

Defending Rights, Promoting Democracy: The Institution of Ombudsman in Poland, Russia and Bulgaria

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I would like to thank the Konrad Adenauer Foundation for the generous financial support, which allowed me to conduct this research in Israel and Europe. I am grateful to the Helmut Kohl Institute for European Studies, its Director, Prof. Bianca Kühnel and Mrs. Revital Goldberg for their help, patience and assistance.

Many people assisted me in my work and their help was of a great value:

In Poland, Justice Prof. E. Letowska, the first Ombudsman and Judge of the Constitutional Tribunal, together with Mr. P. Kaminski from the Ombudsman's office provided me with all the information I needed. To Dr. K. Motyka (Catholic University of Lublin) I thank for his hospitality and advice.

In Russia, Ms. N. Tsymbalova ("Strategiia" think tank at St.-Petersburg) provided me with very useful materials and explained things I found hard to understand.

In Bulgaria, Mr. M. Kazak, the Deputy Ombudsman, and Dr. I. Tsakova were of great assistance, as well as members of Ombudsman Task Force at the Center for Study of Democracy, especially Mr. A. Roussanov and Ms. D. Paunova. Prof. N. Ananieva, former vice prime-minister of Bulgaria provided me with many useful details, which I could not find otherwise.

In Israel, I like to thank Prof. S. Avineri for his useful remarks and advice.

Finally, I would like to express my gratitude to my wife, Julie, for her endless support, understanding, patience and editorial skills.

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Introduction

Since the dissolution of communist regimes in Central and Eastern Europe (CEE) in 1989, dramatic changes have occurred almost in every aspect of those countries' life – economics, culture, politics and so on. Despite the common communist heritage, reforms developed differently in different countries, and the results of those reforms differ as well. In some countries reforms succeeded, such as Poland, Czech Republic and Hungary, which already are Member States of the European Union; other countries, such as Ukraine and Bulgaria, have not yet finished the process; and in some countries, Belarus being the conspicuous example, reforms have totally failed.

Despite the varying results, after fifteen years of reforms and regime changes, the starting point and the reforms themselves had a similar character – the end of the communist regime and moving towards democratization. An important stage of these reforms was the foundation of new institutions that were unfamiliar to the communist world. This was done to create the system of checks and balances between the branches of government and to promote the separation of powers – a basic issue in every consolidated democracy. In most of the new CEE democracies, institutions were founded to supervise public administration. One of the most important of those institutions is the ombudsman institution. Until recently, the prevailing view was that this institution can function properly only in favorable surroundings, where the democratic system of government is firmly established^[1]. In the recent years, however, this view has been constantly disproved by the experience of the new democracies, and the actual nature of the ombudsman's role in the democratization process has not been properly explored.

Nowadays, only few countries have not yet established the ombudsman institution and its importance is widely recognized. In Kosovo, this institution was introduced by UN Regulation 2000/38; in the Federal Republic of Yugoslavia it is considered one of the preconditions for full membership in the Council of Europe; in Bulgaria establishment of the national ombudsman is considered a precondition for full membership in the EU^[2]. Despite the fact that the ombudsman's importance is widely recognized, only minor and insufficient academic research has been devoted to the issue. This paper addresses the subject of the ombudsman's impact on the democratization process in post-communist states.

More specifically, the paper examines the ombudsman institution in the CEE since 1989 - its

development, activities and impact on the democratization process. I will demonstrate that such variables as legal framework, political and institutional independence, participation in the European integration process, personal qualities of the ombudsmen and the institution's scope of activities in the legal, political and educational fields significantly affect this institution's role in the process of democracy consolidation.

The paper's case studies are Poland, Bulgaria and Russia. Poland was the first among the ex-communist countries, to establish the institution of the Commissioner for Civil Rights Protection (Rzecznik Praw Obywatelskich) in 1987, even before the transition to democracy took place. All consider the evolution of the Polish ombudsman institution and its role in the democratization process as a major success, and Poland can be seen as a model for the development of the ombudsman institution in new democracies.

The Russian Federation established the institution of the Commissioner for Human Rights in 1994, but already in 1995 the commissioner was removed from office after criticizing Russian Army activities in Chechnya, and only in 1997 was a new commissioner elected. Studying the evolution of the Russian Commissioner for Human Rights, including this institution's role in the transition to democracy, can contribute much to understanding Russia's democratization process and the reasons for its very limited success.

In Bulgaria, the institution of the national ombudsman was established only recently, after a long campaign led by academic circles and civil society circles. Bulgaria represents a unique model of this institution development in the ex-communist world – it was first introduced at the local level, and only subsequently was the national ombudsman elected. Since the democratization process is not yet complete in Bulgaria, students of the institution have the rare opportunity to observe the factors, affecting the ombudsman's role in this process “in real time”.

Another reason for the case selections is Poland, Russia and Bulgaria's relations with the EU and their participation in the European integration process. Poland an EU Member State; Bulgaria is a Candidate State and Russia is neither. The case studies will allow checking the EU's impact on the establishment and development of the ombudsman institution in the CEE.

This paper seeks to contribute to the better understanding of the democratization process and the development of political systems, public administration and control institutions in new democracies by exploring a dimension of this process that previous studies of the CEE transition have given insufficient attention.

The History of the Ombudsman Institution

The ombudsman tradition originated in Sweden in the eighteenth century and subsequently spread throughout the world. An ombudsman is a public official who provides an opportunity to have complaints heard, evaluated and investigated by a neutral and independent body, and offers recommendations to the involved parties[3]. The word ‘ombudsman’ itself is of Swedish origin and means ‘proxy’, ‘deputy’ or ‘authorized representative’. In 1713, the absolute monarch Charles XII created the office of His Majesty's Supreme Ombudsman, whose main task was to supervise the public administration and the courts and take actions against judges or officials in case of dereliction of duty[4]. The first Parliamentary Ombudsman office was established in Sweden in 1809[5]. The world’s second Parliamentary Ombudsman was established in Finland in 1919 and till the early 1950s this institution was considered uniquely Scandinavian, unsuitable for other countries’ institutional design.

The major change came after the establishment of an ombudsman institution in Denmark in 1955. Although the institution already existed in Sweden and Finland, the Danish office was the first of its kind created in a modern welfare state[6]. The activities of the Danish Ombudsmen, Prof. Hurwitz, and especially his paper[7] presented at the United Nations seminar in Kandy, Sri Lanka, in 1959, inspired the representatives of New Zealand to establish an ombudsman in their country. The New Zealand ombudsman, instituted in 1962, was the first such office to be established in an English-speaking country with a Westminster-type parliamentary democracy[8]. New Zealand was followed by many other countries, including Norway (1962), Tanzania (1966), UK (1967), Israel (1971), Fiji (1972), France (1973), Austria and Australia (1976)[9].

The third wave of democratization, described by Huntington, gave birth to many ombudsman institutions. The ombudsman fared successfully in states emerging from a period of authoritarian rule in Latin America and CEE. According to recent data of the International Ombudsman Institute, by 2001 the ombudsman office at the national level of government existed in about 110 countries around the globe, a drastic increase from 21 countries in 1983 and 40 in 1998[10].

The term ‘ombudsman’ is variously defined. According to the *Columbia Encyclopedia*, an ombudsman is a government agent serving as an intermediary between citizens and the government bureaucracy, usually independent, impartial, universally accessible and empowered only to recommend[11]. In 1974, the International Bar Association declared that:

the ombudsman is an office provided for by the constitution or by action of the legislature or parliament and headed by an independent, high-level public official who is responsible to the legislature or parliament, who receives complaints from aggrieved persons against government agencies, officials and employees or who acts on his own motion, and who has the power to investigate, recommend corrective action, and issue reports[12].

Finally, a major study of the institution published in the early 1980s, stated:

The Ombudsman is an independent and non-partisan officer, often provided for in the Constitution, who supervises the administration. He deals with specific complaints from the public against administrative injustice and maladministration. He has the power to investigate, report upon, and make recommendations about individual cases and administrative procedures. He is not a judge or a tribunal, and he has no power to make orders or to reverse administrative action. ... His authority and influence derive from the fact he is appointed by and reports to one of the principal organs of state, usually either the parliament or the chief executive[13].

Hence, the ombudsman's influence is solely based upon the independence, impartiality, objectivity, credibility, competence and prestige of the office and not on his legislative or executive powers[14].

Two major models of the ombudsman institution can be discerned. The first is based upon the Swedish and Finnish ombudsmen, who are called the "classic ombudsmen". According to this model, the ombudsman has a very broad mandate and strong powers. The classic ombudsman supervises the public administration, state and municipal bodies, and also has supervisory powers over the procedural and administrative activities of the courts. The classic ombudsman also has the power to prosecute or decide whether a civil servant should be prosecuted for criminal offences. The second model is the Danish version, according to which the ombudsman supervises the public administration but not the judiciary. The Danish model is the most widely practiced in the world[15].

In many countries, the classical role of the ombudsman is combined with an important dimension of human rights protection. In Spain and some other Spanish-speaking countries, the ombudsman is called the Defensor del Pueblo (People's Defender), in South Africa it is called the Public Protector, and many new democracies incorporate the terms 'human' or 'citizens rights' in the official title of the ombudsman's office. In Hungary the official title is Parliamentary Commissioner for Human Rights, in Poland – Commissioner for Civil Rights Protection and in Russian Federation – Commissioner for Human Rights[16].

Many countries have ombudsman offices not only at the national level but also at the regional (i.e. United States, Russia, Australia, Belgium, Denmark and Canada) and municipal (i.e. Bulgaria, Israel, Belgium, Switzerland and Argentina) ones. At the supra-national level, the EU ombudsman office was established in 1995. In addition, many countries have also introduced specialized ombudsmen in various fields such as military, banking, healthcare, children's and minority rights. The institution has proliferated so much in recent decades that nowadays it is hard to imagine the world without it, and many observers even speak of the 'world ombudsmania' phenomena.

