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LEGAL AND POLITICAL AFFAIRS COMMITTEE

REPORT*

**ROLE OF OMBUDSMAN INSTITUTIONS IN STRENGTHENING
DEMOCRACY IN THE BSEC MEMBER STATES**

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I. INTRODUCTION

1. Ombudsman institutions have taken important place within institutional frameworks in most of countries. However, their role, mandate and scope of intervention can differ from one country to another within different political, institutional and historical contexts. Since the establishment of the first ombudsman institution in Sweden in 1809, the mandates of ombudsman institutions have evolved based on specific needs of particular countries.
2. The word “ombudsman” itself is of Swedish origin and means “people’s representative”. The ombudsman institution serves as a mechanism which enhances transparency in government and democratic accountability. The institution can be described as an independent and impartial office responsible for maintaining and improving the quality of public administration to whom citizens can turn in confidence with complaints and who acts as a mediating body in relation to the authorities. Ombudsman institutions vary through the given mandate. Each country creates its own model for protecting citizens’ human rights and often the title of the position reflects the functions of the institution in accordance with its mandate.
3. The role of the ombudsman is to protect the people against violation of rights, abuse of powers, negligence, unfair decisions and maladministration in order to improve public administration and make the government’s actions more open. The general objective of the ombudsman is improvement of the performance of the public administration and the enhancement of government accountability to the public. The public accountability is identified as one of the indicators of legitimacy of governance since an effective democratic state rests upon legislative, administrative and judicial governance institutions which incorporate substantial public participation.
4. Upon the initiative of the Parliamentary Assembly of the Black Sea Economic Cooperation, on 26 April 2006, the First Regional Conference of the Ombudsmen of the BSEC Member States was held in Istanbul on “The Role of Ombudsman Institutions in Consolidating Democracy”. The aim of the Conference was to exchange experience and views on the activities of the ombudsman institutions in the BSEC Member States in ensuring and strengthening the rule of law in a democratic state. The Conference was attended by ombudsmen from all the BSEC Member States (at that time Turkey and Serbia were in the process of establishing their national ombudsman institutions), the European Ombudsman and Mr. Suleyman Demirel, the ninth President of the Republic of Turkey.
5. As a result of the Conference the Statement was adopted in which it is stressed that democracy is a universally recognised system of values founded on the rule of the law and shared by peoples throughout the world, and that consolidation of democracy entails observance and furtherance of civil, political, economic, social and cultural rights. The Document notes that education for human rights is of vital importance for establishing respect for different cultural values, with a view to achieving peaceful coexistence, social harmony and effective participation in the institution of democracy. The commitment was stated to further continue partnership interaction between the national ombudsman institutions in the Black Sea Region and to maintain and strengthen the mechanism for permanent exchange of experience and information.

6. At its meeting in Greece in 2018, the PABSEC Legal and Political Affairs Committee decided to come back to the issue of the activities of the Ombudsman institutions in the BSEC Member States and in the framework of this decision the Fifty Third Meeting of the Committee in Batumi on 15-16 May 2019 is dedicated to “The Role of the Ombudsman Institutions in Strengthening Democracy in the BSEC Member States” with the aim to prepare report and recommendation for further consideration at the Fifty-Third Plenary Session of the General Assembly in Baku in June 2019.

7. The present Report has benefited from the contribution by the national delegations of Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Serbia, Turkey, and Ukraine.

II. THE ROLE OF THE OMBUDSMAN INSTITUTIONS IN STRENGTHENING DEMOCRACY IN THE BSEC MEMBER STATES

8. The effectiveness of the Ombudsman institutions is of paramount importance for strengthening democratic development and ensuring effective public administration. The role of ombudsmen, as a link between the authorities and individuals, is important for combining the efforts of state bodies and civil society. It is necessary to improve the system for the protection of human rights and to strengthen procedures for monitoring the activities of state bodies.

9. In the contemporary society, no matter how effective the national legal system is, in some cases an individual is faced with negative bureaucratic phenomena. In such circumstances, a citizen, considering his rights violated, has the right to protect the violated rights administratively or judicially. Ombudsman institutions were established for the purpose to investigate complaints for poor governance. Well-functioning and effective ombudsman institutions became viable mechanism for strengthening of democratic accountability and promoting democratic development and good governance.

10. A well-functioning ombudsman is an important element of administrative governance, enhancing its accountability serving as both a horizontal and a vertical accountability mechanism. Horizontal accountability can be defined as the capacity of state institutions to check abuses by other public agencies and branches of government. Ombudsman is an entity which is part of the state governance structure but, at the same time, external to the executive/administrative branch and independent of all branches of government. The ombudsman improve legal and administrative horizontal accountability of government by impartially investigating the conduct of public administration; recommending changes to law, policy or practice when illegal or improper administration is uncovered.

11. Ombudsman also serves as a vertical accountability mechanism between the populace and the government, allowing members of the public to complain about government administration and have their concerns investigated, assessed and presented to the government as critical feedback. Yet, a hallmark of the ombudsman institution is that the office does not have the power to make decisions that are legally binding on the administration so that the executive or administrative branch is free to implement, in whole or in part, or to ignore the ombudsman’s recommendations.

12. Many ombudsmen are also given the power to launch own-motion investigations and, in certain cases, legislators or government ministers may render matters to the ombudsman for investigation. The ombudsman is given investigative jurisdiction over a wide variety of government departments, agencies, state corporations and their administrative officials. The ombudsman institution operates as another check on the executive/administrative branch of power, in addition to the controls exercised by the legislature, the courts and other public sector institutions.

