



*The Hungarian Ombudsman Institution
(1995 – 2008)*

*Parliamentary Commissioners' Office
2008*

www.obh.hu

INTRODUCTION

Almost twenty years have passed since the institution of the ombudsman was introduced by the new Constitution embodying the political and economic system change in Hungary. In 1993 the Ombudsman Act was presented to MPs with the following recommendation 'its adoption may create an important guarantee in Hungary for respecting human rights and citizens' rights and for creating a service providing type of public administration instead of a system merely representing power, and the ombudsperson to be appointed may start his or her work - which is not promising to be an easy job but which is hoped to be highly effective - as a real and committed advocate of the people'.

REGULATION OF THE OMBUDSMAN'S INSTITUTION - A HISTORICAL OVERVIEW

The almost two hundred years old institution of the ombudsman, originating from Sweden, spread rapidly across the world after the 1960s and by the mid-90s this institution was functioning in the state organisation systems of more than eighty countries worldwide. The spreading of this legal institution has continued ever since and the institution of the Parliamentary Commissioner has been and is set up in an ever growing number of countries, under a variety of titles, such as ombudsman, the advocate of the people, executive of citizens' rights etc. In many countries a variety of ombudsmen with specific competences are working alongside a Commissioner of a general mandate, including for instance Commissioners for penal and detention matters, environmental, military or minority issues etc. The system of guarantees operated by the state varies - in line with the prevailing specific features and historical background - from country to country.

The comprehensive amendment to the Constitution of Hungary promulgated on 23 October 1989 introduced, on the one hand, the institution of the Parliamentary Commissioner for Citizens' Rights, on the hand it provided that the Parliament may appoint specific Commissioners for the protection of certain constitutional rights. Apart from the introduction of these rules little attention was paid for several years to the ombudsman among the institutions guaranteeing the rule of law.

The amendment to the Constitution in the wake of the first free appointments detailed the duties of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities: in 1992 the Parliament adopted an act on the protection of personal data and the publicity of information of public interest, one of the chapters of which provided for the institution of the Commissioner for the protection of personal data. In 2003 the Parliament adopted the Act on the Parliamentary Commissioner for Civil Rights. The most important amendment to the latter was specification of the authorities that may be covered by the investigations carried out by the Parliamentary Commissioner. Other amendments were of an essentially technical nature.

The fact that almost six years passed after the amendment to the Constitution and some two years passed after the adoption of the relevant Act before the appointment of the Parliamentary Commissioners is probably explained by the lack of historical preliminaries, the resulting uncertainties and the work load then borne by the legislative organ.

The new institution that had previously been unknown to the Hungarian law, and that had no traditions in Hungary, has stabilised during the past decade - despite misgivings about its future - and has definitely played a vital role in the consolidation of democracy and the rule of law as an important factor of the system change.

APPOINTMENT, LEGAL STATUS TASKS AND INSTRUMENTS OF THE PARLIAMENTARY COMMISSIONER

The general rules concerning the appointment of the Parliamentary Commissioners are laid out in the Constitution and in the Act on the Parliamentary Commissioner for Civil Rights. Proposal concerning the candidate for the position is made by the President of the Republic and the ombudsperson is appointed by a two thirds majority of the votes cast by MPs. The Parliamentary Commissioner is mandated for a period of six years and may be re-appointed once.

In 1995 Dr Katalin Gönczöl was appointed Parliamentary Commissioner for Civil Rights by Parliament, Dr Péter Polt was appointed her general deputy, Dr Jenő Kaltenbach was appointed Parliamentary Commissioner for the Rights of National and Ethnic Minorities while Dr László Majtényi was appointed Parliamentary Commissioner for the Protection of Personal Data. The mandate of the first Parliamentary Commissioners expired on 30 June 2001.

In the summer of 2001 the Parliament reappointed Dr Kaltenbach Jenő the Commissioner for minority rights and appointed Dr Barnabás Lenkovics and Dr Albert Takács Parliamentary Commissioner for Civil Rights and his general deputy, respectively. In summer 2007 the Hungarian Parliament elected Dr Máté Szabó as Parliamentary Commissioner for Civil Rights and at the same time discontinued the position of the general deputy. Decision concerning the Commissioner for the Protection of Personal Data and Freedom of Information was reached later, and since 11 December 2001 till 2007 this position was held by Dr Attila Péterfalvi. The Data Protection Commissioner was substituted by Dr Máté Szabó 13. 12. 2007 – 29. 09.2008. Dr. András Jóri has been elected for six years for Data Protection Commissioner on 29. 09. 2008 by the Hungarian Parliament.

In 2007 the Hungarian Parliament modified the Ombudsman Act establishing the position of the Parliamentary Commissioner for Future Generations (responsible for environmental issues) and in 2008 June Dr Sándor Fülöp has been elected for the post who is elaborating the framework of his functioning at the moment, which started on 01. 10. 2008.

The Parliamentary Commissioner with a general mandate and the Parliamentary Commissioners in charge of specific citizens' rights are not working in a hierarchical system: each specific Commissioner is working in his/her own scope of authority and each of them is responsible exclusively to Parliament. The relationship between the Commissioners is not regulated by law and the general Commissioner and her deputy developed a practice from the inception of the institution wherein the various scopes of duties were shared exclusively according to professional criteria. Decisions on other issues - particularly those relating to the operation of their joint office - are made by the Commissioners together. The Parliamentary Commissioners report to Parliament once a year on their activities and the lessons drawn from their operation. These reports are public; they are available on the homepage of the Office of the Parliamentary Commissioners. (www.obh.hu)

The ombudsman in charge of the protection of constitutional rights may initiate general or specific actions to remedy improprieties learned about in relation to procedures of authorities and public service providers. The fastest and simplest mode of remedy for an injury is for the Parliamentary Commissioner to request action to be taken by the head of the organisation concerned, in his/her own scope of competence. Recommendation is the most frequently applied legal tool. Where the Parliamentary Commissioner considers that the impropriety relating to constitutional rights results from a provision of the law or from the lack (deficiency) of regulation, he or she may propose an amendment to the provision, its withdrawal or the introduction of the missing regulation. The ombudsman may initiate lodging a complaint with the prosecutor or conducting a disciplinary or infringement

procedure while in the case of learning of a criminal act the ombudsman is obliged to initiate criminal procedure. The Parliamentary Commissioners may also initiate procedures by the Constitutional Court but this power is rarely exercised. The most important tools of the Parliamentary Commissioner are professional argument, convincing and publicity. In the case of an exceptionally grave impropriety or one affecting a larger group of citizens the Commissioner may promptly turn to Parliament, otherwise the ombudsman 'addresses' the same through the annual report, initiating an investigation of cases where the necessary measures had not been taken to remedy improprieties.