One of the major causes for this dramatic rise is the collapse of communism and the transition to democracy in CEE. Yet, even fifteen years since the democratization begun, comparable to similar institutions throughout the world, the ombudsmen in CEE states still represent a unique group. The main reasons are CEE countries' common heritage and the similar conditions in which the post-communist ombudsmen were established and operate. The next chapter presents an overview of the ombudsman institution in CEE.

Ombudsman Institutions in CEE: A Brief Overview

In 1987, during communist rule, Poland was the first Central and Eastern European country to establish an ombudsman Institution. In doing so, the Polish government sought to appease the opposition and, concurrently, to show the international community the liberal and democratic nature of the regime. According to many indications, while establishing the office Polish officials had a very limited knowledge of the ombudsman institution and did not realize the possible implications of this move. The office was meant to be powerless, and mainly for this reason a woman, the law Professor, Ewa Letowska, was appointed as the first Polish ombudsman. Yet, despite the intentions of the Polish government, Prof. Letowska had great success in the role, and the Polish ombudsman significantly contributed to the country's transition to democracy.

During the late 1980s and early 1990s, the Polish experience inspired many other ex-communist countries to move towards establishing an ombudsman. In 1992, Estonia was the first former USSR republic to combine the ombudsman's duties with those of the legal chancellor based on the country pre-communist institutional tradition. The office of Legal Chancellor was established in Estonia in 1938, but was eliminated in 1940, after the Soviet occupation of Estonia^[17]. Latvia established its National Human Rights Office in 1995,^[18] and Lithuania appointed five Parliamentary Ombudsmen in 1994.

In former Yugoslavia, the first ombudsman office began to operate in Slovenia in 1994, but the institution's predecessor, the Council for the Protection of Human Rights and Fundamental Freedoms, was created as early as 1988^[19]. In Macedonia, it took six years from the adoption of the Macedonian Constitution till a special Act on the People's Attorney and the appointment of the first ombudsman in 1997. In Croatia, the ombudsman institution was included in the 1990 Constitution, and in 1993 the first ombudsman was appointed. Despite the relatively high budget, ombudsman' activities went almost unnoticed and in 1996 he resigned^[20]. The most unusual ombudsman is that of Bosnia and Herzegovina (BiH). Because of the republic sovereignty status, the Commission of Human Rights, consisting of the Ombudsman Service and a Human Rights Chamber, was created by the 1995 Dayton peace agreement. The ombudsman, who was appointed directly by the president of the Organization for European Security Cooperation (OSCE), could not be a citizen of BiH or of a neighboring country. In 2001, the Law on the Human Rights Ombudsman of Bosnia and Herzegovina came into force, and in 2004 the OSCE-appointed

ombudsman (a citizen of Sweden) was succeeded by three BiH citizens[21]. In addition to federal ombudsmen, ombudsman offices also exist in Republica Srpska (the Serbian part of the state) and in the Federation of Bosnia and Herzegovina (the Muslim and Croatian part of BiH). In the Federal Republic of Yugoslavia (Serbia and Montenegro), the ombudsman institution exists only in the Kosovo region as was stipulated by the UN Regulation 2000/38. On the federal level the institution is yet to be created, but establishing an Ombudsman is a precondition for Yugoslavia's membership in the Council of Europe[22].

In Hungary, the Parliamentary Commissioner for Civil Rights was established in 1995 and now the country has three ombudsmen, the other two being the Commissioner for Data Protection and Freedom of Information and the Commissioner for National and Ethnic Minorities' Rights[23]. The Czech Public Defender of Rights was established only in 1999 after a draft of the relevant law was rejected as early as 1993. In Slovakia the first Public Defender of Rights was elected even later, in 2002,[24] and this was considered a bad move by many civil society organizations since the ombudsman, Pavel Kandrak was an active member of the Communist Party[25]. In Romania the Advocate of the People was established in 1997; in Moldova the national Center for Human Rights consists of three Parliamentary Advocates; and the Ukrainian Human Rights Representative of the Parliament (Verkhovna Rada) began its activities in 1998[26]. In the Russian Federation, the institution of Commissioner for Human Rights Protections was established in 1994, but in 1995 the commissioner was removed from office after criticizing military activities in Chechnya. In 1996, the Commissioner for Human Rights Protections Law was adopted and in 1997 the new commissioner was elected. Bulgaria elected its first national ombudsman in spring 2005, after a long public campaign, led by academic and civil society circles. Bulgaria represents a unique model of development of the ombudsman institution in the ex-communist world, the institution first having been introduced at the local level with the national ombudsman elected subsequently.

The only CEE country, in which the ombudsman institution does not exist and is not even on the public agenda, is Belarus. Often described as the "last dictatorship in Europe"[27], Belarus is under the authoritarian rule of President Lukashenka, who is not interested in creating such an institution. Supervisory institutions in Belarus, though empowered to investigate public complaints, by no means meet the ombudsman definition.

As noted earlier, the importance of the ombudsman's role in CEE transition to democracy is widely

recognized, and the establishment of this institution is a major step in the democratization process. The next chapter will describe the relationship between the ombudsman institution and democracy.

The Ombudsman and Democracy

As seen in the previous section, the collapse of communism and the process of democratization in CEE countries brought the establishment of many ombudsman institutions in various areas and levels. In the initial stage of ombudsman activities, many observers seriously doubted the institution's chances to succeed at its tasks. For many years, the prevailing view was that this institution could function properly only in favorable surroundings, where the democratic system of government is firmly established and the rule of law is universally recognized by public officials[28]. However, this skeptical view was constantly disproved by the developments in new democracies all over the world, and the studies of ombudsmen's performance "reveal unanticipated adaptations of a remarkably flexible institution that invariably enhances freedom and democracy despite the absence of the presumed cultural prerequisites for its success"[29].

As one of the most efficient instruments for the protection of citizens' rights, the ombudsman helps build a law-abiding democratic state. It has been recognized that the ombudsman plays a significant role in increasing the accountability and transparency of public administration. This institution also strengthens the rule of law by defending human rights. In a democracy, human rights are guaranteed by the state's constitution and protected by the judiciary. However, in new democracies, it is vital to have a non- or quasi-judicial system of human rights supervision because of the deficient human rights protection during previous non-democratic regimes[30].

Although it is commonly recognized that ombudsman institutions play a significant role in the democratization process and can contribute much to democracy consolidation, it is worth exploring the ways in which this contribution can be made. Vangansuren suggests that new democracies need an ombudsman institution for the following reasons:

- * Complaints of citizens in countries undergoing transitional crises encompassed all spheres of social life. Hence, these societies needed ombudsmen who could deal with all types of complaints without restraints.
- * In these countries, neither the political system nor the rule of law had yet stabilized, and the political culture was still problematic (for example, public servants were not politically neutral). Therefore, the societies needed ombudsmen who were politically neutral and independent.
- * Not everyone had a lawyer because there was no tradition of private lawyers and low-income people could not afford lawyers. As a consequence, the public needed accessible ombudsmen

whose services were free of charge[31].

The reasons suggested by Vangansuren also imply the ways in which the ombudsman can contribute to democracy consolidation in transitional countries. First, the ombudsman institution contributes to the separation of powers and the creation of checks and balances system between the parliament, government and judiciary. Although the separation of powers is a basic feature of a democratic regime, this concept was totally alien to the communist countries and the introduction of ombudsman is an important step in promoting it. Elected by and responsible to the legislative branch, the ombudsman supervises the public administration and his activities are an important component of parliamentary control over governmental activities. To make the relations between the ombudsman and the legislative branch evident to all, in several countries the term 'Parliamentary' is even explicitly included in the official title of the ombudsman institution[32].

Another important role of the ombudsman is to promote the rule of law (*Rechtsstaat*). One of ombudsman's main tasks is to ensure that public officials act according to the law. This dimension of ombudsmen's activities is especially important in ex-communist countries, where the law was, as Hannah Arendt put it, a "façade for political voluntarism"[33] and civil servants were known for legal nihilism[34]. Usually, the ombudsman cannot impose sanctions, punish or prosecute civil servants, but he can forward cases to the law-enforcement authorities for official investigation. Another important resource for the ombudsman is his ability to make cases public by publishing them in the media or in his reports. The "shame mobilization factor", as it is called in ombudsman literature, is a very important ombudsman tool. In addition, ombudsmen can submit applications to constitutional courts to review laws, regulations and actions, or to lodge constitutional complaints. In many CEE states the ombudsman can also suggest amendments in the existing parliamentary legislation or undertake a legislative initiative, if the current legal situation requires an improvement[35]. In many countries, ombudsmen's recommendations have led to new legislation and numerous new regulations. According to the former Hungarian ombudsman Katalin Göncz (2001), she made 786 proposals regarding various types of legal provision, 65 percent of which were accepted. In total, she suggested modifying or repealing 250 laws, and of these proposals 45.2 percent have already entered into force and 16 percent are being dealt with[36].

In new democracies the ombudsman is also responsible for the protection of human and citizens' rights. According to a survey by the Slovenian ombudsman I. Bizjak, in former communist states

human rights problems were mainly about fundamental rights (life, personal freedom and security, protection from torture etc.), civil rights (freedom of expression, freedom of religious profession, freedom of assembly, the right to vote, family life, the right to fair trial, equality before the law etc.), and rights of minorities (among them, there have been salient ethnic problems in the selected countries, such as ethnic and religious conflicts between the former Yugoslavian countries and discrimination of Gypsies in Central and Eastern Europe)[37].

Clearly, protection of these rights and improvement of the human rights situation can contribute much to democratization in these countries. It should be noted that while resolving the complaints, the ombudsman does not replace or undermine the existing judicial system, which is underdeveloped and overworked in transitional countries. Instead, the ombudsman is an auxiliary institution, readily available to all citizens. The ombudsman's activities ease the pressure on the courts and contribute to creating an independent and well developed judicial branch – another important component of any consolidated democracy.