13. The powers given to ombudsman include compelling the production of documents and the attendance and testimony of witnesses. After an impartial and objective investigation, the ombudsman makes a determination whether there has been improper conduct. However, if misconduct is uncovered by the investigation, the ombudsman has the power to make recommendations for changes to administrative practice and policy to terminate the administrative problem. In some countries ombudsmen also have the power to make recommendations for changes in laws.
14. The ombudsman also has reporting duties. In specific investigations, the ombudsman reports to the complainant, the government and if recommendations are not implemented by the administration, the ombudsman can report on the matter to the legislature. Further on, the ombudsman has the duty to make an annual report to the parliament on the activities of the office. Regular contact between the ombudsman and parliament allows the latter to keep abreast of ombudsman activities and of the development of any trends in misconduct by the executive. Some ombudsmen even can issue special reports based on particular, usually more serious, investigation and make statements on concrete issues (subject to ombudsman opinion).
15. The BSEC member states as many others in Europe have set the target to follow the way of construction of democratic institutions adhering to the criteria based on the recognition of universal human rights and freedoms as a supreme value. They take steps to reduce administrative inefficiencies and to eliminate human rights abuses committed by government officials. The ombudsman institutions in the BSEC member states deal mostly with human rights issues covering the entire spectrum of political, civil, economic, social and cultural rights. Economic and social rights cases comprise major source of complaints. For a relatively short period of its existence in the BSEC member states, the ombudsman institution demonstrated its effectiveness: it occupies a significant place in the national mechanism for the protection of individual rights and freedoms, creating additional guarantees from the state and civil society, intensifying the dialogue between them. It is an effective means of additional special control over the activities of the state administration, upholds humanitarian criteria, expediency, ethnicity in the process of evaluating the activities of officials, stimulates the process of improving legislation in the field of human rights protection and legal education of the population.
16. At the same time, in the countries with the effective ombudsman institutions, there are new specialized ombudsmen, namely: on the rights of children, national minorities, consumer rights, health issues, entrepreneurship, etc. Indirect evidence of the effectiveness of this institution is the fact that some organizations, enterprises, educational institutions started to incorporate it into their structures. The emergence of new types of specialized ombudsman institutions leads to a more effective functioning of this institution and serves as an additional guarantee for the timely protection and restoration of violated rights and freedoms of the individuals.

Ombudsmen in the BSEC Member States

17. In *the Republic of Armenia*, the Law “On the Human Rights Defender” of 31 October 2003 establishes the procedure for the appointment and dismissal of the Human Rights Defender (HDR), his powers and terms of activity. The HRD is appointed by the National Assembly for the term of 6 years. The same person cannot be appointed to the position of the HRD for more than two consecutive terms. The HRD is not eligible to hold public and other positions, perform paid work, with the exception of scientific, educational and creative work. After the constitutional changes in 2015, the mandate, authority and scope of the HRD activities were

significantly expanded. The Human Rights Defender also monitors the mechanism of implementation of the UN Convention on the Rights of the Child. Moreover, in accordance with the law on amending the Constitutional Law, which entered into force on 13 June 2018, the HRD is given the mandate to monitor the UN Convention on the Rights of Persons with Disabilities.

18. One of the key directions of the HRD activities is to contribute to changes in the human rights system through education and trainings. For fulfilling this mandate, the HRD has established the Human Rights Research and Education Centre and the reports and recommendation of the Defender are used by special education institutions in their respective curricula. The HRD closely cooperates with the National Assembly of the Republic of Armenia and presents annual reports each year on the activities, as well as on the state of protection of human rights and freedoms. The HRD participated in parliamentary discussions concerning human rights issues. The Defender has a mandate to apply to the Constitutional Court of the Republic of Armenia in regard to compliance of laws, decisions of the National Assembly, orders and instructions of the President, decisions of the Government and the Prime-Minister.
19. The legal basis for international collaboration of HRD is envisaged by the Constitutional Law (Article 4.2) that enables the Defender to join or otherwise be engaged in activities of international human rights organizations where it does not contradict the functions. The HRD is a member of the International Ombudsman Institute (IOI), the European Ombudsman Institute (EOI) and International Coordinating Committee for National Human Rights Institutions (ICC), the European Network of Ombudspersons for Children (ENOC), European Network of National Human Rights Institutions (ENNHRI), the Association of Ombudsmen and Mediators of La Francophonie (AOMF) and the Association of Mediterranean Ombudsmen (AOM). In 2018 the HRD Office became a full member of the European Network of Ombudspersons for Children.
20. In 2017 the European Union's Justice Monitoring Program in Armenia has published a report of the monitoring results which stresses the full trust to the ombudsman institution. The first institution mentioned by 24 % (which is the highest percentage in this category) has been the Defender. Caucasus Barometer 2017 data indicate that 8 percent of the Armenian population "fully trust" the HRD. In December 2018, the Defender received "State Institution of the Year" award at the Armenian PR Awards.
21. The HRDO of Armenia leads effective cooperation with national human rights institutions of the BSEC member states (the Russian Federation, Georgia, Moldova, Bulgaria, Serbia, Greece, etc.). It is especially worth to highlight the high-level cooperation between the HRDO and the Public Defender's institution of Georgia, the institution of the Protector of Citizens of Serbia and the Ombudsman institution of Bulgaria. Within the established cooperation, a number of experience and information exchanging activities have been conducted through mutual visits, organization and participation in thematic conferences, seminars, round table discussions and implementation of mutual projects. Moreover, the cooperation between the HRD and the Commissioner for Human Rights in the Russian Federation has been developed within the framework of the Eurasian Alliance of Ombudsmen, established in 2017 and on the basis of the Memorandum on Cooperation protection of the rights.
22. In the *Republic of Azerbaijan*, as a result of the necessary legal reforms in the field of ensuring human rights and freedoms and increasing the efficiency of measures, on 28 December 2001 the Milli Majlis of the Republic of Azerbaijan adopted the constitutional law "On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan", and on 5 March 2002, the Head of State signed the Decree on the implementation of this law and, thus, formed the legal basis for the activities of this institution. On 2 July 2002, the Milli Majlis of

the Republic of Azerbaijan elected the first Ombudsman of the Republic of Azerbaijan, who already after 3 months, on 28 October 2002, began to consider complaints and receive applications in the Ombudsman's Office.