ACTIVITIES OF THE COMMISSIONERS

The main task of the Parliamentary Commissioner for Civil Rights (and formerly his general deputy as well) is to examine improper procedures of authorities, which are referred to as 'maladministration' in international practice. He may carry out a wide range of investigations of the activities of public service providing organisations. The term 'impropriety' applied by the Constitution is not defined by law, thus the concept is filled with contents by the ombudspersons.

The Commissioner of a general mandate performs tasks relating to the protection of the whole range of constitutional rights. His activity is based on the investigation of citizens' complaints relating to almost as many as sixty constitutional fundamental rights - besides the protection of rights of national and ethnic minorities specifically assigned to the scope of authority of the Commissioners and the protection of constitutional rights guaranteeing the protection of personal data and the publicity of data of public interest - therefore one of the key indicators of his activities is the number of complaints addressed to him. A large proportion of the submissions however, are related to citizens' injuries that are beyond the limits of the competence of the Commissioner for either the court has the competence to make a decision or the complaint is submitted with respect to a court procedure or decision. A lot of complaints have to be rejected because parties with opposite interests under the civil law are asking for an investigation by the Commissioner only in order to support their positions. Thus the request for an investigation also has to be rejected when the complaint is against a municipal government exercising its ownership rights, rather than its rights as a public power.

Legal protection is also required in areas where fewer complaints are submitted, because a low rate of complaints is not necessarily a result of the lack of circumstances that could give rise to complaints, rather, it may be a consequence of a weaker interest enforcement capability. For this reason the Commissioners started investigations *ex officio* to assess the enforcement of the rights of some exposed social groups - e.g. those living as residents of various institutions. Complaints of citizens, who ask for keeping their names confidential, because otherwise they fear retaliation, are also investigated by the Commissioner through procedures similar to the investigations carried out *ex officio*.

In the second term of the ombudsman's institution that started in 2001 the Parliamentary Commissioner for Civil Rights was focusing primarily on complaints relating to the private law while his general deputy was investigating cases pertaining to the public law. The organisation structure of their offices has been set up accordingly. The Commissioners select their colleagues freely, in line with the requirements of their functional tasks, and they are providing them with extension training in accordance with the increasing expectations, based on the evolving Hungarian legal system and the EU law. The key factor of the operations of the Parliamentary Commissioners is the changes of the composition of complaints from year to year. In addition to this however, by the investigations started *ex officio* or by comprehensive analyses of individual complaints, they may also influence the

orientation of the investigations exploring the operation and enforcement of constitutional rights.

The first Parliamentary Commissioners identified the social role and mission of the institution primarily in investigating the circumstances of social groups with weaker capabilities of enforcing their interests - particularly those living in socially exposed conditions - and in actively participating in the efforts aimed at improving their status.

THE COMMISSIONER FOR MINORITIES

Besides the Commissioner for the Protection of Personal Data and Freedom of Information another specialised ombudsman - the Parliamentary Commissioner for the Rights of National and Ethnic Minorities - began working in the summer of 1995. The tasks of setting up the institution and launching its operation was quite a challenge for both the legislator and the appointed Commissioner for this was a unique institution in Europe, a real '*Hungaricum*', and it has remained so to this day. The stability of the institution is clearly reflected by the fact that the function had been fulfilled by the same person, Dr Jenő Kaltenbach between 1996 and 2007, during a 12-year period.

From June 2007 the Dr Ernő Kállai is the Parliamentary Commissioner for the Rights of National and Ethnic Minorities.

What sorts of cases are dealt with by the ombudsman for minorities?

Some of the clients complain about rough treatment by the police assuming it to be based on ethnic motivations, others complain about - primarily social/welfare related - decisions by local governments. Some persons have to serve prison sentences at locations at long distances from their families. Another group of clients is made up of those who are not permitted to enter various entertainment establishments based a variety of excuses. And mention should also be made of some ruthless laws prevailing in the labour market, discriminating primarily against the Roma population. Another set of complaints is related to the operational difficulties of the institution system in charge of the protection and preservation of the identity of minorities, including self-governments and minority associations.

The clarification of the circumstances causing problems to those seeking the ombudsman's help requires a correct identification of the facts and well-founded evidence, for discriminatory behaviour is very difficult to prove and in many cases we have to deal with the underlying prejudiced way of thinking rather than the act itself, and the former is usually hidden, i.e. the 'perpetrator' makes efforts to hide himself underneath a camouflage of taking the 'rational' approach.

The ombudsman for minorities takes action *ex officio* as well. In such cases national and ethnic minority rights 'are tested' at a given place and time, i.e. a diagnosis is set up of the level of their application and enforcement, as well as its material, organisational and personal conditions. Rather than through an 'investigation by the authority' this assessment is carried out through informal face-to-face discussions that are the most suitable means for exploring the orientation of the interests of those concerned. Discussions in such an atmosphere enhance the role of the ombudsman in providing help and in mediating between the parties and even the parties in dispute start communicating with one another, they recognise their mutual interests as they are provided with assistance in recognising the possibilities for enforcing their own interests, and in the proper understanding and application of the huge number of relevant legal regulations, whose quality is often below a reasonably expected standard.

The rights of minorities will function only in a legal environment which permanently respects those rights; therefore, the minority ombudsman may perhaps have to pay even more attention to legislation and the creation of a minority-friendly legal system. For this reason the ombudsman often needs to intervene in an early stage of the legislation process in order to prevent the raising of elements that are disadvantageous to minorities, to the level of effective legislation. As a matter of course, it is sometimes found out only after a while that a piece of legislation that has been introduced is not harmonised to the constitutional regulations pertaining to minorities.