Ombudsmen also contribute to democratization through their educational activities. Many newly established ombudsman institutions in CEE work actively to educate the public about the institution, human rights, the proper relations between government branches, and the rule of law. For example, many ombudsmen have columns in newspapers, radio and TV programs in which they explain to the citizens about their rights, comment on laws and provide useful information about the proper functioning of democratic systems. By doing all this, the ombudsman institution also acts as a mediator between the public on the one hand and the government and legislature on the other. In new democracies, the ombudsman is a bridge between the citizen and the state[38]. Ombudsman activities in support of the citizens strengthen the public's confidence in the democratic institutions and increase their support for democracy. Since no democratic regime can survive without broad public support, the ombudsman's contribution in this field particularly valuable.

The ombudsman institution is also a close ally of civil society, which “from the historical perspective” as Avineri noted, is “perhaps the most important condition of democracy”[39]. In some countries, the ombudsman concept was initially introduced by NGOs. For example, in Bulgaria the ombudsman institution was established after a long campaign led by civil society organizations (especially an NGO, called the Center for the Study of Democracy). Once established, the ombudsman usually works in close cooperation with various NGOs, protects their rights and contributes to the development of an active and independent civil society.

Finally, the ombudsman institutions often influence and also are influenced by, the European integration process. In several countries, establishment of ombudsman institution was and still is a precondition for participation in European integration and for membership in European bodies such as the Council of Europe and the European Union[40]. However, once established, ombudsmen can contribute much to the European integration process by helping harmonize legislation, institutions and practices with the European standards in public administration and human rights protection[41]. Indeed, human rights were the core of the dissidents' struggle against the communist system. Re-establishing the political and legal systems in accordance with principles of human rights and civic morality was one of the first goals after the collapse of communism. This desire also found expression at the international level. As Přebáň notes,

civic morality, as a reference point of political identity was enhanced by the call for “return to Europe” that was echoed in all post-communist societies. No wonder that dissidents would mostly support pro-European politics and first post-communist presidents, such as Vaclav Havel and Arpad Göncz, significantly contributed to the integrationist ethos of one united Europe in 1990[42].

Clearly, the ombudsman, as a guardian of human rights, was an essential part of this “return to Europe” strategy.

Ombudsmen contribute to the democratization process in many ways and through various mechanisms. The next sections offer the case studies of Poland, Russia and Bulgaria to clarify the nature of ombudsmen's activities and their impact on democracy consolidation in these countries.

The Ombudsman in Poland

The office of Polish Commissioner for Civil Rights Protection (Rzecznik Praw Obywatelskich) was the first ombudsman institution to be established in a Central and Eastern European country. The initiative of appointing an ombudsman, strongly supported by academic circles, was undertaken in 1983 by the Patriotic Movement for National Rebirth, a non-party movement for social regeneration that encompassed public organizations and persons[43]. By establishing this institution, the communist government sought to appease the opposition and demonstrate its commitment to reinforcing the legal order in the country. In 1980, the government introduced the Administrative Courts, in 1985 the Constitutional Tribunal was set up and in July 1987, still under communist rule, the Sejm passed the Commissioner for Civil Rights Protection Act[44]. According to many observers, government officials had very limited knowledge about this institution and probably did not realize the consequences of creating it[45].

According to the Commissioner Act, the ombudsman is elected by the Sejm for a five-year term with a possibility to be re-elected for another five years[46]. The ombudsman should be “a Polish citizen with outstanding legal knowledge and a high degree of prestige due to his or her moral values and social sensitivity”[47]. Although the law does not explicitly require that ombudsmen have a legal education, all the Polish commissioners have been law professors. The next provision of the law – “a high degree of prestige due to his or her moral values and social sensitivity” - is subject to various interpretations, but Polish legislators have elected politically neutral figures, without prior involvement in political life. Both Polish constitution and the Commissioner Act state that the commissioner’s main task is “to guard human and civic freedoms and rights, specified in the Constitution and other legal acts”. [48] This corresponds to the ombudsman’s task in many other new democracies, where ombudsmen are mostly protectors of human and civil rights, and not only supervisors of public service activities. The Polish commissioner should be politically neutral and independent in his activities. He may not be affiliated with any political organization and should not hold any other position[49]. The commissioner enjoys legal immunity, is responsible only to the parliament and can be dismissed from his office by the Sejm alone under very special circumstances[50] and only by at least a three-fifths majority. The commissioner has a right to propose legislative amendments, and may appeal to Supreme Court and the Constitutional Tribunal in matters concerning human rights[51].

As mentioned, the communist officials knew almost nothing about Ombudsmen, including their work methods and possible impact on governmental activities, but still sought to protect themselves from this institution. According to her own testimony, the first commissioner, Prof. E. Letowska of the University of Warsaw's Law Faculty, was appointed because she was a woman, had no connections with opposition forces and was not perceived as a threat by the communists[52]. The office became active on January 1, 1988, the first ombudsman in the communist world. Since this institution was new and unfamiliar not only in Poland but in the entire CEE, Prof. Letowska had to lay the foundations of the ombudsman's activities, its relations with other institutions, civil society, politicians and, most important, the Polish public.

At the initial stage of her activities, Letowska's main task was to preserve the ombudsman's integrity and neutrality, as stipulated in the law. Because the office was established at a time of intense struggle between the communist government and the opposition, led by the Solidarity trade-union, it was not easy work. Notwithstanding her pro-democratic views, Letowska sought to preserve the office's political neutrality and to distance herself from the struggle despite the opposition's desire for the ombudsman's support. On the other hand, Letowska also refused to act as government's agent. In the short run, her stance brought harsh criticism from both camps and Letowska herself complained not once that in Polish political culture at that time "One who is not with us – against us"[53].

Nevertheless, by preserving the institution's neutrality, Letowska taught many Poles, especially those in the civil service, a valuable lesson on the proper relations between politics and public administration. In the coming years, Letowska preserved the ombudsman's political neutrality and even refused to become a presidential candidate since she viewed the ombudsman's participation in an election campaign as violating the separation of powers principle[54]. On another occasion, Letowska declined an invitation to be on an inquiry commission set up by the interior minister, because it was an internal commission of the ministry and she believed her participation would violate the system of checks and balances between the legislature and the executive. Regrettably, the second ombudsman, Prof. Tadeusz Zielinski did not follow Letowska's example and participated in presidential elections while being in office.[55] At this stage, however, the impact of such a decision on Polish politics and the civil service was very limited.

The Polish public reacted enthusiastically to the establishment of ombudsman office. The huge

stream of complaints came to 120-150 per day. In 1998 alone the ombudsman received more than 52,000 letters and almost 45,000 petitions, which, relative to the population's size, far exceeds the amount of complaints to ombudsmen in old, consolidated democracies. Because the ombudsman's staff came to only fifty-five people^[56], including the administrative workers, the ombudsman could not deal with all the complaints. In subsequent years the amount of complaints diminished but still was very high. According to data published by the Commissioner's Office in 2004, the total number of complaints submitted so far, came to 750,000.^[57] Many complaints were rejected (at the initial stages the rejection rate was as high as 85 percent) as not falling within the commissioner's competence, but this is common for almost all ombudsmen, especially new ones.^[58] There are various reasons for the high number of complaints and rejections, but in Letowska's view, the major case is Polish citizen's low level of political and legal culture.

Polish society, like every other society in a totalitarian state, does not have the characteristics of civil society. The citizens are passive and expect the authorities to solve their problems without any initiative from a citizen's side. The citizens regarded the Ombudsman as the promoter of their interests (and not rights) and asked the Ombudsman to provide them housing or money^[59].

Many complaints concerned political matters and politicians. Parties and organizations asked the ombudsman to promote their agenda. Letowska even recalls a letter signed by a deputy minister that sought the ombudsman's assistance in promoting legislation directly connected to his ministry^[60]. All these complaints were rejected, but not without an explanation of how such political issues should be dealt with in a democratic regime. These explanations were a considerable part of the ombudsman's activity in the field of education for democracy^[61].

To make the office more efficient, Letowska divided her staff into several teams, each dealing with complaints in a specific area. One of the most important was Team 1, which received complaints in constitutional and political rights. Ombudsman Annual Reports show that in 1988 this team dealt with 10 percent of all complaints, falling to 7.9 percent in 1989. Also important were Team 2, dealing with issues of administration of justice (courts) and police, and Team 3, working in social insurance and labor law. These three teams, combined, took care of more than half of all complaints. Letowska had to make a decision, common to all the ombudsmen in transitional countries, on whether to deal mainly with individual cases or to focus on more general, structural problems of Polish law, society and civil service. Nowadays it is widely agreed that during the transitional period, the ombudsman should mainly address general problems^[62]. In the late 1980s and early 1990s, however, Letowska was the first to make such a decision. She decided that the best way to assist the individual complainants was by solving the overall, structural problems^[63]. This

approach greatly influenced how ombudsmen operated towards the authorities.

The decision to concentrate on general problems, such as inappropriate laws and procedures, a low level of political and legal culture, nihilist attitudes towards the law and improper work practices in the civil service required extensive ombudsman activity on the national level. The education of Polish society was Letowska's highest priority throughout her ombudsmanship[64]. To achieve this aim, she worked in close cooperation with the mass-media, appeared on many radio and TV programs and even had a bi-weekly column in *Rzeczpospolita* (The Republic) - one of the country's major newspapers. In her numerous articles and interviews, Letowska explained to the Polish public about the ombudsman institution, the essence of democracy, the rule of law and the separation of powers between legislature, executive and the judiciary. In 1992, her articles were published as a book, *Jak zaczynał Rzecznik Praw Obywatelskich* (How the Commissioner for Civil Rights Protection began). Popular in Poland, it was translated into other languages as well[65]. The subsequent ombudsmen continued Letowska's tradition of close cooperation with the media and also published many articles and interviews, although in lesser scope. The second ombudsman published his interviews and articles as a series of brochures, titled *Poglady Prof. Tadeusza Zielinskiego, Rzecznika Praw Obywatelskich* (Views of Prof. Tadeusz Zielinski, Commissioner for Civil Rights Protection), which were widely disseminated in the country. The current ombudsman, Prof. Zoll, has columns in *Rzeczpospolita* and *Gazeta Prawna* (Law Gazette).