23. The institution of the Commissioner for Human Rights of the Republic of Azerbaijan is enshrined in the Constitution of the Republic of Azerbaijan and international treaties. The activities of the Commissioner for Human Rights do not limit or duplicate the powers of other state bodies that ensure the protection of human rights and freedoms. The Commissioner may submit proposals to the President of the Republic of Azerbaijan regarding the issues of pardon, citizenship, and the provision of political asylum. The Commissioner may submit proposals to the Milli Majlis of the Republic of Azerbaijan on the adoption or revision of laws in order to ensure human rights and freedoms. The activities of the Commissioner are based on the principles of publicity, transparency, legality, justice, impartiality. The Milli Majlis of the Republic of Azerbaijan elects the Commissioner for a term of 7 years. The same person can be elected only once to the post of the Commissioner.
24. It should be noted that the "National Action Plan for the Protection of Human Rights in the Republic of Azerbaijan", approved by the Decree of the Head of the State of 28 December 2006, became a logical continuation of the "State Program for the Protection of Human Rights". Over the past years, at the initiative and with the participation of the Ombudsman in the framework of monitoring the implementation and application of the National Plan and Program of Action, public hearings were held in almost every city and region of the Republic with the participation of representatives of executive authorities, law enforcement and state bodies, municipalities, local communities, and national minorities, the general public, NGOs and the media, youth and women organizations, meetings were held with the population, during which individual complaints were collected. The proposals submitted by the Ombudsman are taken into account when adopting or approving regulatory acts and other documents of strategic importance.
25. Upon the initiative of the Commissioner for Human Rights of the Republic of Azerbaijan, within the framework of the Month of Peace traditionally held every year (21 August - 21 September) and the Month of Children's Rights (20 October - 20 November), conferences and exhibitions are organized in each district and city. Moreover, every year the Ombudsman's Office issues respective Declarations that are communicated to the influential international organizations.
26. It is necessary to note the effective cooperation of the Ombudsman with the Central Election Commission and regular participation of the Ombudsman and representatives of the Ombudsman Office in the presidential, parliamentary and municipal elections, including the referendums in 2009 and 2016. These activities promote the process of conducting a democratic, free and transparent voting.
27. The Ombudsman of Azerbaijan is a member of the International Ombudsman Institute (IOI), the European Ombudsman Institute (EOI), the Asian and Islamic Ombudsman Associations, European Network of National Human Rights Institutions (ENNHRI), the Group of the European National Network of Human Rights Institutions and European Network of Ombudspersons for Children (ENOC).
28. In the *Republic of Bulgaria*, the Ombudsman institution is supreme and independent constitutional body acting under the provisions of the Ombudsman Act. Ombudsman is elected by the Parliament by secret ballot with the term of office of five years and has the right to be reelected for the second term. Ombudsman intervenes where, by act or omission, the rights and freedoms of citizens by the state and municipal authorities. In its activities, the Ombudsman is

guided by such principles as impartiality and independence, as well as the rule of law and justice. The Ombudsman receives and considers complaints regarding violations of rights and freedoms by state and municipal authorities and their administrations; executes requests based on the complaints received; responds to written notices and complaints; makes recommendations to the relevant authorities and their administrations regarding the restoration of violated rights and freedoms; acts as an intermediary between administrative authorities and affected persons; makes suggestions and recommendations to eliminate violations of rights and freedoms; may apply to the Constitutional Court with a request to establish the unconstitutionality of a law that violates the rights of citizens (paragraph 3 of Article 150 of the Constitution); sends requests to the Supreme Administrative Court and the Supreme Court of Cassation to make interpretative decisions or decisions in the case of conflicting or incorrect judicial practice (Article 125 of the Law on the Judicial System).