Consequently, issues pertaining to the scope of operations of the ombudsman for minorities can hardly be dealt with mechanically, they demand much more than pure lawyers' qualities and expertise while the work load is shared by a handful of colleagues. Action against racist declarations, ethnic prejudice and ethnic discrimination may be taken primarily by the publication and dissemination of a steady flow of guidelines and 'codes of behaviour' aiming at the creation of a system of values that is free from prejudice, as well as recommendations and initiatives towards various actors of society, including employers, local governments, health institutions, insurance companies and the state. For this reason in addition to the traditional functions of an ombudsman one important element of the activities of the minority ombudsman is what is referred to in literature as role of information, instruction and actively shaping public opinion.

THE DATA PROTECTION COMMISSIONER

The system change enabled the restoration of a non-transparent citizen - transparent state relationship, since it is a fundamental feature of a democratic rule of law that the operation of the state should be transparent for all of its citizens while the private life of every single citizen must be protected against any illegitimate intrusion and prying looks.

From the very beginning of its operation, from the processing of the first complaints filed by citizens the Office of the Commissioner for Data Protection and Freedom of Information had been facing the very positive fact that the members of the Hungarian society - irrespective of financial position or schooling accomplishments - are 'sensitive' and committed to the protection of their personal data and turn with confidence to this special organisation working for the protection of rights, for help and information. At the same time, demand for the publicity of information of interest for society was quite weak, and even the 'thirst for information' of employees of the media concerning authorities and offices was - at least until recently - rather modest.

The motto was that the work must be based on a strong commitment to the protection of rights but always within the limits set by our mandate. In the course of the assessment and appraisal of complaints and conflicts relating to basic information rights the Data Protection Commissioner tended to opt for solutions that are 'doable', avoiding all forms of extremism. He considered the work of commenting (on a preliminary basis) on legislation involving information rights as particularly important for this is also an area where prevention is more effective and less expensive than 'fire fighting'.

In the wake of Hungary's accession to the European Union the traditional role of the ombudsman for data protection has also changed radically: today the law enables procedures of the type conducted by authorities with respect to data protection largely enhancing the effectiveness of our efforts. This is really necessary because the trend observed in previous years has continued, indeed, it has intensified: an increasing number of new efforts have to be tackled aiming at controlling citizens, at registering their data using new methods or in new structures, often with a false reference to '*aiming at security*'. The protection of data is also substantially influenced by the technical development of IT, telecommunication and the

Internet. It would be misleading however, to believe that the new 'electronic age' will resolve all problems of people: for the application of faster, more efficient and immensely more advanced technologies is only making it more difficult to trace information on citizens. The committed, experienced and highly qualified team working for the Office of the Commissioner for Data Protection and Freedom of Information will continue to fend off unfavourable effects threatening basic rights concerning information.

Based on the 1992 Act on the protection of personal data - which is the most essential set of rules and the legal norm of the operation and procedures of the Commissioner for the Protection of Personal Data and Freedom of Information - the Parliament appoints the ombudsman for data protection to work as the guardian of the constitutional rights pertaining to the protection of personal data and the publicity of information of public interest. We may well be proud of the fact that after the system change Hungary was the first one of the former socialist countries to elevate the protection of the above rights - so-called information rights - to a constitutional level, and that Hungary was the first country in this region where a Commissioner for data protection, who is responsible to the Parliament, took office. As a specialised ombudsman he is working in order to 'protect' two specific constitutional rights and his powers with respect to those managing data have been strong and effective right from the beginning. The scope of responsibilities and authority of the Commissioner was enhanced both in 2004 and in 2005 - owing to EU requirements - by new elements similar to those of official authorities.

Instead of data in a technical sense by the term 'protection of personal data' we always mean the protection of the personality and information rights of the individual concerned. '*Personal data*' is information that can be related to the individual concerned, in any way, directly or indirectly. In brief: any data that refers to a living natural person. As a matter of course, the range of personal data is not necessarily limited to the private life of an individual: information exist in one's professional life, indeed, in the course of one's public appearances, the protection or confidential treatment of which is one's constitutional right and interest.

'*Special or sensitive data*' is a special category, which is aimed to protect more intimate information of one's private sphere (e.g. health status, addiction, sexual practices, racial origin, national or ethnic identity, political opinion or party affiliation, religious or other views, membership in interest representing organisations, personal data of a criminal record) against any unauthorised access or use, by applying even tighter rules. In addition to these broadly interpreted categories no other data qualify as special data, thus they are not subject to special (stricter) protection than as provided for by the general rules.

Irrespective of the actual technique or procedure applied, any operation involving data - i.e. collection, recording, usage, transmission etc. of data - *qualifies* as *management of personal data*. Data management is legitimate only if the person concerned has voluntarily consented to it having received adequate information (in the case of special data written declaration is required) or where the management of data is prescribed by law. The person concerned may protest against illegitimate data management and in the case of an infringement he/she may turn to the court and claim compensation.

The counterpart of the right to the protection of personal data - in other words, the 'other side of the coin' - is the *principle of the publicity of information of public interest*. These two areas are linked by up-to-date legal regulation in order to express that they go hand in hand and play a joint role in maintaining a democratic information balance, as well as in order to make sure that exercising one right cannot be a basis for reference to exceptions from the other right if this is contrary to the purpose and spirit of the regulation. The range of *information of public interest* is extremely wide since this includes all data held by the public sector, except for personal data. Publicity, however, means more than the mere transparency of the operation of the organs of public power. In order to enable controlling the management

of public moneys and to provide access to data on the environment the legislator extended the requirement of publicity to the private sector as well. Such data are regarded by the law as *information that is public in the interest of society*. Such data include personal data of individuals performing public duties that relate to their scopes of responsibilities.

Information of public interest and information that is public in the interest of society may be accessed by anybody, apart from exceptions provided for by law. If the manager of such data fails to satisfy a request for access to the data within 15 days of receipt of the request the person intending to see such data may turn to the court.

Accordingly, the freedom of information means the *requirement of the transparency* of the state, while the protection of data means *providing protection* for citizens against the state and others (this latter including the public power, the market, organisations and any other citizen). Today both of these values are equally important building blocks of a modern constitutional state.