Other Ombudsman activities include appealing to the Constitutional Tribunal and undertaking legislative initiatives in the Sejm. Being a professor of civil law, Letowska made the Constitutional Tribunal one of the most powerful tools at the ombudsman's disposal. Since the establishment of the office, the commissioner has been very active in putting motions and queries to the Tribunal, using this privilege more than anyone else in Poland. Klich argues that cases, initiated by the commissioner may be the most important source of the Tribunal's jurisprudence[66]. As a direct result of these appeals and motions, many laws and regulations were clarified and amended in accordance with the human rights standards of consolidated democracies. For example, in dealing with ombudsmen's motions and appeals, the Constitutional Tribunal has issued decisions on major topics such as equality of citizens before the law and banning discrimination on sexual grounds. These rulings were made in the initial stages of transition, and played an important role in developing the Polish legal and political systems towards democracy and the rule of law. After yet another motion, the ombudsman acquired the ability to deal with complaints of soldiers – another step towards full and effective civil control over the military[67]. On the other hand, Letowska was

much less active in undertaking legislative initiatives. As she admitted in her articles, she felt like a stranger in the Sejm corridors and was repelled by the political game playing[68]. The subsequent ombudsmen also extensively used their right to appeal to the Supreme Court and the Constitutional Tribunal, but also engaged in more legislative activity. For example, in 2004 the commissioner put forward 271 problem motions (including 92 to take up legislative initiatives), 21 motions to the Constitutional Tribunal, 2 legal queries and 47 cassations to the Supreme Court. These figures show a very high level of judicial and legislative activity, which has typified the Polish commissioner since Letowska's service.

Supervising the public administration was another priority for Letowska. It is this dimension of her work that most resembles ombudsmen's activities in consolidated democracies, where their main task is to fight maladministration and supervise the civil service. As Elcock notes, during the period of transition to democracy many state and local officials' attitudes towards political change have ranged from uninformed indifference to outright opposition. The commissioner frequently criticized officials' reluctance to adapt, or failure to recognize the need to adapt, to an administrative system in which laws have to be obeyed. Civil servants also found it hard to accept that aggrieved citizens are entitled to remedies against official incompetence or misdeeds[69]. By appealing to the Administrative Courts, proposing amendments in the legislation and administrative regulations, publicizing cases of maladministration and explaining to civil servants their role in the democratic state, ombudsmen contributed much to reforming the Polish civil service.

It was in that 1992 Letowska was succeeded Prof. Zielinski of Jagiellonian University (Cracow). Being a political leftist and a specialist in labor and social security law, during his term Zielinski concentrated mostly on these areas[70]. For many reasons, it was also a call of the hour. During the Letowska ombudsmanship, the transition to democracy took place, new democratic institutions were established and her role in promoting democracy, the rule of law and citizens' political and civil rights was of great importance. When Zielinski became commissioner, the democratic institutions were already operating and there were great gains in citizens' political rights and freedoms. On the other hand, the country experienced a total collapse of the social security system, high unemployment, inflation and deteriorating living standards as a result of economic reforms and the transition from a planned to a market economy. In these years, public discussion centered on social and economic issues and it was natural for Zielinski, a specialist in this area, to address mainly social problems. In defending social rights, the ombudsman also became an important channel of communication between the public and the political elites. Zielinski enjoyed wide public

support, and people regarded him as their primary defender. Poles understood that even in times of severe economic crisis there were institutions defending their rights, and this increased their readiness to accept the new political system despite all the hardships. Zielinski's activities promoted public trust in the democratic system contributed to the consolidation of Polish democracy. As the third ombudsman, Prof. Adam Zielinski noted:

Prof. Ewa Letowska started out by teaching us the basic rules of a state governed by law. At the start of her term there was a major political rights problem. The next ombudsman, Prof. Tadeusz Zielinski, defended social rights and implemented social justice in the difficult first years of Poland's free market system. I was destined to take over operations in more normal conditions[71].

An important field of Ombudsman activities, although almost non-existent during the first two ombudsmen's terms, is cooperation with NGOs and civil society. If Letowska's main task was education, the chief mission of the current ombudsman, Zoll, is to strengthen the cooperation with NGOs and assist the building of civil society in Poland[72]. The Commissioner offers support to various civic organizations, such as Movement against Social Helplessness, Education for Development, Pro Public Bono, Civic and Legal Counseling and many others. With the commissioner's assistance, many universities have established "legal clinics" in which people who cannot afford a lawyer receive legal counseling[73].

The goal of European integration has also played a major role in ombudsman activities. The desire to "return to Europe" was one of the main motifs of Polish political life since the collapse of the communist regime. One major task of the Polish government and parliament was to harmonize Polish legislation with that of the European Union, and the commissioner contributed much to this integration process in the field of human rights and political freedoms. The ombudsmen invested much effort in promoting legislation matching the standards of the European Convention on Human Rights, observance of which is a *sine qua non* for admission to the EU[74]. The commissioner played an important role in reforming the Polish public administration and adjusting it to the standards of developed democracies. Garlicki argues that the commissioner, together with the Constitutional Tribunal, "have assisted in the development of those parts of the Constitution, closely linked to the Western European understanding of *Rechtstaatlichkeit*"[75], and in Elcock's view, the Polish ombudsman "is playing an important role in assuring that the standards of legality and human rights observance required for EU membership are demonstrably met"[76].

Although the Polish ombudsman has undoubtedly been a major success, the institution has also experienced serious problems and failures. The ombudsman's neutrality during the struggle between the communist government and the opposition, as mentioned early, was harshly criticized. At the initial stages of democratization it was even proposed to abolish the institution, since the ombudsman, established during communist rule, was part of the "old regime's" legacy. When Letowska started to be an active player in legislation, these proposals intensified and the government began to view the commissioner as a competing and even dangerous institution. In the early and mid-1990s, the government attempted to amend the law and divest the commissioner of most of his powers, but eventually this move was rejected by the parliament^[77]. During Letowska's term, she was also involved in serious conflicts with the Catholic Church. On two major issues –abortion and compulsory religious education in schools - the commissioner took a relatively liberal stance, but lost the case in the Constitutional Tribunal^[78]. Since then the Church has regarded the ombudsman as a threat to its authority, and Marek Jurek, one of the leaders of the Catholic faction in the Parliament, declared that "the idea of human rights is an attempt to destroy Christian civilization and its institutions"^[79]. Zielinski's participation in the presidential elections while holding the commissioner post also compromised the ombudsman's political neutrality, so cherished by Letowska, and again made the politicians to fear the ombudsman as a threat to their authority.

Even now, seventeen years after the establishment of the institution, with Poland a consolidated democracy and an EU Member State, influential politicians are calling for abolishing the Commissioner for Civil Rights Protection. In summer 2005, parliament members, of the conservative Prawo i Sprawiedliwosc (Law and Justice) faction^[80] succeeded in blocking the election of Prof. A. Rzeplinski as the fifth commissioner, succeeding Zoll, because of Rzeplinski's liberal views. Although the Commissioner for Protection of Citizens' Rights contributed much to consolidating Polish democracy, the prospects for the institution's further development are now unclear. It may expand (two local offices were opened in 2005 in Wroclaw and Gdansk) but may also suffer a serious setback because of the new political situation in Poland.

The Ombudsman in Russia

In the Russian Federation, the first initiative to establish an ombudsman institution occurred even before the collapse of the USSR. In November 1991, the Supreme Soviet of what was still Soviet Russia adopted a Declaration of Human and Citizens' Rights and Freedoms, article 40 of which provided for establishing Commissioner for Human Rights who would be elected by the Supreme Soviet and subject to it in his activities[81]. After the Declaration came into force, the relevant committees of the Supreme Soviet were obliged to propose a Draft Law on the Human Rights Commissioner, but this legislative work was never done. Two years after the Declaration, the Russian constitution of 1993 also stipulated establishing a national Ombudsman. In January 1994 the lower house of the parliament, the Duma, decided to elect a provisional ombudsman who would operate until the Law on the Commissioner was prepared by the relevant parliamentary committees. The ombudsman appointed was Sergey Kovalev, Member of the Duma, leading dissident, colleague of Andrei Sakharov and one of Russia's most prominent human rights activists. Although Kovalev had no legal education, he had considerable knowledge about human rights protection and was one of the authors of the Declaration of Human and Citizens' Rights and Freedoms. Before the appointment, Kovalev was also head of President's Human Rights Commission[82] and he did not resign either from Duma membership or from the Commission. Kovalev's insistence on combining all these activities, though not contravening Russian law, ran counter to certain basic features of the ombudsman institution: political neutrality and promoting the separation of powers between the legislative and executive branches. Clearly, Kovalev was fully devoted to democratic ideals and his conduct can be explained by a lack of sufficient legal and political knowledge – something that could hardly happen in Poland, where ombudsmen were law professors.

Although the Duma elected the Human Rights Commissioner, since the law was not yet adopted, the ombudsman had no clear status, powers or, for that matter, staff and office. Kovalev had to do all the work himself, and not surprisingly, the results were modest. Although his energy and devotion prevented a total paralysis of the ombudsman office, the situation was untenable. From the beginning of the war in Chechnya, this issue became the ombudsman's main focus. Kovalev opposed the war and was highly critical of Russian Army activities in Chechnya. He accused the army of serious human rights violation, bringing him into open confrontation with the government and most of the Duma members. Wishing to monitor the situation in Chechnya, Kovalev opened an Ombudsman's Mission in the Northern Caucasus and took part in resolving a major hostage crisis in the city of Budennovsk[83]. His activities, however, sparked harsh criticism of the ombudsman

institution as a whole, and in March 1995 the Duma removed Kovalev from the office without electing a successor[84].