29. A number of legislative changes to protect citizens' rights and freedoms of Bulgarian citizens were initiated by Ombudsman and have been adopted and this takes the relations between the state and citizens at a new level. The Ombudsman, within the established competence, not only takes measures to restore the violated rights of citizens, but also contributes to the observation of the fundamental rights and freedoms of a person as the highest value. In 2018, the Law on the Ombudsman and the Regulation on the Organization of the Ombudsman's activities were amended to give the broadest possible mandate to protect human rights and freedoms.
30. Ombudsman of Bulgaria was elected chairman of the Balkan Ombudsman Network, set up at the forum in Sofia in November 2018 with the participation of 13 Balkan countries (including Serbia and Romania). This Forum discussed the issue of rights of citizens in the framework of the Balkan cooperation and the Declaration was adopted on cooperation and partnership in the sphere of human rights protection. Also the Ombudsman of Bulgaria actively participates in the work of the European Ombudsman Institute (EOI) and the International Ombudsman Institute (IOI) in specific areas of human rights protection. The Ombudsman of Bulgaria is open for cooperation in resolving important issues for citizens and actively cooperates with the BSEC Member States. The Memorandum of Understanding has already been signed with the Defender of Citizens of the Republic of Serbia.
31. The Law of **Georgia** "On the Public Defender of Georgia" of 16 May 1996 defines the powers and responsibilities of the Public Defender of Georgia, the basic principles and forms of its activities. The Public Defender of Georgia is guided in its activities by the Constitution of Georgia, the Law, as well as the generally recognized principles and norms of international law. According to the new version of the Constitution of 2017, the Public Defender is elected by parliament for a six-year term and it is prohibited to elect the same person as a Public Defender for two consecutive terms. Since 2009, the Public Defender of Georgia has been carrying out the functions of a national preventive mechanism under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 27 October 2014, the Public Defender of Georgia was named the body responsible for promoting, protecting and implementing the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Since 2014 the Public Defender serves as the Anti-Discrimination Mechanism. In particular, on 7 May 2014, in accordance with the Law of Georgia on the Elimination of All Forms of Discrimination, the Public Defender of Georgia was identified as the body responsible for overseeing the elimination of discrimination and ensuring equal rights.
32. The Public Defender studies the cases relating to: decisions of public institutions; violations of human rights and freedoms during the court proceedings; violations of the rights of detainees, prisoners or individuals whose liberty had been otherwise restricted; constitutionality of the norms regulating referendums and elections, as well as the elections (referendum) held or to be

held on the basis of these norms. The Public Defender is authorized to study cases of violations of human rights guaranteed by Georgian legislation and international treaties and agreements, to which Georgia is a party. In order to ensure the protection of human rights and freedoms, the Public Defender of Georgia: submits proposals, comments and recommendations concerning the Georgian legislation and draft laws to the Parliament of Georgia or other relevant bodies; addresses the state agencies, local self-government bodies, public institutions and public officials with proposals and recommendations concerning the restoration of the violated human rights and freedoms; addresses relevant investigative authorities with proposals to launch investigation and/or criminal persecution; addresses relevant agencies with proposals concerning disciplinary or administrative responsibilities of the individuals, whose actions caused violations of human rights and freedoms.

33. In conformity with the Article 22 of the Organic Law of Georgia on Public Defender, in March of each calendar year, the Public Defender of Georgia submits to the Parliament of Georgia an annual report on the situation of human rights and freedoms in the country. The Annual Report collects main recommendations elaborated toward different branches of the government. The major outcome of this process is the practice of adoption of the Resolutions of the Parliament as a result of examining of the annual report of the Public Defender. With this tool, the Parliament assesses human rights conditions and most importantly, issues obligations toward state authorities.
34. Public Defender is very actively engaged in work at the international level. In 2016 the Public Defender of Georgia was elected as a representative of the European region in the Global Alliance for National Human Rights (GANHRI); as well as a member of the European Network of National Human Rights Institutions (ENNHRI) governing body. The Public Defender is also a member of the European Ombudsman Institute (EOI), International Ombudsman Institute (IOI), Association of Mediterranean Ombudsman (AOM), Asian Ombudsman Association (AOA), European Network of Ombudspersons for Children (ENOC), and European Network of Equality Bodies (EQUINET). During the recent years the Public Defender has signed number of Memoranda of Understanding with different national human rights institutions. Memorandum on cooperation was signed with ombudsmen of various countries including the BSEC Member States (Azerbaijan, Ukraine).
35. In the *Hellenic Republic* Ombudsman is an independent authority sanctioned by the Constitution of the country. This institution has been in operation since 1 October 1998. The Greek Ombudsman mediates between public administration and citizens in order to help citizens in exercising their rights effectively. Additionally, the Greek Ombudsman's mission is: to safeguard and promote children's rights; to fight discrimination in the public sector; to monitor gender equality both in the public and the private sector. The Greek Ombudsman is also responsible for the protection and promotion of children's rights in the framework of the Convention of the Rights of the Child. The Greek Ombudsman is also a member of the European Network of the Ombudspersons for Children (ENOC). The Ombudsman has been successful in resolving citizen complaints. Even in the conditions of financial crisis and financial constraints, the Greek Ombudsman managed to maintain a high level of work.
36. The Greek Ombudsman has been actively engaged cooperation with his counterparts in the BSEC Member States in the framework of the projects funded by the Council of Europe and the EU. The Greek Ombudsman was the key institution implementing the joint Council of Europe and Greek Ombudsman project "Eunomia" focusing on institution and capacity building of Ombudsmen institutions in Albania, Armenia, Bulgaria, Georgia, Serbia and Turkey. Furthermore, the Greek Ombudsman was actively involved in EU funded twinning and technical support projects with the Ombudsmen of Azerbaijan, Georgia, Moldova and Serbia. The Greek Ombudsman has also signed bilateral Memoranda on Cooperation with the

Ombudsman institutions of Russia, Serbia and Ukraine to promote cooperation in the areas of human rights and the rule of law.