The responsibilities of the Commissioner for the Protection of Personal Data and Freedom of Information include conducting investigations *ex officio* or on request to ensure the operation of these two constitutional rights, commenting the legal environment and pieces of legislation concerning data management and to initiate amendments or introduction of pieces of legislation as well as keeping a registry on data protection. The Commissioner for the Protection of Personal Data and Freedom of Information is authorised to investigate the activities of data managers in both the state and the private sector. In the course of the performance of his tasks the Commissioner may ask for information on any issue, may inspect any document and scrutinise any data management that may be related to personal data or data of public interest. The Commissioner may enter any premises and rooms where data are managed. Anybody who has suffered an injury in respect of the management of his/her personal data - or if there is an imminent threat of such injury - and anybody for whom an organ managing information of public interest refuses to provide the requested data, may submit a complaint to the Commissioner for data protection. In accordance with the instruction of the Commissioner for data protection the manager of the data must promptly take the necessary actions and must provide a written notice on this within 30 days. The Commissioner for data protection may issue a decision ordering the blocking, deletion or destruction of data managed without authorisation; he may prohibit unauthorised data management and may suspend the transmission of data abroad.

EVOLUTION AND ORGANISATIONAL DEVELOPMENT OF THE OFFICE OF THE PARLIAMENTARY COMMISSIONER

Pursuant to the relevant legal regulation the tasks of administration and preparations pertaining to the duties of the four ombudspersons are carried out by a joint organisation - the Office of the Parliamentary Commissioner - which is an unparalleled arrangement in the Hungarian public administration system. The features of the structure and tasks of the gradually evolving organisation also reflect this status. The fundamentals of the Office's structure and the practice of dealing with affairs had appeared by November 1995, but owing to the lack of the objective requisites for the operations of the ombudspersons the prescribed number of employees could only be hired gradually and the construction of the organisation structure took some two years. Based on foreign examples the Parliamentary Commissioners aimed at creating an effective organisation structure capable of rapid response, suitable for the application of solutions of minimum formality. Consequently, two levels of dealing with issues evolved: the client service activities, the technical/professional preparation and analysis of complaints submitted to the general Commissioner (and formerly his deputy), the establishment of the lack of the conditions required for proceedings, the administration of

submissions rejected for lack of competence and their statistical processing was carried out within the Office while the actual investigations were carried out by the investigation departments subordinated directly to the Commissioners. Besides such technical/professional tasks the Office also performed functional duties supporting the activities of each of the four Parliamentary Commissioners - such as financial management, human resource management, provision for technical requisites, running of the library, Parliamentary relationships, joint organised events, preparation and organisation of programmes abroad. After reorganisation in 2003 the client service and functional tasks increased in importance while the preparation of dealing with complaints was taken charge of directly by the ombudspersons.

The independent Commissioners having similar constitutional legal statuses - with marked differences between their authorisations for conducting investigations - have their own office apparatuses besides the joint office. Such professional cooperation and consultative relationship as well as joint action is not observed in the practices of general and special functional ombudsmen of other countries, we hope that Hungarian ombudsmen will continue this practice successfully in the future.

PARLIAMENT, CONSTITUTIONAL COURT AND OMBUDSPERSONS

The relationship between the ombudspersons and the Parliament functions in essence at the level of the relevant bodies. In the course of the fulfilment of the annual reporting obligation a direct and meaningful dialogue developed towards the Committee for Constitutional Affairs and the Human Rights Committee, followed with similar relationships with other committees. Each year the reports were submitted to the plenary session with almost unanimous support by the committees and MPs voted for their approval with substantial majority. The situation in respect of the receipt of recommendations addressed to Parliament - to resolve improprieties that are particularly serious or those involving larger groups of society - is somewhat more complex, but the Commissioners tend to repeatedly submit to Parliament their rejected recommendations. The committees often elicit comments by the Parliamentary Commissioners in the course of the discussion of substantial comprehensive issues, as well as during the discussion of drafts (amendments) affected by their recommendations. In some cases the report on the investigation by an ombudsman is put on the agenda of the committee having competence concerning the issue on hand. A relationship of ongoing consultation and cooperation has evolved between the Office of the Parliamentary Commissioner and the competent committees of Parliament. This has facilitated our own work and it is hoped to produce mutual benefits. The Human Rights Commission has regularly invited the general or the minority Commissioner to the discussion of issues pertaining to their fields of activity.

Several decisions of the Constitutional Court were related to the scopes of competence of the Parliamentary Commissioners. As early as in 1991 the so-called first 'resolution on the personal identification numbers' determined the constitutional framework of the prospective act on data protection, the controlling function of the independent data protection ombudsman. The re-regulation of scopes of competence was thus completed.

In their inspection reports and position statements the ombudsmen often refer to concrete decisions of the Constitutional Court and often rely on their explanations. At the same time, the Parliamentary Commissioners relatively rarely turned directly to the Constitutional Court for ex-post norm control or asking for the establishment of a constitutional failure, for the assessment of whether a regulation is contrary to any international agreement or for interpretations of the provisions of the Constitution, and they sometimes filed constitutional complaints.

PUBLICITY AND THE OMBUDSPERSONS

The possibilities and limitations of the Parliamentary Commissioners are determined primarily by their consistency, respect, social and professional recognition. This why the frequency of their appearances and the issues in relation to which as well as the places where - the media in which - they appear, are of utmost importance. The ombudsman who often appears before the 'civil' and professional public is growing increasingly widely known among the population and his role in shaping people's awareness in relation to the implementation of the rule of law is growing stronger.

It should be noted that the Parliamentary Commissioners and their colleagues have been actively participating in academic public life, thus they are practically permanent participant of the professional publicity.

CIVIC ORGANISATIONS

In the course of its operation the institution – in addition to its experience accumulated over a decade – also relies on professional assistance provided by civil organisations that are transmitting citizens' complaints, after collecting and analysing them, to the Parliamentary Commissioners. Perhaps there is no civil organisation in Hungary that has not sought for assistance of the ombudsman during the recent years. Special mention should, however, be made of organisations that have been regularly channelling citizens' complaints and those that have been cooperating with the Commissioners in respect of major issues involving large numbers of people. Charity organisations are cooperating with the Commissioners on a regular basis in resolving issues of people in the most exposed situations. We maintain almost permanent contacts with organisations engaged in supporting the homeless. The 'green movements' are pioneers of environment protection, and they notify the institution of events threatening the environment on a regular basis. Associations of some groups of patients, people with disabilities and foundations often seek for 'collective' legal aid.

Human rights organisations in Hungary are among the most important partners of the Office of the Commissioner for Data Protection, some of their professionally well prepared publications provided substantial help to our efforts. Special mention should also be made in this category of legal aid organisations called '*Society for Freedom Rights*' and the '*Hungarian Helsinki Committee*'.

