well as in other similar institutions;

7) to have unlimited and immediate access, in any moment of the day, to any sector of detention places, to any information regarding the treatment and the detention conditions of the persons deprived of freedom;

8) to invite for hearings and to receive from high-rank officials explanations and necessary information for elucidating the circumstances of the examined case;

9) to have unlimited meetings and confidential conversations, if needed through interpreters, with the person staying in the places specified in sub-point 6), as well as with any person, who in its opinion, could provide useful information about the examined case of violation of human rights or freedoms.

41. The heads of branches shall be responsible for organizing branches' activity, setting the tasks and service duties for the employed personnel, submitting proposals for motivating the personnel under subordination, managing the patrimony of the branch, and fulfilling other function assigned under their competence via internal acts.