37. The Greek Ombudsmen is the member of the International Ombudsman Institute (IOI). Since March 2009 it holds presidency in the Association of the Mediterranean Ombudsmen (AOM) and takes measures to enlarge the membership in this organisation extending invitations to Bulgaria, Romania, Russia and Ukraine (Albania, Armenia, Georgia, Greece. Serbia and Tukey are the members of the AOM). The Greek Ombudsman is actively participating in the EU funded project Forced Return Monitoring III (FReM III), launched in December 2018 and the project on “Capacity building of forced return monitors in third countries” aiming at building common tools and procedures and increasing the cooperation in this sphere.
38. In Greece there is also the institution of Consumer Ombudsman (HCO) under the supervision of the Ministry for Development within the Law L.3297/2004. The HCO is mandated to protect both the citizen-consumer and of businesses, by pursuing to achieve rapid and effective solutions to disputes, which will satisfy all parties involved.
39. The Municipal Ombudsman is a new institution in Greece, established at the level of local authority in the frame of the “Kallicratis” Programme. Its mission includes receiving and processing complaints of citizens and businesses affected by malpractices of municipal services or municipal legal entities or enterprises. The Municipal Ombudsman submits proposals to the Mayor, the Municipal Council and the Municipality Secretary General on enhancing municipal administration and its relations with the wider public.
40. In the **Republic of Moldova** the activities of the People’s Advocate is regulated by Law No 52 of 03.04.2014. In 2018 the Office of the People’s Advocate (OAP) received a new “A” status accreditation from the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI). The Office of the People’s Advocate is a national human rights institution with an extensive mandate and the main duties are: to monitor and report on the respect for human rights and freedoms, to contribute to the improvement of human rights legislation, to receive and examine requests regarding the violation of human rights and freedoms.
41. A new direction in the activity of the Ombudsman institution is the prevention of corruption by involving the public institutions. These duties were assigned to the People’s Advocate by Decision of the Parliament No 56 of 30 March 2017 on the approval of the 2017–2020 Integrity and Anticorruption National Strategy. In line with the National Action Plan on Human Rights for 2018-2022, the Office of the People’s Advocate plays an important role in intensifying the human rights dialogue, at the level of human rights experts. The Office of the People’s Advocate has four territorial offices.
42. During 2016-2017, the People’s Advocate submitted respective reports to the UN Committee on the Rights of the Child, the UN Committee against Torture, the Committee on Economic, Social and Cultural Rights, the UN Committee on the Rights of Persons with Disabilities. The representatives of the Office of the People’s Advocate also took part in the work of the above mentioned committees in the assessment sessions on the situation in the Republic of Moldova. The Office of the People’s Advocate also extensively collaborates with UN specialised agencies including UNDP, OHCHR, UNICEF. The council of experts composed of civil society representatives was established under the Office of People’s Advocate to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities. Currently, the establishment of a new council of experts on issues related to the right of access to healthcare is going on. The establishment of the councils of experts is a new practice in the activity of the National Human Rights Institution.

43. At present the Office of People's Advocate is a member of several Ombudsmen international and regional organisations: International Ombudsman Institute (IOI), the European Ombudsman Institute (EOI), Global Alliance for National Human Rights Institutions (GANHRI), European Network of National Human Rights Institutions (ENNHRI), Association of Mediators and Ombudsmen of La Francophonie, European Network of Ombudsmen for Children (ENOC). These organisations are constructive platforms of cooperation for the representatives of the institutions of Ombudsman of the member states. The Office of People's Advocate takes part in pursuing cooperation with the National Human Rights Institutions in the BSEC Region in order to ensure the exchange of good practices in the field of human rights.
44. In **Romania** the People's Advocate Institution was established in 1991 and its terms of activities is determined by the Constitution. The People's Advocate Institution aims at protecting human rights and freedoms in their relationship with the public authorities. Appointed in the joint sitting of the Chamber of Deputies and the Senate, for a period of 5 years, the Romanian Ombudsman is not allowed to hold any other public or private function, aside from teaching in a higher education establishment.
45. The Ombudsman is assisted by a number of assistants, specialised in the legal domains such as fields of human rights, gender equality, equality between religious and national minorities, family and child's rights, justice, labor, social protection, taxation, etc. In order to solve the problems the Ombudsman has the right to conduct its own inquiries, to take statements and to request the documents necessary for the investigation. In addition, for the exercise of his competence, the Ombudsman issues recommendations and notifies the authorities of the public administration about the illegal character of the administrative actions and facts.
46. The Ombudsman's competence in solving some petitions related to the judicial authority is materialized in his legal possibility to address, as appropriate, to the Ministry of Justice, the Public Minister or the President of the Judicial Court who are bound to notify the measures undertaken. Likewise, the Romanian Ombudsman can be involved in the constitutionality of the laws and ordinances performed by the Constitutional Court. Thus, he can notify the Constitutional Court about the unconstitutionality of the laws. Also upon the request of the Constitutional Court, the Ombudsman can formulate points of view on the exceptions of the unconstitutionality of laws and ordinances related to the citizens' rights and freedoms. This is a particularity of the Romanian Ombudsman, which cannot be found in other countries.
47. The international cooperation is one of the priorities of the activities of the Romanian Ombudsman. Work is underway to strengthen cooperation with international institutions and colleagues from other countries. In the context of the priority theme of Romania's term of the Presidency of the Council of the European Union – strengthening the global role of the European Union by promoting enlargement policy through the action of the Union in the neighborhood – the Romanian Ombudsman and the Protector of Citizens of the Republic of Serbia concluded a Memorandum of Understanding which aims to exchange experience, best practices and information, as well as mutual assistance and briefing on violations of the rights and freedoms of the citizens. Also the establishment of formal relations among the Ombudsman of the Balkan countries is in the process was initiated in Sofia in November 2018.
48. Given the experience of cooperation among the Ombudsman institutions at regional level it is proposed to establish the Ombudsman Network in the BSEC Region with the aim to set a better cooperation between the Ombudsman institutions in the BSEC member states, to share experience and information in identifying solutions to the common problems like migration, refugees, discrimination and the protection of the rights of vulnerable groups: minors, people with disabilities, victims of violence, Roma communities, etc.