VISITING COUNTIES, CLIENT SERVICE, INTERNET SERVICES

The Parliamentary Commissioners have no local organs therefore county visits have been organised on a regular basis as a means of direct dialogues and of exploring problems. Two or three such visits are organised each year. At the county seats boxes were set up in which letters describing complaints may be dropped, the complaints are collected before the visit and then our colleagues hold onsite consulting hours and carry out onsite inspections. A one-two day visit enables consultations with county leaders, and notaries as well.

The Office has attached special importance to serving its clients right from the beginning. This function is carried out primarily by the Client and Information Service. The consultation hours – held on three days of the week as is customary in the public administration system – were extended in 2003 and at present complainants seeking for personal consultation are received on every work day, on a permanent basis. A client oriented filing system was introduced, which has rendered the administration of affairs traceable and those seeking the Office's assistance can follow the current status of their submissions via the Internet. The service available on the homepage of the Office of the Parliamentary Commissioner also provides access for those concerned, to the reports and position statements of the Commissioners. The Annual Parliamentary Reports of the ombudsmen and their abbreviated English language versions are also accessible on the homepage www.obh.hu.

Szonda Ipsos analysis on the knowledge of people on ombudsmen (1998-2008)



◆ RESEARCH REPORT

KNOWLEDGE ON AND JUDGEMENT OF OMBUDSMEN AMONG HUNGARIAN POPULATION

◆ March 2008

Circumstances of the research

On behalf of the Parliamentary Commissioner for Civil Rights the Szonda Ipsos carried out a public opinion poll with questionnaires based on personal inquiry among 1000 grown-up permanent Hungarian residents between 15 and 21 February 2008.

Active knowledge on the ombudsman institution

In 1998 15%, in 2007 32% mentioned the ombudsman institution as an institution the citizen is entitled to turn to in case of suffering any legal violation by a public body.

Total knowledge on the ombudsman institution

In 1998 65%, in 2007 79% knew at last by hearing the institution of the ombudsman.

The position of the General Ombudsman is the best known: 72% has already heard of it. The total knowledge index of the data protection and the minority commissioner is 59, respectively 57%, those of the green ombudsman is 17%.

Willingness for making use of the ombudsman system

11% of the grown-up population considers completely certain, and further 28% probable to address the ombudsman with his/her problem if he/she suffered legal violation.

Community confidence index of the Parliamentary Commissioners' Office

The value of the index is 52 points, the third highest among 18 institutions.

Opinions on the ombudsman institution

Community opinions relating to the ombudsmen's work are less differentiated. The biggest part of replying people agreed the positive assertions and rejected the negative ones. There are less positive expectations and assumptions at the moment concerning the operation of ombudsmen than it were in 1998.

Circumstances of the research

On behalf of the Parliamentary Commissioner for Civil Rights the Szonda Ipsos carried out a public opinion poll with questionnaires based on personal inquiry among 1000 grown-up permanent Hungarian residents between 15 and 21 February 2008.

The main targets of the research were the following:

– Surveying the knowledge on and judgement of the institution of Parliamentary Commissioner among Hungarian population.

– Comparison with the data of a former research fulfilled with the same target and method in 1998 and the detection of changes.

Basic crowd

The basic crowd of the survey is the population older than 18 years with permanent Hungarian residence. The number of the basic crowd is 8 140 697 persons.

Sampling

The sources of sampling were the data bases of the Central Statistics Office and the Central Data Processing, Election and Register Office.

The method of sampling is: two-step, proportionally layered random sampling.

Error in sampling

Every statistical data recording has a so called error in sampling which derives from the fact that not the total basic crowd but only a certain part of it is examined. Within the measure acceptable in return for significant expenditure savings the error in sampling reduces the accuracy of data. The error in sampling can be a maximum $\pm 3,1\%$ relating to the whole sample.

If data are relating not to the whole of the sample but a group of it the error in sampling is – depending on the number of the group – higher. In the following tables we are presenting the extent of the error in sampling beside various sample and data sizes.

When comparing the data of two (sub)samples, depending on the number of (sub)samples – on a 95% confidence level – bigger differences can be considered as statistically significant than the percentage of the following table. These limits of error must be considered in each case when the data of the 1998 data recording are compared with the data of our present research.

Data recording

The data recording was fulfilled by a standard questionnaire and personal inquiry on the dwelling place of the persons chosen in the sample.

Weighting

In order to restore the proportions of the basic crowd a multi-aspect iterative weighting has been applied according to gender, age, qualification and type of the place of residence based on data provided by the Central Statistical Office.

Composition of the weighted sample

In the following table the composition of the sample according to basic social characteristics is presented.

Table 1 ❖ Composition of the weighted sample according to social characteristics		
		%
Gender	man	47
	woman	53
	total	100
Age group	18-30 years old	24
	31-45 years old	26
	46-60 years old	26
	61-X years old	24
	total	100
Qualification	maximum 8 primary school years	29
	industrial school	28
	finished secondary school	29
	finished college, university	14
	total	100
Occupational status	active entrepreneur, firm owner	5
	active manager	2
	active intellectual worker	5
	active subordinate intellectual worker	15
	active skilled worker	12
	active unskilled worker	6
	student, young mother (on GYES, GYED)	10
	pensioner	33
	unemployed , homemaker, other dependant	12
	total	100
Financial situation	poor	27
	in medium financial situation	53
	wealthy	20
	total	100
Settlement type of the place of residence	Budapest	18
	county town	18
	other town	32
	community	32
	total	100

Technical remarks

As a rule data rounded off to whole numbers are presented in the research report. The total of percentages may differ from 100 in a small degree by reason of the rounding.

The "0" appearing in the cells of tables is higher than 0 by reason of the rounding, but it is a number smaller than 0,5. If no replying persons belong to a cell, it is designated by a "-" sign.

Phrasings appearing in the questionnaire in certain tables and figures are abbreviated where appropriate by reason of the lack of place.

The research report calls 'persons replying in the merits' those responding to one of the questions by choosing between the given reply categories, respectively by some information in the merits. Only those do not belong to persons replying in the merits who responded that 'I don't know' or 'I don' wish to reply'.

The total of 'I don't know' and 'I don't wish to reply' answers are marked with an ND (no data) abbreviation in the tables and the figures.