After Kovalev's removal, however, the Duma continued its work on the draft law for a commissioner. In spring 1996, the Draft Law on the Commissioner for Human Rights was adopted by the Duma and forwarded to the Council of Federation, the upper house of the parliament. The Council rejected the law because it gave the commissioner the authority to establish local offices in the Federation's units. The Council members - representatives of federal units, preferred to keep the option to establish (or, more accurately, avoid establishing) local ombudsmen in their own hands. After the rejection, the law was amended by the Duma, the Council of Federation approved it and it came into force in March 1997.

According to the law, the commissioner should be at least thirty-five years old and have knowledge and experience in protecting human and citizens' rights[85]. These criteria, clearly, are modest and do not include academic or legal education, high integrity, moral values or social sensitivity. The requirement of "knowledge in the field of human and citizens' rights protection" is extremely broad and open to almost any interpretation. These criteria can easily lead to politicization of the office or even to the election of incompetent ombudsman, with no provision of the law to prevent this. Although the ombudsman is elected by the Duma, the candidates can be proposed not only by the Duma members or the Council of Federation but also by the President[86]. This provision can seriously compromise the separation of powers, since the President can influence the election process and try to get his "yes-man" into office. The ombudsman is elected for one five-year term and can be re-elected for a maximum of two terms[87]. The commissioner should be politically neutral, should not participate in political activity or be affiliated with any political body. He cannot have any other occupation except teaching or scholarly work[88]. The commissioner enjoys legal immunity, is responsible to the parliament and can be dismissed by it alone[89]. As in many other countries in transition, the commissioner's main task is to safeguard human rights and freedoms rather than just supervise the civil service. The commissioner cannot impose his decisions on supervised bodies and can only make recommendations, as in other states. However, the supervised bodies are obliged to assist the commissioner in his work, provide him with free access to all requested information and, upon receiving the ombudsman's recommendations, to report about steps that are taken[90]. The commissioner also may propose amendments to the legislation, though he cannot initiate legislative process. He has the right to appeal to the Constitutional Court, but in this regard is no different from all Russian citizens.

After adopting the law, the Duma had to elect Russia's second ombudsman. Since the law did not prevent politicization of the office, this election was influenced mostly by partisan interests and not by the candidates' credentials. In April 1997, the first attempt to elect an ombudsman failed with none of the five candidates receiving the required number of votes. In September 1997 this scenario recurred, and only in May 1998 was the ombudsman finally elected. The chosen commissioner, Prof. Oleg Mironov, specialist in constitutional law, was a Duma member from the KPRF (Communist Party of Russian Federation) and immediately after the election was labeled by journalists and human rights activists as "the Red Ombudsman". Almost all the human rights and civil society activists thought a Communist Party member would be unable to promote human rights, the rule of law and democratic values, since these are alien to the communist doctrine. Many also believed Mironov was elected to the office because of the communists' interest in gaining control of this institution as part of their struggle against President Yeltsin and the government.

Since the first ombudsman, Sergey Kovalev, had worked alone without professional staff, Mironov had to establish how this office would work. Like his counterparts in other countries, he had to decide whether to concentrate on general, structural faults of legislation, civil service reforms and civic education or to deal mostly with personal complaints, without trying to improve the system as a whole. Although it was never explicitly stated, Mironov preferred the second path.

Despite Mironov's professional background as a Duma member and legal scholar, as ombudsmen he engaged little in trying to amend the legislation, though he spoke much about the general need to amend the laws and regulations in various fields. His activity in the Constitutional Court was also negligible in these years, especially compared to his Polish colleagues, who had the same sort of legal credentials. There are many possible reasons for Mironov's minimalist approach and avoidance of general problems. First of all, Mironov witnessed the fall of his predecessor, Kovalev, after he confronted the government over the war in Chechnya, which was one of Russia's most severe problems at that time. Probably, Mironov's political background and views also played a role. As a Communist Party member, he paid much less attention to issues such as separation of powers, the rule of law and education for democracy than his counterparts in other countries. On the other hand, the KPRF raised the social banner and presented itself as the main defender of the Russian people, suffering from far-reaching economic reforms and the almost total collapse of the social security system. For Mironov, focusing on individual citizens' complaints was probably

integral to his socio-economic outlooks.

This pattern of activity was especially manifest in the first years of Mironov's ombudsmanship; towards the end of his term he paid more attention to general problems, and published special reports on ecological issues and human rights violations by the law-enforcement agencies[91]. In this period Mironov also changed his usual approach of avoiding conflict with the government and released statements on highly controversial issues, such as the war in Chechnya. At the end of 2000, the commissioner's office underwent an internal crisis when several workers published an open letter, accusing Mironov of "adherence to Western, supra-national ideals of human rights"[92]. Many observers, especially from the human rights NGOs suggested that this letter was sponsored "from above"[93] with government trying to get rid of Mironov.

In May 2003, Mironov finished his term in office. On June 21, the Duma failed to elect any of the eight candidates nominated to succeed him[94]. The next round of elections took place in February 2004 and the presidential nominee, prominent politician Vladimir Lukin, was elected the third Russian ombudsman. Unlike his predecessors, Lukin had neither legal education nor experience in the human rights field. He was a historian specializing in international relations, and had spent his career far from citizens' rights protection, serving as ambassador to the United States, vice-speaker of the Duma and one of the leaders of the pro-democratic Yabloko Party[95]. Despite being elected by the parliament, the fact that Lukin was proposed for the office by President Putin tells much about the separation of powers in Russia. Although Lukin has continued Mironov's path and addressed general problems of Russian society, legislation and the civil service, he has done so in a careful and measured way, without explicitly criticizing governmental bodies and especially not the president. Lukin's annual report, published at the beginning of 2005, identifies a wide range of problems affecting the rights and freedoms of Russian citizens, but presents neither concrete data on these issues nor specific proposals to deal with them[96]. Furthermore, the report also dealing with issues, unrelated to the ombudsman's duties. For example, though discussing the problem of illegal immigrants and foreign workers, Lukin does so in terms of national security and Russia's geopolitical interests,[97] something totally alien to his responsibilities as Commissioner for Human Rights. In many other interviews, publications and statements Lukin has addressed foreign relations and national security, which are not supposed to be part of his work as ombudsman.

Another aspect of Lukin's activity is to try to make the commissioner's office more visible the

public. For example, in Lukin's autobiography, published at the ombudsman's Web site, he presents himself as an ordinary man, with the same sort of life story as other Russian citizens. The autobiography includes a list of favorite films, information on his unique method of candy eating and his habits of alcohol consumption[98]. In addition, Lukin has extended cooperation with the media at both the national and local levels, using the media to monitor human rights violations and inviting the journalists to publish materials on citizens' rights and freedoms at his Web site. Since 1998 the Russian ombudsman has received more than 200,000 complaints, which is not such a high figure relative to population size[99]. The annual number of complaints, however, is steadily increasing in recent years, indicating growing public awareness of the institution. In 2005, the ombudsman office also organized several competitions for student essays on human rights protection in Russia. All these activities, which were almost absent during Mironov's term, can contribute to civic education while maintaining the commissioner's ability to influence public opinion. Such influence, one of the ombudsman's most powerful tools, was conspicuous during Kovalev's term, when he became a major critic of the government on the Chechnya issue, but disappeared almost totally during Mironov's tenure because of his work style and preferences.

Another major purpose of the ombudsman is to make the office relevant and influential in the Russian political and institutional milieu. Over the years, however, by trying to avoid frictions with the government, the ombudsman's office lost its significance even in the eyes of its institutional "patron", the Duma. When, in full accordance with the law, Lukin asked to present a report on severe human rights violations at a Duma session, the Duma refused. This pattern of ignoring the ombudsman became widespread at various official levels[100].

Another important aspect of the ombudsman's activity is cooperation with the civil society. Kovalev cooperated closely with the human rights NGOs. He had no professional staff and these NGOs assisted him in his work. The situation changed with Mironov's election. For a long period, the "Red Ombudsman" disliked and was disliked by the civil society and the human rights activists. However, as he started focusing on such problems as the war in Chechnya, religious freedom and police violence, Mironov gradually gained the civil society's trust, and when members of his staff published the open letter against him, the human rights NGOs were among his staunchest defenders[101]. After the election of Lukin, known for his liberal and pro-democratic views, this pattern of cooperation continued. In November 2005, however, when the Duma adopted a draft law, severely restricting Russian and foreign NGOs, all the ombudsman could do was protest[102]. The commissioner's ability to defend the civil society is very limited since his views are usually

neglected and he hardly influences the public opinion.

International factors and processes of European cooperation also significantly affected the development of the Russian ombudsman. Although the first federal ombudsman was appointed in the relatively early stage of Russia's transition from communism, Kovalev's bitter criticism of governmental activities made many politicians chary of this institution. As noted, the Duma refused to appoint a new ombudsman after ousting Kovalev and for more than three years the country had no Human Rights Commissioner. One reason for reestablishing the institution was Russia's desire to join the Council of Europe, for which having an ombudsman was a conditions[103]. In addition, the Russian Federation had to harmonize its legislation with the standards of the Council of Europe and the 1950 European Convention on Human Rights (Rome Convention). Membership in the Council of Europe not only helped in establishing the ombudsman institution, but also afforded it greater control over government activities. In 2002 the ombudsman published a special report "On Implementation by Russia of Its Obligations Undertaken when Joining the Council of Europe"[104]. In addition, Russia is subject to supervision by the ombudsman of the Council of Europe, and in 1999 and 2004, A. Gil-Robles, The Council's Commissioner for Human Rights, published reports, describing the highly problematic human rights situation in the country[105]. Without doubt, the Council of Europe has less ability than the European Union to influence what occurs in the member states, but in countries outside the EU, the Council of Europe can play a significant role in promoting and protecting human rights.