49. In the *Russian Federation*, the legal basis of the institution of the Commissioner for Human Rights is laid down in the Constitution. The Article 103 of the Constitution gives the State Duma the right to appoint and dismiss the Commissioner for Human Rights (CHR). In February 1997, the Federal Constitutional Law “On the Commissioner for Human Rights in the Russian Federation” was adopted. The CHR contributes to the restoration of violated rights, improvement of the legislation of the Russian Federation on human rights and bringing it in line with generally accepted principles and norms of international law, development of international cooperation in the field of human rights, legal education on human rights and freedoms, forms and methods of their protection, and also is involved in forming human rights culture. The CHR is appointed to the post for a period of five years.
50. At the end of the calendar year, the CHR sends a report on its activities to the President of the Russian Federation, the Council of Federation and the State Duma, the Government of Russia, the Constitutional Court, the Supreme Court, the Supreme Arbitration Court, the Office of the Prosecutor General, the heads of ministries and departments, the media and Commissioners for Human Rights in the subjects of the Russian Federation. In addition, on certain issues of respecting the rights and freedoms of citizens, the ombudsman may send special reports to the State Duma, which summarize typical and general violations of citizens’ rights, reflect the activities of the CHR at federal level for the restoration of violated rights, suggest a set of legislative, economic, organizational, educational and other measures. In December 2014, the Bureau of the International Coordination Committee of National Human Rights Institutions of the UN Human Rights Council confirmed the highest accreditation status “A” with respect to the Russian Commissioner for Human Rights. While in March 2017, the Commissioner for Human Rights in the Russian Federation joined the European Network of the Global Alliance of National Institutions for the Protection of Human Rights (GANHRI).
51. Each entity of the Russian Federation has its own ombudsman institution. The federal and regional ombudsmen form a two-tier system of state level protection of human rights in which they are independent institutions. The system of state human rights protection is formed through the approval by the Federal Commissioner of candidates for appointment and dismissal of regional ombudsmen. The legal status of the ombudsman in a subject of the Russian Federation is defined in the Federal Law “On the General Principles of Organization of Legislative and Executive Bodies of State Power of the Subjects of the Russian Federation”. Regional legislation also approves the procedure for organizing and carrying out the activities of the ombudsmen in every entity of the Russian Federation. Currently, in all 85 subjects of the Russian Federation there are special laws on ombudsmen.
52. In order to fully implement the task of protecting human rights in Russia, a number of specialized ombudsman institutions have been established. Among them, the Ombudsman under the President of the Russian Federation on the Rights of the Child and the Ombudsmen for the Rights of the Child in the constituent entities of the Russian Federation. In December 2018, the Federal Law “On Commissioners for the Rights of the Child in the Russian Federation” was adopted. The law defines the legal status, the main tasks, powers of the Ombudsman for the Rights of the Child, as well as the basics of the legal status of ombudsmen for the rights of children in the constituent entities of the Russian Federation.
53. In some subjects of the Russian Federation, the institution of Ombudsman for the Rights of Indigenous Minorities operates. In 2012, by the Decree of the President of the Russian Federation, the Commissioner for the Protection of the Rights of Entrepreneurs in the Russian Federation under the President of the Russian Federation was appointed. In order to consolidate the legal status of this Commissioner, in 2013, a federal law was adopted regulating its activities, as well as the activities of regional ombudsmen for the protection of the rights of entrepreneurs. In 2018, the post of Financial Ombudsman was established in

Russia. In June 2018, the Federal Law “On the Commissioner for the Rights of Consumers of Financial Services” was adopted. The law defines the legal status of a financial ombudsman, the procedure for pre-trial settlement of disputes between consumers of financial services and financial organizations.

54. At present, the Ombudsmen of the BSEC Member States cooperate based on the framework of bilateral relations. Ombudsmen of Russia and Greece in November 2018 signed an Agreement on cooperation between national human rights institutions. Also, the Memorandum of Cooperation was signed with the Defender of Citizens of the Republic of Serbia. In December 2016, the Agreement on Cooperation was signed with the Commissioner for Human Rights of the Republic of Azerbaijan. In addition, joint work with ombudsmen of the BSEC Member States is carried out within the framework of the Eurasian Ombudsman Alliance. Such work is conducted, in particular, with the Ombudsman of Armenia.
55. In the **Republic of Serbia** the Protector of Citizens is an independent state body that protects the rights of citizens and supervises the performance of the public authorities. The Protector of Citizens has also the right to legislative initiative, reflected in the possibility of submitting draft laws and amendments from his/her scope of competence to the National Assembly and, also, to give the opinion on the draft regulations. The Protector of Citizens has the right to initiate proceedings before the Constitutional Court for an assessment of constitutionality and legality of laws, other regulations and general acts. The role of the institution of the Protector of Citizens, defined by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens, is to constantly monitor the observance of human liberties and rights.
56. Special importance is attributed to the efficient cooperation of Protector of Citizens with the National Assembly which appoints the Protector of Citizens and to whom it is accountable for its work. The Protector of Citizens regularly provides the National Assembly with an annual report as well as with special reports, if required. The Law on the Protector of citizens was adopted back in 2005, slightly changed in 2007, to make it constitutional category in the framework of the 2006 Constitution.
57. The public administration bodies cooperate with the Ombudsman and enable its access to all facilities and data, regardless of the degree of confidentiality, when it is of importance to the undertaken procedure. When necessary, the Protector of Citizens has the right to talk to every employee of the administration body and the administration body officials are obliged to enable such process. The Protector of Citizens can publicly recommend dismissal of the official responsible for the violation of citizen’s rights. The Protector of Citizens can request a disciplinary action to be initiated against the employee of the administration body who is directly responsible for the violation of citizen’s rights.
58. The Protector of Citizens of the Republic of Serbia is also mandated to take care of the protection and promotion of human and minority freedoms and rights, and is accredited by the United Nations as a national human rights institution of the highest “A” status. This status was originally granted in 2010, and in 2015 the Protector of Citizens was re-accredited until 2020.
59. The Protector of Citizens maintains active international cooperation on multilateral and bilateral level. The Protector of Citizens is a member of: the Global Alliance of National Human Rights Institutions (GANHRI), the International Ombudsman Institute (IOI), Association of Mediterranean Ombudsmen (AOM), the European Ombudsman Institute (EOI), the European Network of Ombudspersons for Children (ENOC), the South East European Network of Ombudspersons for Children and the Network of Ombudspersons for environmental protection. The Cooperation with the ombudspersons of the BSEC Member