Knowledge on the Parliamentary Commissioners

The knowledge of people on the ombudsmen was examined in our report in two ways. Primarily we called the participants of our research in a so called open question making possible to provide free and spontaneous responses to list according to their knowledge organizations and institutions people can turn to if their rights are violated by an authority or a firm. Through this method we could gain some information on how active is the knowledge of the population on the existence of the ombudsman institution, namely in which extent can people link this type of legal protection to the legal violation in a spontaneous way free of influences.

The fact, however, that someone does not mention by itself the ombudsman institution while replying this question does not mean that the person concerned does not know or at least has not heard of the existence of the institution. Two causes may explain that someone – although already heard of ombudsmen – does not mention spontaneously the institution. Primarily it may occur that the ombudsmen are simply left out by mistake from the list of the known legal protection institutions. The reason of the lack of mentioning may be also the fact that the available information on ombudsmen are superficial, inaccurate or are not thorough enough to list the ombudsman institution among institutions devoted to help people in case of legal violations.

Active knowledge

For the questions 'Are there organizations or institutions where people can turn to for help if an authority or firm violates their rights (proceeds in a violating manner against them)?' and 'Could you list those institutions and organizations which may – according to your knowledge – help people in these cases?' 45% of the questioned responded in the merits. A part of these answers is concrete: it mentions by name some institutions – among them such institutions as well where citizens are not entitled to address directly –, the other part, however, is general: it indicates institution types with general summarizing names (e.g. trade unions, civil organizations). Relating to this question 1% of the questioned people gave voice to an opinion that there exist no such institutions the citizen could turn to.

Those responding in the merits mentioned roughly with the same frequency the ombudsman institution (32% of the questioned), than other organizations (30%).

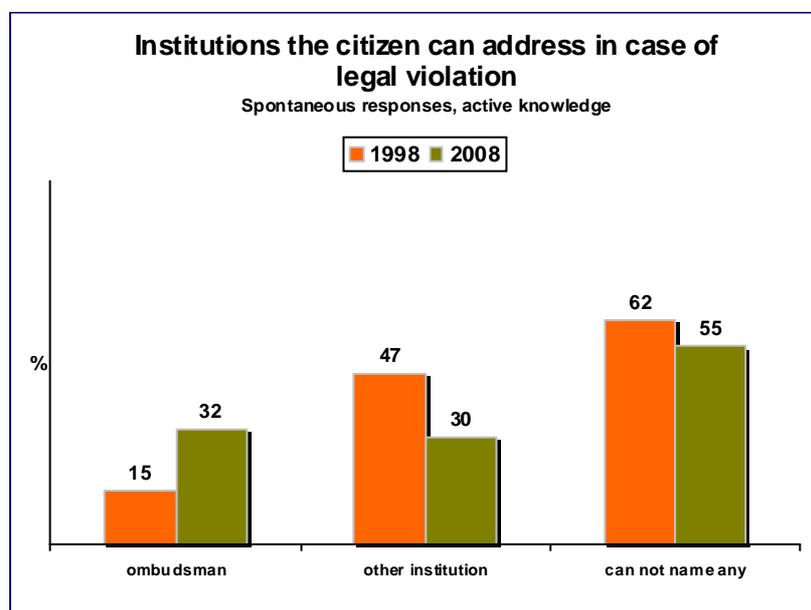
28% of responses referring to the ombudsman institution contains the expressions 'parliamentary, citizens', data protection, minority commissioner/ombudsman', 11% of them refers only to the sphere of tasks (e.g. data protection), and 61% mentions the ombudsman generally speaking, without any specifications.

In responses affecting other organizations, consumer protection authority and court occur most frequently (5, respectively 3% of the questioned mentioned these).

In year 1998 some less people (38%) responded in the merits to this question and even less: 15% named in some form the ombudsman institution, than in 2007 (32%). In year 1998 more people mentioned other organizations (47%).

❖ Organizations and institutions people can address if their rights are violated by an authority or a firm	
❖ spontaneous responses	
	%
Parliamentary Commissioner for Civil Rights and its variations	2,6
Parliamentary Commissioner for Future Generations and its variations	0,5
Parliamentary Commissioner for the Rights of National and Ethnic Minorities and its variations	3,9
Commissioner for Data Protection and Freedom of Information and its variations	4,7
ombudsman(men) and its variations	18,9
not existing ombudsman (e.g. educational)	0,2
<i>ombudsman total</i>	<i>31,9</i>
local governments, Mayor's Office	1,3
labour court	2,6
court	3,4
court of registration	0,5
Constitutional Court	1,1
ministries, Ministry of Equal Opportunities	0,5
Consumer Protection Authority, consumer protection	4,7
relief organizations, charity organizations, Red Cross	1,4
patients' rights representative, medical representative	0,8
trade unions	0,8
Office of Economic Competition	0,2
(Hungarian) Helsinki Committee	0,8
Civil Lawyer's Forum	0,2
Hungarian Civil Liberties Union (TASZ)	0,1
civil, human rights, civil law organizations	2,2
lawyer legal aid service	0,8
police	1,8
ambulance, fire-service	0,2
National Public Health and Medical Officer Service (ÁNTSZ)	0,5
publicity, press, TV	0,2
nowhere, nobody, not existing (such), nowhere to address	1,2
other response	4,4
can not name any	54,7