Russia also has local Commissioners for Human Rights, operating at the level of the federal units, which have significant legislative and policy-making powers. The national ombudsman has only limited ability to address human rights problems within the federal units because of his limited resources, Russia's vast territory and specific problems of each region. As mentioned, the upper house of parliament, the Council of Federation, blocked an initiative to allow the national ombudsman to open representative offices in the federal units, and transferred this prerogative to the local authorities. This means the local political elites decide whether to create this institution. Since most local politicians perceive the ombudsman as a threat to their powers, only 32 of 89 federal units established such an office. Even in the units, that have this institution, its development is highly problematic and in many ways reflects the situation at the national level. At both levels the ombudsman office is subject to extreme politicization, and only some of the local ombudsmen possess legal education[106]. In several locales, unwanted ombudsman offices were simply abolished by the local authorities[107]. One of the most extreme situations occurred in the

Astrakhan region, where the head of local Prokuratura (Public Prosecution), who perceived the ombudsman as a competing institution, had his office inspected and sought to put the him on trial, accusing him of violating regulations (issued in 1968!) on answering citizens' letters. It was only because of commissioner's fatal illness that case never reached court[108]. On the other hand, in regions where the local government shows genuine interest in citizens' rights, cooperation between the local ombudsman and the authorities has shown impressive results. The most striking example of such close cooperation is the Saratov region and its former ombudsmen, A. Lando, a lawyer by profession.

The ombudsman institution has developed in Russia differently than in Poland. Although there were certain parallels between the two countries at the initial stages of the institution's development, the Russian version has been far less successful and influential because of: politicization, the personal and professional background of the commissioners, their low adherence to the separation of powers, their unwillingness to concentrate on structural problems of the political and administrative system, a weak civil society and only limited participation in the European integration process. The first Russian ombudsman, Kovalev, actively participated in Russia's political life and did not distance himself from political battles. A devoted human rights activist, he probably could not have acted differently regarding the war in Chechnya. Yet, in the long run, his decisions had a very negative impact on the institution's development. The second ombudsman, being a member of the Communist Party, invested almost no efforts in issues such as education for democracy and preferred to focus on individual cases rather than on general problems. The current ombudsman has continued the path of politicization, and despite his efforts to address the country's major problems, his chances to succeed in this task are very limited.

The Ombudsman in Bulgaria

The Bulgarian ombudsman institution is one of the world's most recent. The story of the Bulgarian ombudsman is one of indecisiveness, political and personal struggles, but also the story of an active civil society, international cooperation and a desire to uphold the highest standards of human rights protection. The way, in which the Bulgarian institution was established is, moreover, unique. Ombudsmen were first established at the local level, and their success led to the creation of a national office. In the overwhelming majority of countries the institution has developed on the opposite path. Also in regard to the EU's impact on the internal processes in the Candidate States, as they seek to fulfill the membership criteria, the Bulgarian ombudsman institution is an interesting case study.

In Bulgaria, as in many other countries, the idea of an ombudsman institution was first introduced by academic circles during communist rule. In the late 1960s and early 1970s, scholars such as N. Ananieva and M. Yordanova researched the ombudsman in the Scandinavian countries[\[109\]](#), but their interest was purely academic since creating such an institution under a communist regime was unrealistic. Similarly to other post-communist societies, the turning point was the fall of the communist government and the start of the democratization process. Introducing an ombudsman institution was first discussed at the very beginning of the democratic transition, when the new Bulgarian constitution, adopted in 1991, was being elaborated. Two of the fifteen drafts of the constitution that were presented, envisaged establishment of a national ombudsman. The initial ideas, however, were not further developed[\[110\]](#). The Grand National Assembly, which adopted the constitution, decided against setting up this institution in Bulgaria, and subsequently for at least seven years there was no serious public debate on the issue in the country. However, one of the authors of the adopted constitution and the chair of the Committee for Preparing the Constitution was Ginyo Ganev, who in 2005 was elected the first Bulgarian Ombudsman[\[111\]](#).

Although the constitution was promulgated in 1991, the transition and the reforms did not really begin at that time, except in terms of political elections. From 1990 to 1998, Bulgaria was highly unstable in both political and economic terms. In the spring of 1997 a new government took office and the reform process began *de facto* only in 1998[\[112\]](#). That was also the year in which the initiative to establish a national ombudsman resurfaced. This time the initiative came from the civil society. The Center for the Study of Democracy (CSD), one of the largest and most influential

Bulgarian NGOs, set up a task force to study and promote the idea. It prepared a detailed concept paper, as well as a Draft Law on the People's Defender and the Local Civic Mediators, which called for setting up ombudsman institutions in Bulgaria both at the national and local levels[113]. The Draft Law was submitted to the 38th National Assembly, but was never discussed. An updated version was presented to the 39th National Assembly, and three additional draft laws were submitted by representatives of different parliamentary groups. The draft laws, combined, were adopted on first reading in June 2002, and afterwards the consolidated version was prepared by the National Assembly's Human Rights Committee. This consolidated version, with only minor changes, was eventually adopted by the National Assembly as the Law on the Ombudsman in 2003 and entered into force on January 1, 2004.

According to the law, the ombudsman is elected by the National Assembly for one five-year term with a possibility to be re-elected for an additional five years. The ombudsman should be "a Bulgarian citizen, possessing a university degree, revealing high integrity and meeting the requirements for the election of a Member of Parliament"[114]. Notably, the law does not require that an ombudsman will have a legal education, nor any knowledge or experience in the field of human rights. The law's second provision, regarding "high integrity" is subject to interpretation. In general, the law leaves wide latitude for political maneuvering over the choice of the ombudsman. Indeed, most of the candidates have been political figures and political tug-of-wars have prevented the election of an ombudsman for long period. The law stipulates that the ombudsman's task is to intervene in any ways, envisaged in the law "when citizens' rights and freedoms have been violated by actions or omissions of the state and municipal authorities and their administrations as well as by the persons assigned with the provision of public services"[115]. As in many other new democracies, the Bulgarian ombudsman is first and foremost the protector of human and civil rights, not only the supervisor of public service activities. The ombudsman is supposed to be politically neutral and independent in his activities. He may not be affiliated with any political organization and must not occupy any other professional positions. The ombudsman enjoys the same legal immunity as members of the National Assembly, is responsible only to the parliament and can be dismissed by the parliament alone, although an Ombudsman be removed from office for strictly political reasons[116] by a simple majority vote of the National Assembly. The ombudsman works in close cooperation with a parliament and has the right to appeal to the Constitutional Tribunal on matters concerning human rights and liberties. The law enables the ombudsman to impose sanctions, and officials, who hinder him in his duties, are subject to administrative penalty[117].

It took Bulgaria about twelve years since the collapse of communist regime to adopt a law on a national ombudsman, and it took more than another year for the first ombudsman to be elected. Although the law stipulated that the election should occur no later than March 2004, the first attempt to elect an ombudsman was doomed to failure. As noted, the law allowed the politicians to view the ombudsman office as a “political spoil”, and the elections of the ombudsman were guided mostly by political considerations and not by the qualities of the candidates. In the first round of elections there were seven candidates, nominated by various parliamentary groups, and of course none of them received the required number of votes. Two candidates – Prof. P-E. Mitev and A. Karaivanova, who received 55 and 40 votes, respectively (out of total 198), qualified for the second round of elections. Both Mitev and Karaivanova are politicians and former members of Parliament; Mitev is sociology professor and Karaivanova a lawyer and former public prosecutor. In the second round, Mitev received 72 votes and Karaivanova 46, but because as many as 69 votes were declared invalid (ballots that were blank or had the names of both candidates), neither candidate obtained the required one-half of the total votes. The second attempt to elect an ombudsman was held in October 2004. The two candidates were Mitev and Prof. A. Dzherov; again, the result was a deadlock. In April 2005, more than a year after the first attempt to elect an ombudsman, the Coalition for Bulgaria faction presented G. Ganev, a respected lawyer and politician and left-wing member of parliament, as candidate for ombudsman. Being the only candidate, he was easily elected with 72 percent of the vote^[118]. Like all the previous attempts, the election of Ganev, was political in nature and included a deal between his faction and the Movement for Rights and Freedoms (MRF), a main party of the Turkish minority. As part of this deal, Ganev’s faction supported the election of MRF candidate as head of the Committee Against Racial Discrimination, and another MRF member, M. Kazak, became deputy ombudsman.

Yet the election of the ombudsman, although providing the country with its first national Ombudsman, did not ensure that he would be able to conduct his activities. The ombudsman’s success depends on his relations with the government. The readiness of the officials and the civil service to accept this new institution is crucial. In Poland and to a lesser extent in Russia, although the government was very reluctant to accept the ombudsman’s criticism, it provided him with a minimum level of resources. In Bulgaria, however, since the election in April 2005 the ombudsman’s office has not even had a building^[119] and hence has been virtually paralyzed. The ombudsman cannot hire professional and administrative staff, receive complaints or conduct any other activity. He and his deputy are working from their parliamentary offices without any

professional assistance, seriously hampered. Ganev has, however, initiated a media campaign on this issue, and articles on the problem have appeared in Bulgarian newspapers. Ironically, this crisis may introduce the ombudsman to the citizens and help him garner public support. The ombudsman's insistence on receiving a suitable building may harm the institution in the short run, but in the long run it may teach the government and the public administration to respect the ombudsman and be more cooperative.

Like his Polish and Russian counterparts, the Bulgarian ombudsman had to decide which path to choose – whether to concentrate on general, structural faults of legislation, civil service reforms and civic education, or on personal complaints without trying to improve the system as a whole. It appears from the ombudsman's initial activities and from interviews this author conducted, that the ombudsman is following the Polish example and trying to focus on general problems. He is currently actively involved in resolving difficult environmental situation in Sofia^[120]. In addition, the Bulgarian ombudsman has sufficient knowledge and experience in both the judicial and legislative fields to work effectively vis-à-vis the National Assembly and the Constitutional Court. In Bulgaria, the ombudsman's right to appeal to the Constitutional Court is of great importance since the citizens lack direct access to the Court. Hence, the ombudsman can play a very important and symbolic role as defender of the people's rights at the highest level of the judicial branch.