States is carried out on several tracks. In 2018 the Protector of Citizens signed bilateral cooperation agreements with the Ombudsmen from Bulgaria, Turkey and the Russian Federation, and in January 2019 with the Ombudsman from Romania. In the framework of the Balkan Network of Ombudspersons, the Protector of Citizens of the Republic of Serbia closely cooperates with Bulgaria, Romania, Turkey and Moldova.

60. In the *Republic of Turkey*, in order to effectively address problems related to the violation of human rights, in accordance with article 74 of the Constitution the ombudsman institution was established. In accordance with article 5 of Law No. 6328, the Ombudsman is responsible for conducting an investigation and making recommendations regarding all types of actions of state structures based on complaints in the framework of the principle of justice and respect for human rights.
61. The purpose of the Ombudsman's activities is to address cases of violation of the human rights by examining relevant complaints. The Ombudsman also deals with highly topical issues regarding the rights of miners and numerous Syrian refugees. The Ombudsman takes measures to protect citizens from discrimination, as well as to protect civil and other rights and ensure effective public administration. To this end, a number of important events were organized in 2018, including a regional Forum "Strengthening a culture of human rights and raising awareness", as well as meetings, seminars, conferences, round tables, and other gatherings.
62. The Ombudsman of the Republic of Turkey works closely with international associations and networks of ombudsmen: International Ombudsman Institute (IOI), European Ombudsman Network (ENO), Mediterranean Ombudsman Association (AOM), Asian Ombudsman Association (AOA), Association of Ombudsmen of the Member States of the Organization of Islamic Cooperation (OICOA), the European Ombudsman Institute (EOI), the Network of Ombudsmen of the Western Balkan Countries, and the Network of National Ombudsmen of the Balkan region.
63. Current national laws, political decisions, procedural rules and mechanisms are key factors for the realization of human rights. Therefore, the institution of the Ombudsman does the necessary work to ensure the protection and restoration of human rights. The Ombudsman actively cooperates with human rights bodies, non-governmental organizations at home and abroad. Such collaboration includes the sharing of best practices, knowledge, information, and sometimes personnel. In order to improve the cooperation of ombudsmen at the regional level in the framework of the Black Sea Economic Cooperation, it is necessary to strengthen institutional capacity and enhance cooperation between the Ombudsman institutions on the basis of specific regional projects and decisions.
64. In *Ukraine*, in accordance with Article 101 of the Constitution, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights exercises parliamentary control over the observance of the constitutional rights and freedoms of individuals and citizens. The Law of Ukraine "On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights" of 1998 determines that the purpose of parliamentary control is: protection of the rights and freedoms of persons and citizens proclaimed by the Constitution of Ukraine, the laws of Ukraine and the international treaties; observance and respect for the rights and freedoms of a person and a citizen by state authorities, local governments and their officials and officers, legal entities of public and private law, as well as individuals located on the territory of Ukraine, in cases provided for by separate laws; preventing violations of the rights and freedoms of a person and citizen or facilitating their restoration; assistance enhancing the legislation of Ukraine on human rights and freedoms; improvement and further development of international cooperation in the field of the protection of human and civil rights and freedoms; prevention of any forms of discrimination regarding the exercise of the rights and freedoms by a person.

65. The ombudsperson's policy is aimed at encouraging state and local authorities, legal entities and individuals to respect, protect and ensure human rights. One of the main powers of the Commissioner in the framework of parliamentary control is the monitoring of national legislation. The Commissioner and his representatives take active part in the meetings of parliamentary committees when considering draft laws relating to human rights and freedoms. From December 2018, upon the initiative of the Commissioner and instructions from the Prime Minister of Ukraine, drafts of all by-laws of central executive bodies are elaborated in the Office of the Commissioner.
66. The Commissioner is also a member of several international organizations that unite national human rights institutions to enhance the promotion and protection of human rights, in particular the Global Network of Human Rights Institutions (GANHRI), the International Ombudsman Institute (IOI), the European Network of National Human Rights Institutions (ENNHRI). In the context of expanding international activities, it should be noted that the Commissioner in 2018-2019 signed the cooperation agreements with the United Nations Children's Fund (UNICEF) in Ukraine, the institutions of the Ombudsman of the Republic of Turkey, Greece, and the People's Advocate of the Republic of Moldova. Also, the Commissioner has been cooperating with the Commissioner for Human Rights of Azerbaijan for a long time.
67. National Human Rights Institutions (NHRIs) play an important role in eliminating human rights violations, the need to disseminate information about human rights outside a single country, given the significant migration flows that exist. NHRIs cooperate with each other within the framework of concluded bilateral agreements. Ukraine has concluded such agreements with Turkey, Moldova, Azerbaijan, and Greece. However, there is a need for interaction between the Ombudsmen of the Black Sea Region, which will ensure the implementation of concerted actions to promote and protect human rights, promote communication and exchange of information, best practices, organisation of regular meetings, conferences, seminars, etc.