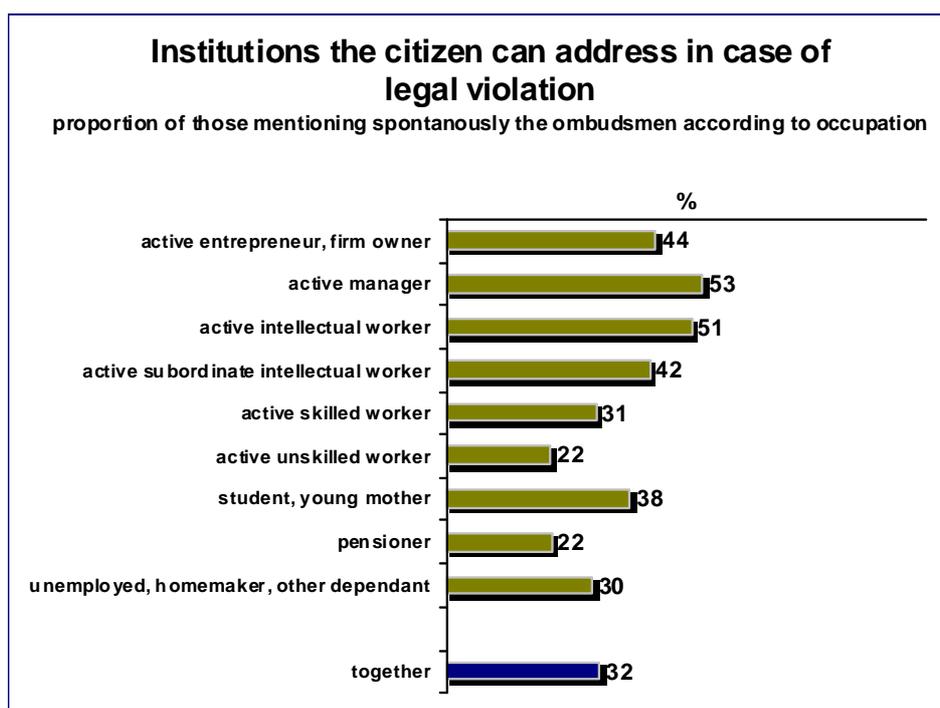
❖ Organizations and institutions people can address if their rights are violated by an authority or a firm		
❖ spontaneous responses		
	1998	2007
	%	%
Parliamentary Commissioner for Civil Rights	11,0	2,6
Parliamentary Commissioner for Future Generations	-	0,5
Parliamentary Commissioner for the Rights of National and Ethnic Minorities	2,0	3,9
Commissioner for Data Protection and Freedom of Information	1,0	4,7
ombudsman(men)	4,0	18,9
ombudsman by name	1,0	0,0
not existing ombudsman (e.g. educational)	-	0,2
<i>ombudsman total</i>	<i>15,0</i>	<i>31,9</i>
local government	9,0	1,3
consumer protection authority	3,0	4,7
trade union	3,0	0,8
court total	10,0	7,6
police	4,0	1,8
civil organizations total	3,0	2,5
other organizations	8,0	5,4
other response	7,0	5,6
can not name any	62,0	54,7



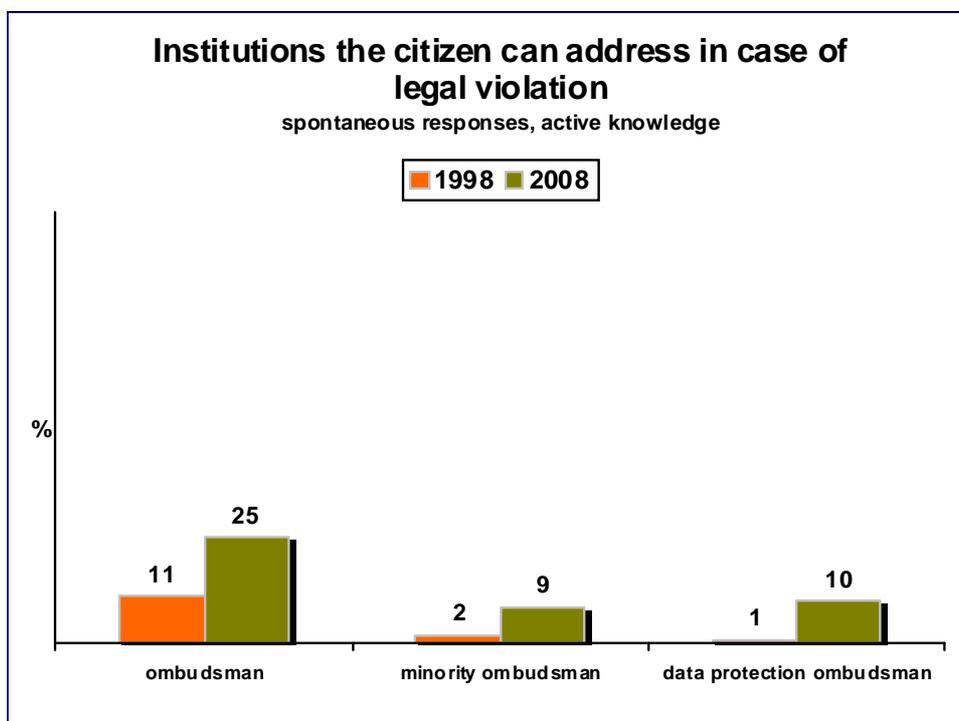
Between 1998 and 2007 the change of the proportion of those spontaneously mentioning the ombudsmen differs characteristically in the individual social groups. This proportion has not changed (in a statistically significant manner) on the one hand among the graduated (who has already outstandingly been aware of the knowledge that citizens suffering legal violations have the possibility to turn to the ombudsman), on the other hand the proportion has not changed either among the poor (for whom the lack of expertise in public

life and the mistrust in political institutions makes this possibility more disinterested). The active knowledge on the ombudsman institution, however, has significantly increased among the young, those graduated from secondary school and people in medium financial situation. While in 1998 this was a knowledge mainly possessed by the elite, now this knowledge has spread in the middle class almost as much as in the upper layer of the society.

Table 4 ❖ Proportion of those mentioning the ombudsmen (active knowledge)	1998	2007
	%	%
man	16	35
woman	15	29
18-30 years old	11	34
31-45 years old	22	37
46-60 years old	19	34
above 60 years	9	21
maximum 8 primary school years	7	18
industrial school	12	26
secondary school	20	44
college, university	44	49
poor	9	14
In medium financial situation	11	35
wealthy	27	47
Budapest	22	35
county town	23	33
other town	11	34
community	11	27
total	15	32



In 1998 the Parliamentary Commissioner for Civil Rights was mentioned by much less people (11%) responding to this question than in 2007 (25%). The mentioning frequency of the minority ombudsman and data protection ombudsman has increased from 1-2% to 9-10%.



Consequently we can summarize that during ten years the ombudsman institution has become more transparent, known and comprehensible in its function for the Hungarian society.