Cooperation with civil society is another dimension of the ombudsman's work. In Bulgaria, NGOs such as the Center for Study of Democracy, the Bulgarian Association for Fair Elections and Civil Rights, the Association of Young Lawyers, the Independent Ecological and Social Inspection, the Initiative for Civic Culture and many others are promoting the ombudsman institution both at the national and local levels. Bulgaria represents a unique case of this institution's development, since ombudsmen (Local Public Mediators) were first introduced at the municipal level, and the national ombudsman was created only after this proved highly successful. The introduction of local ombudsmen was an initiative undertaken by civil society organizations and the abovementioned NGOs played a decisive role in creating these municipal ombudsmen. Local Public Mediators in the municipalities of Sofia, Shumen, Razgrad, Varna, Plovdiv and others owe their existence to the civil society. These ombudsmen, dealing mostly with issues under the authority of the municipal administration, are working in close, mutually strengthening cooperation with NGOs. At the national level, CSD activities in proposing legislation, lobbying for the ombudsman institution, and organizing local as well as international gatherings on the issue, have contributed much to establishing the Bulgarian ombudsman. Although most observers agree that eventually the

ombudsman would have been established even without CSDs' activities in this field, it is also agreed that civil society facilitated the process[121]. In Bulgaria, the very high cooperation between the ombudsman and the civil society is likely to continue in the future.

Another dimension, considered in this work, is the role of ombudsmen in their country's European integration process. In Bulgaria, introducing an ombudsman was in effect a precondition for EU membership. Although the membership criteria do not explicitly mention an ombudsman institution, they require the Candidate States to have a mechanism for human rights protection, and international experience proves that an ombudsman is one of the best means to fulfill this role. In addition, the public campaign for an ombudsman, led by the civil society, enjoyed significant financial, technical and educational support from the EU institutions. Once established, the ombudsman can contribute much to the integration process, especially in areas such as harmonizing the local laws with the European standards. The Ombudsman can also contribute on the issue of minority rights protection, which the EU closely monitors in the Candidate States. This issue is prominent in Bulgaria with its large Muslim and Roma populations.

It took Bulgaria more than fifteen years of transition to establish an ombudsman office. Although this is an important step towards consolidation of democracy, the ombudsman's chances for success do not appear to be great. Bulgarian politicians perceive the ombudsman as just another office that is subject to norms of political competition and bargaining. That is why the election of the ombudsman took more than a year: the candidates were political figures, affiliated with political parties and interests, making the election process much more complicated. The candidates' credentials played only a secondary role; more were their political affiliations and capabilities. In developed democracies, impartiality and political neutrality are among ombudsman's most important assets. In Bulgaria, however, this principle was violated, and it is not clear if the ombudsman will be able to set aside his political preferences. In addition, government officials perceive the ombudsman as a possible threat to their authority and so far proved unwilling even to give him an office building, which may be an omen for the future. The nature of future relations between the ombudsman and the citizens also remains unclear. The Bulgarian public definitely needs an institution to protect the citizens' rights vis-à-vis a public service that is ineffective, severely politicized and corrupt[122]. Nevertheless, few Bulgarians, especially in rural areas, even know about the existence of the ombudsman. Furthermore, most of them do not even know what the term "ombudsman" means[123]. The official title of the office "The Ombudsman" is alien to most Bulgarians. Whereas in Poland the official title for the office is Commissioner for Citizens'

Rights Protection and in Russia, Commissioner for Human Rights, only Bulgaria chooses to use the foreign term “ombudsman”. The chief task of the Bulgarian ombudsman should be educational – to teach the politicians, the public administrators and the citizens about democracy, rights, freedoms and the rule of law. Without understanding and implementing these principles, Bulgaria will not be able to progress towards its goals of democracy consolidation and EU membership. The ombudsman can play a significant role in achieving both of these goals even in an unfavorable legal, political and administrative environment. The main question is whether Ganev will have the desire, courage and talent needed to do this work.

Summary and Conclusions

This work had surveyed the development of ombudsman institutions in the new democracies of Central and Eastern Europe and shown their contribution democracy consolidation in these countries. In most of the new democracies the establishment of this institution was an important step towards true democratization, including the rule of law and the observance of human rights. In all but one of these countries, the ombudsman was established after 1989, demonstrating the connection between, on the one hand, the ombudsman and values, he represents, and on the other, democracy.

Although the ombudsman institution already appeared in previous centuries, in many countries it is new and unfamiliar. The institution, however, is highly adaptable to countries political, economic and social circumstances, and this seems to be of the reasons for its success. Nowadays, such an institution operates in many countries, regions, municipalities, governmental and educational organizations and so on. Observers even use the term “ombudsmania”[\[124\]](#) to describe this phenomenon. In this regard, post-communist countries do not differ from other parts of the world; few post-communist states lack a national ombudsman and soon autocratic Belarus will probably remain the only one. Post-communist states established their ombudsmen for diverse reasons. In some cases, such as Slovenia or Hungary, the main reason was a genuine desire to protect democracy and human rights. In Poland, the authorities sought to appease the citizens and the opposition. In other countries, the ombudsman was meant to demonstrate similarity to the West and to symbolize the return to Europe. In Bosnia and Herzegovina and Kosovo, the ombudsman started operating as a result of foreign intervention, and in Bulgaria it was established to fulfill the membership criteria of a supra-national body. Yet, despite the diversity of reasons for their establishment, post-communist ombudsmen need to address similar problems, overcome similar obstacles and operate under similar political, economic and social constraints.

Although the contribution of ombudsmen to democracy consolidation in post-communist societies is widely recognized, insufficient research has been devoted to the issue. This paper has examined the development of the ombudsman in three former communist states, Poland, Russia and Bulgaria. It has shown the legal framework in which these ombudsmen operate and their relations with various political, social and judicial bodies. The paper also indicated the ways, in which ombudsman can contribute to democracy consolidation, and examined the activities of three

national ombudsmen to demonstrate the impact of this institution.

First of all, the ombudsman institution contributes to the separation of powers and the creation of system of checks and balances between the legislature and the government. The first Polish ombudsman, Prof. Letowska, promoted the separation of powers, refused to participate in political struggles between the government and the opposition, and invested much effort in explaining the checks and balances concept. In Poland, the ombudsman is elected by and responsible to the parliament alone and his activities are important component of parliamentary control over public administration. In Russia, the case is different. Although the law stipulates that the ombudsman is a parliamentary body, the current ombudsman was elected as a candidate proposed for the office by the President and this, hardly promotes the separation of powers. Indeed, the first ombudsman, S. Kovalev, was simultaneously a member of the parliament, the ombudsman and head of the President's Human Rights Commission. The first Polish ombudsman was also a nominee of the executive branch, but this had little influence on Letowska's activities even during the communist regime. The Russian Ombudsmen, however, did almost nothing to promote the separation of powers even when they had the ability to do so. In Bulgaria, the ombudsman was elected without interference from the government, but the fact that an ombudsman is a political figure can hamper his neutrality and influence his activities. For its part, however, the Bulgarian government should recognize the importance of checks and balances and assist the ombudsman in performing his role, beginning with such basic issue as providing him an office building.

One of the most important tasks of the ombudsman is to strengthen the rule of law. Ombudsmen can do so in many ways. They can promote reforms of the public administration, supervise the activities of the civil service, undertake legislative initiatives or issue appeals and motions to the constitutional court. At the same time, there is one crucial decision the ombudsman must make: whether to concentrate on general issues and structural problems at the expense of individual cases, or to focus on specific problems and complaints without trying to repair the faults of the system, that fostered them. The Polish ombudsmen decided to concentrate on general problems such as insufficient or contradictory laws, or inappropriate working habits of the civil servants. The Ombudsmen used the whole range of their powers, proposing amendments to legislation, appealing to the Constitutional Court, frequently visiting various governmental bodies and organizations^[125]. Until recently, however, the Russian ombudsmen chose to concentrate on individual cases. This is the safe option for the ombudsman, less likely to lead to conflicts with the government or legislature, as occurred more than once in Poland. After the first Russian ombudsman, Kovalev,

was ousted from office because of such conflict, his successor's main task was to secure the mere existence of the ombudsman institution in Russia; hence, the approach of avoiding conflicts is understandable. In recent years the Russian ombudsman has begun to deal with general problems, but the chances of succeeding are very limited since even the parliament blatantly ignores the ombudsman's motions and initiatives and the ombudsman itself has only meager access to the Constitutional Court. In Bulgaria, the ombudsman chose to follow the Polish example and concentrate on structural problems. In addition, the Bulgarian ombudsman has sufficient knowledge and experience in both the judicial and legislative fields and this is what both current Polish (a law professor without any political experience) and Russian (politicians without any legal background) ombudsmen lack.

One of the most important roles of the ombudsman is an educational one. As we have seen, from the beginning the Polish ombudsmen were active players in this field, closely cooperating with the media. The Polish ombudsmen taught the public, the politicians and the civil servants the basic principles of democracy, the rule of law and the proper role of public administration in a democratic society. The popularity of the ombudsmen's articles, books, radio and TV appearances, from which Polish citizens learned, many for the first time in their life, about how democracy works, indicate the importance of such educational activities. In Russia, however, the ombudsmen's educational activities have been very limited and only in recent years has there been some positive, but still insufficient change. In Bulgaria, the ombudsman has been actively engaged in educating the public about democracy, human rights and the rule of law, but it is too early to discern the results.