Ombudsmen at the international level

68. The idea of the Ombudsman institution spread beyond national borders, increasingly finding application at the regional and international level. Today, ombudsman institutions exist at the national, regional and local levels and continue to enlarge their scope of activities. To promote the development of the concept of ombudsman, the world community adopted a number of international legal acts on human rights.
69. The European Ombudsman was established by the European Union's Maastricht Treaty to oversee the conduct of European Community institutions and bodies excluding the courts. The office of the European Ombudsman is located in Strasbourg. The European Ombudsman is appointed by the European Parliament after each parliamentary election for the duration of its term and reports annually to the European Parliament.
70. The Council of Europe Commissioner for Human rights has a number of human rights protection functions including facilitating the work of national ombudsmen or similar human rights institutions. The Office of the Commissioner for Human Rights was established in 1999 as an independent institution within the Council of Europe. The Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 states that the aim of the Council of Europe is to achieve greater unity between its members and that one of the means to achieve this goal is the protection and development of human rights and fundamental freedoms.

71. The European Ombudsman Institute (EOI) strives to spread and promote the idea of ombudsmanship in Europe, support research in this field, and assist in the exchange of expertise at the national, European and international level. Membership of the Institute is made up of the majority of national ombudsmen in Europe. The European Ombudsman Institute unites both Ombudsmen and Human Rights Commissioners at national, regional and local levels, as well as scholars interested in studying and developing this state human rights institution (all the BSEC member states except Greece are members of this organization).
72. The International Ombudsman Institute (IOI) unites national institutions of more than 100 countries worldwide and promotes ombudsmanship through studies, education programs, publication and exchange of information, as well as regional and international conferences. The International Ombudsman Institute is an international organization dedicated to social justice, administrative legality, good governance, accountability and transparency of public administration systems. (all the BSEC Member States except Russia are members of this organization).
73. The Eurasian Alliance of Ombudsmen (EAO) was established on 5 December 2017. It is the first human rights union that unites the efforts of state human rights defenders in Europe and Asia. The Alliance guarantees the Ombudsmen of Eurasian states a permanent working contact that will enable them to quickly resolve the problematic issues of citizens of their countries abroad (the organization includes Armenia, Iran, Mongolia, Kyrgyzstan, Russia).

III. CONCLUSIONS

74. Respect to the fundamental rights and observing equity constitutes the core for just and fair society maintained through effective political democracy and the rule of law. Protection of human rights and freedoms has always been a subject for concern of a global community. Universal standards to this regard have been set within the framework of the United Nations and the Council of Europe declarations with a view to secure that every individual keeps the basic principles constantly in mind and strives to ensure their recognition and observance among all peoples and nations.
75. Among the other mechanisms protecting the essential rights and providing effective remedy for acts violating the fundamental rights granted by the constitution or by law, the institution of ombudsman takes special place. This institution is an important and sometimes necessary mechanism for reinforcing the system of human rights protection and providing administrative fairness through monitoring and control procedures of public administrative structures.
76. The powers of the ombudsman institution vary from country to country depending on the internal political characteristics, forms of democracy, democratic traditions, etc. The ombudsman institutions in the BSEC Member States act as an additional component of monitoring the observance of legality and justice in public administration. Most ombudsman institutions in the BSEC Member States are focused on improving government performance, achieving effective public administration and protecting human rights.
77. The Ombudsman must be trusted by both the government and the public. The population being served by the Ombudsman must understand that, using the right to complain about bad governance or a violation of human rights, it can achieve an impartial investigation. Political and governmental support should be provided to the ombudsman institution, its activities and recommendations.
78. The effectiveness of the ombudsman institution should be enhanced if it has an accountability system and an optimum level of transparency, usually implemented through the reporting requirements imposed on ombudsmen in the form of annual and special public reports to the

legislature or the executive. Accountability to the public and transparency can be enhanced through actions such as making sure annual and special reports are distributed widely in the public sphere and ensuring that there is a regular flow of communication between the institution and the complainant during an investigation. Developing a relationship with the media also results in the provision of public information and transparency of operations.

79. Diversity of human society in the new millennium requires wider variety of high-quality government structures, and in this context, the functions of ombudsman institutions are becoming increasingly important and will play an even more active role in upholding the human rights as basic principles of human dignity, social justice, mutual respect and solidarity. Although the powers of the ombudsman vary from country to country, they all act as an additional component of monitoring the rule of law in public administration.
80. Along with the national ombudsman institutions the idea of ombudsmanship is being spread to regional and international levels. The international cooperation among the ombudsman institutions gain full gear as the European and international ombudsman institutions become fully effective.
81. Every individual, as a member of society, is granted the right to social security and is entitled to realization of the economic, social and cultural rights. In this respect, it would be no exaggeration to say that the ombudsman institution is a necessary and effective mechanism for the states that follow the path of building democracy and the rule of law adhering to the criteria based on the recognition of universal human rights and freedoms.
82. The Parliamentary Assembly of the Black Sea Economic Cooperation continues its efforts to strengthen the regional cooperation in achieving the common goal of turning the Black Sea into a region of enhanced democracy, prosperity, stability and peace, uniting the countries through common values of equality and solidarity.