Cooperation with civil society is another dimension of the ombudsman's work. In Poland close cooperation with NGOs occurred mostly after the transition to democracy, but nowadays the ombudsman is a close ally and a protector of the civil society. In Bulgaria, the ombudsman office owes its existence mainly to the civil society, and continued close cooperation is expected. In Russia, there were very close relations between the civil society and the ombudsman during the Kovalev's relatively short term, but during the Mironov's tenure these relations sharply deteriorated. The election of Lukin brought some improvement in this regard, but the level of cooperation is still much lower than in Poland and Bulgaria. The Russian ombudsman also has no actual powers to protect the civil society, and currently evident the almost total failure of Lukin's attempts to prevent legislation constraining the NGOs' activities in Russia.

Another dimension is the role of ombudsmen in their countries' European integration process. In the cases of Russia and Bulgaria, the establishment of a national ombudsman^[126] was a condition for membership in a regional organization, the Council of Europe for Russia and the EU for Bulgaria. In addition, in Bulgaria the public campaign for an ombudsman, which was led by the civil society, enjoyed EU financial and operational support. Once established, an ombudsman can contribute much to the integration process, especially in fields such as harmonizing the local laws with European standards, protection of minorities' rights and reform of public administration, as can be learned from the Polish experience. In new Member States and candidates for EU accession, the EU supports ombudsman, who, in turn, assists his country in meeting the European standards. In Russia, the situation is different, but if any country is ever to seek EU membership, it must show certain democratic credentials, and an active, independent and efficient Ombudsman is one of the most important means to achieve that goal.

When properly designed, independent, effective, innovative and devoted to protecting citizens' rights, an ombudsman institution can contribute much to democracy consolidation even in unfavorable political surroundings, as in Poland during communist rule and the initial stages of democratization. Although the ombudsmen's powers and ability to impose sanctions are limited, there are many mechanisms, by which they can promote democracy, civil rights and the rule of law.

This paper has addressed only some aspects of ombudsmen's activities, and there are many issues, requiring further research. What is the best legal framework for an ombudsman's activities? How do ombudsmen's personal and political background affects their work? What is the role of regional and municipal ombudsmen in the democratization process? What is already clear, however, is that ombudsmen have become an indispensable part of the political, social and legal reality in the CEE countries.

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- [54] Interview with Justice Prof. E. Letowska, Warsaw, 27/06/2005
- [55] Despite the very high level of public trust, Zielinski received only 3 percent of the votes and had not qualified for the second round of elections.
- [56] H. Elcock, "Making Bricks Without Straw?: The Polish Ombudsman and the Transition to Democracy", International Journal of the Sociology of Law, vol. 20, 1992, p. 175.
- [57] Synthesis of the Information on the activities of the Commissioner for Civil Rights Protection in 2004 (Warsaw: BRPO, 2005).
- [58] Elcock, op. cit., pp. 175-176.
- [59] <http://www.hrightrights.ru/text/omb1/index.htm> (author's translation.)
- [60] Interview with Justice Prof. E. Letowska, Warsaw, 27/06/2005.
- [61] E. Letowska, "The Commissioner For Citizens' Rights in Central and Eastern Europe: The Polish Experience", Saint Louis-Warsaw Transatlantic Law Journal, vol. 1996, p. 5.
- [62] European Standards and Ombudsman Institutions in Southeast Europe, (Sofia: CSD, 2002), p. 13.
- [63] Letowska, "The Polish Ombudsman, op. cit., p. 209.
- [64] Interview with Justice Prof. E. Letowska, Warsaw, 27/06/2005.
- [65] The Russian translation of this book is popular among human rights activist and NGOs.
- [66] A. Klich, "Human Rights in Poland: The Role of the Constitutional Tribunal and the Commissioner for Citizens' Rights", Saint Louis-Warsaw Transatlantic Law Journal, vol. 1996, p. 41.
- [67] Interview with Justice Prof. E. Letowska, Warsaw, 27/06/2005. Also it should be remembered, that from the beginning of the 1980s Poland was ruled by the Army Commander, Gen. W. Jaruzelsky and the issue of civil-military was of great importance.
- [68] <http://www.hrightrights.ru/text/omb1/index.htm>
- [69] Elcock, op. cit., pp. 177.
- [70] H. Elcock, "The Polish Commissioner For Citizens' Rights Protection: Decaying Communism to Pluralist Democracy Through An Ombudsman's Eyes", Public Administration, vol. 75, Spring 1997, p. 363
- [71] Vangansuren, op. cit., p. 13.
- [72] Interview with P. Kaminsky, senior official in the Commissioner Office Warsaw, 28/06/05.
- [73] Synthesis of the Information on the activities of the Commissioner for Civil Rights Protection in 2004, (Warsaw: BRPO, 2005).
- [74] Very important area of commissioner's activities was protecting the rights of minorities, foreigners and refugees.
- [75] Cited in Elcock, "Making Bricks Without Straw", op. cit., p. 180
- [76] Elcock "The Polish Commissioner", op. cit., p. 376
- [77] Proceedings of the 4th Round Table with European Ombudsmen, Lisbon 16-17 June 1994, (Council of Europe Press, 1995), p. 67.
- [78] Elcock, "Making Bricks Without Straw", op. cit., p. 179.
- [79] J. Letowski, "Polish Public Administration between Crisis and Renewal", Public Administration, vol. 71, Spring-Summer 1993, p. 2.

[80] This occurred before the Prawo i Sprawiedliwosc won the elections and the party's leader, L. Kaczynski, was elected the new Polish President.

[81] <http://www.ombudsman.gov.ru/institut/a-history.shtml> (in Russian).

[82] <http://www.razmah.ru/showarticle.asp?id=2548#z01> (in Russian).

[83] <http://www.hrights.ru/kovalyov.htm> (in Russian)

[84] In 1996 Kovalev resigned from the President's Human Rights Committee.

[85] The Federal Law on Commissioner for Human Rights, article 6.

[86] *Ibid.*, art. 7.

[87] *Ibid.*, art. 10.

[88] *Ibid.*, art. 11.

[89] *Ibid.*, art. 13-14.

[90] *Ibid.*, art. 35.

[91] According to another opinion, voiced in the *Obshaia Gazeta* (The Common Newspaper), 15/03/2001, the report on police violence was written by L. Dementieva of the Commissioner Office without any initiative by Mironov in this area. Furthermore, before publishing the report Mironov deleted the most striking evidences of police cruelty and censored several parts of the report.

[92] <http://www.prima-news.ru/news/news/2000/12/1/13015.html?print> (in Russian).

[93] <http://www.svoboda.org/programs/HR/2000/HR.120600.asp> (in Russian).

[94] http://www.gateway2russia.com/st/art_211136.php

[95] Yabloko – “Apple” in Russian, is also a combination of party leaders' surnames – Yavlinski, Boldarev and Lukin.

[96] Commissioner for Human Rights in Russian Federation, Annual Report 2004 (in Russian)

<http://www.ombudsman.gov.ru/doc/ezdoc/04.shtml>

[97] *Ibid.*

[98] <http://www.ombudsman.gov.ru/apparat/a-luckin.shtml> (in Russian)

[99] Even in absolute figures, the ombudsman of considerably smaller Poland receives much more complaints than the Russian one. Relative to population size, the difference is striking.

[100] See, for example, <http://www.ombudsman.gov.ru/doc/vistup5/s106.shtml> (in Russian).

[101] <http://www.svoboda.org/programs/HR/2000/HR.120600.asp> (in Russian).

[102] <http://www.regnum.ru/news/554335.html> (in Russian).

Russia: NGOs Say New Bill Threatens Civil Freedom,
<http://www.rferl.org/featuresarticle/2005/11/45a60888-5deb-4700-80cb-e4dc3f68f277.html>

[103] The Russian Federation became the member of the Council of Europe in 1996.

[104] <http://www.ombudsman.gov.ru/doc/spdoc/0102.shtml>

[105] The 1999 report was devoted mostly to the situation in the Northern Caucasus.

[106] A. Sungurov (ed.), *On the Path towards Regional Commissioner for Human Rights* (St. Petersburg: Norma, 2000), pp. 134-137.

- [107] Ibid., pp. 69-73.
- [108] Ibid., pp. 136-140.
- [109] Interview with Prof. N.Ananieva, Sofia, 06/09/2005
- [110] Institution of Ombudsman in Europe and Bulgaria (Sofia: CSD, 2003), p. 93 (in Bulgarian)
- [111] <http://www.online.bg/asp/politicianENG.asp?n1=Ginyo&n2=Gochev&n3=Ganev>
- [112] Bulgaria Public Service and the Administrative Framework Assessment 2002 SIGMA, 2002
- [113] Institution of Ombudsman in Europe and Bulgaria, op. cit., pp. 93-94.
- [114] Bulgarian Law on the Ombudsman, article 9.
- [115] Ibid. article 2.
- [116] Institution of Ombudsman in Bulgaria, (Sofia: CSD, 2005), p.p. 14-15.
- [117] Bulgarian Law on the Ombudsman, articles 29-36.
- [118] Institution of Ombudsman in Bulgaria, op. cit., pp. 22-24.
- [119] The Council of Ministers offered the ombudsman two possible buildings, but Ganev rejected both options as unsuitable for the office.
- [120] The environmental problems were always of great importance in Bulgaria, and the opposition movement against the communist rule in the late 1980s grew from the environmentalist groups.
- [121] Interview with M.Kazak, Deputy Ombudsman of Bulgaria, , Sofia, 05/09/2005
- [122] For an overview of Bulgarian civil service, see: T.Verheijen, “The Civil Service of Bulgaria: Hope on the Horizon”, in Verheijen, op. cit., pp. 92-131.
- [123] Interview with Prof. N.Ananieva.
- [124] G.E.Caiden, Some Disquiet in the Ombudsman World, <http://www.ombuds.uci.edu/JOURNALS/1991/disquiet.html>
- [125] For example, as a result of these inspections, Polish prisons were at first subjected to external, civilian control. Letowska herself considers this one of the main achievements of her ombudsmanship.
- [126] In the case of Russia – reestablished.