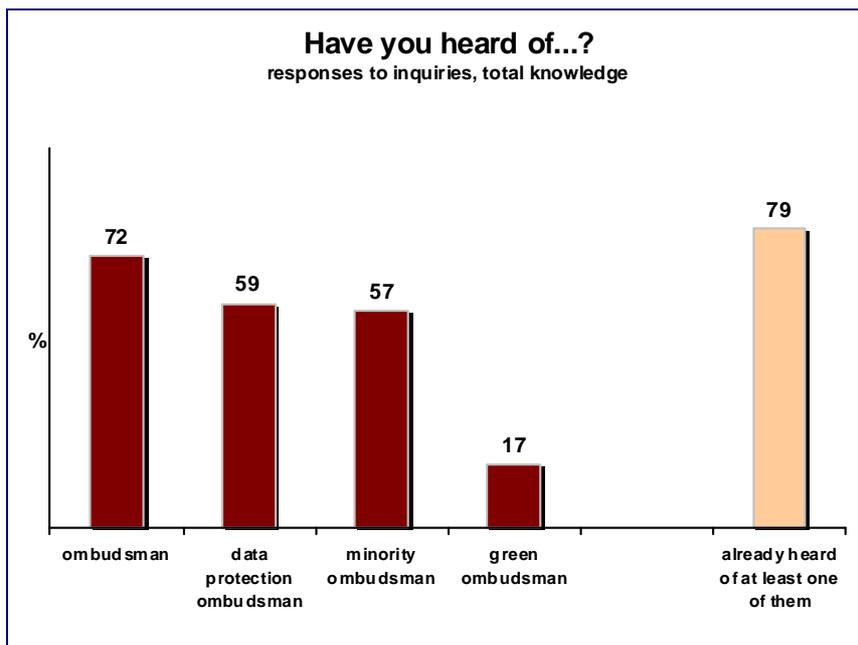
Total knowledge

While the present examination has shown a 32% active knowledge on the ombudsman institution, the total knowledge on them is 79%: which means that 79% of people mentioned that they had already heard of these positions, including also those who could recall even spontaneously their existence. In 1998 this proportion was 65%.*

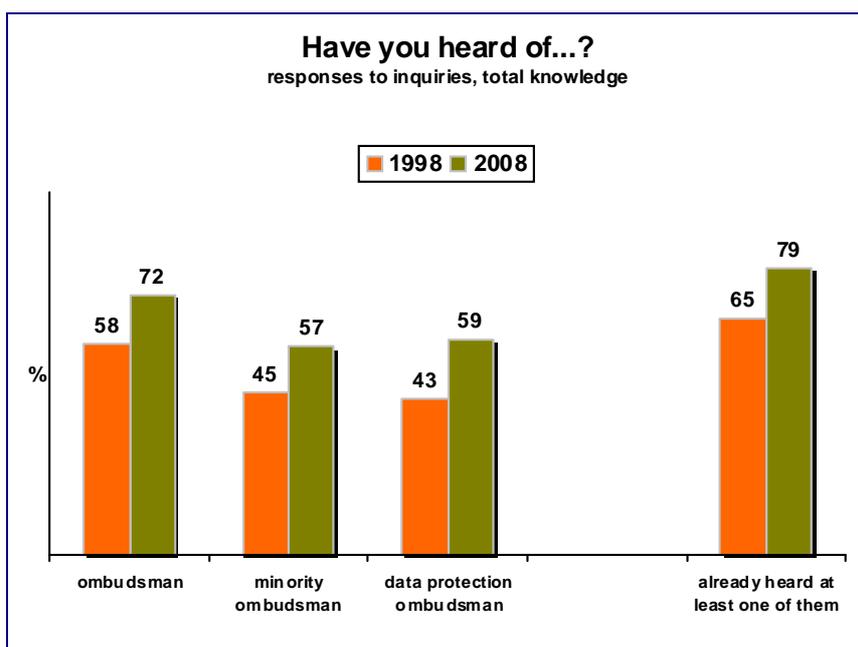
The majority has already heard of the three positions performed at the time of our research. However, only 17% of the grown-up population has heard of the ‘Parliamentary Commissioner for Future Generations’, the so-called ‘green ombudsman’.

The position of the general commissioner is the best known: 72% has already heard of it, while the total knowledge index of the data protection commissioner and the minority commissioner is the same (59, respectively 57%).

* In year 1998, when the institution of the green ombudsman has not existed yet, the General Deputy of the Parliamentary Commissioner for Civil Rights appeared as a fourth element in our research.



The total knowledge on the general, the minority and the data protection ombudsmen has been increasing in similar extent (with 12-16 percents) since 1998.



All four positions are best known among the middle-aged (31-60 years old).

By the increase of the stages of graduation the total knowledge index is continuously growing in case of all four positions.

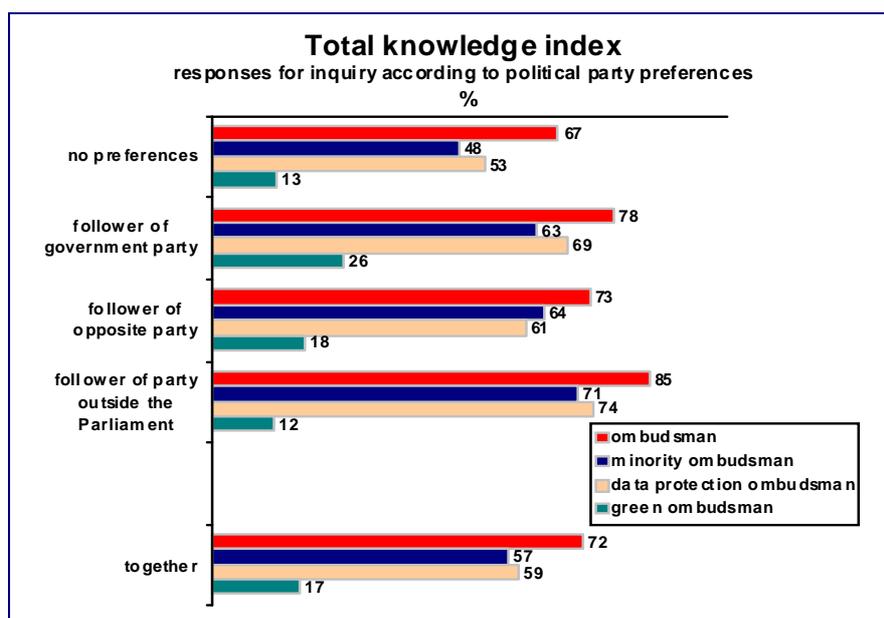
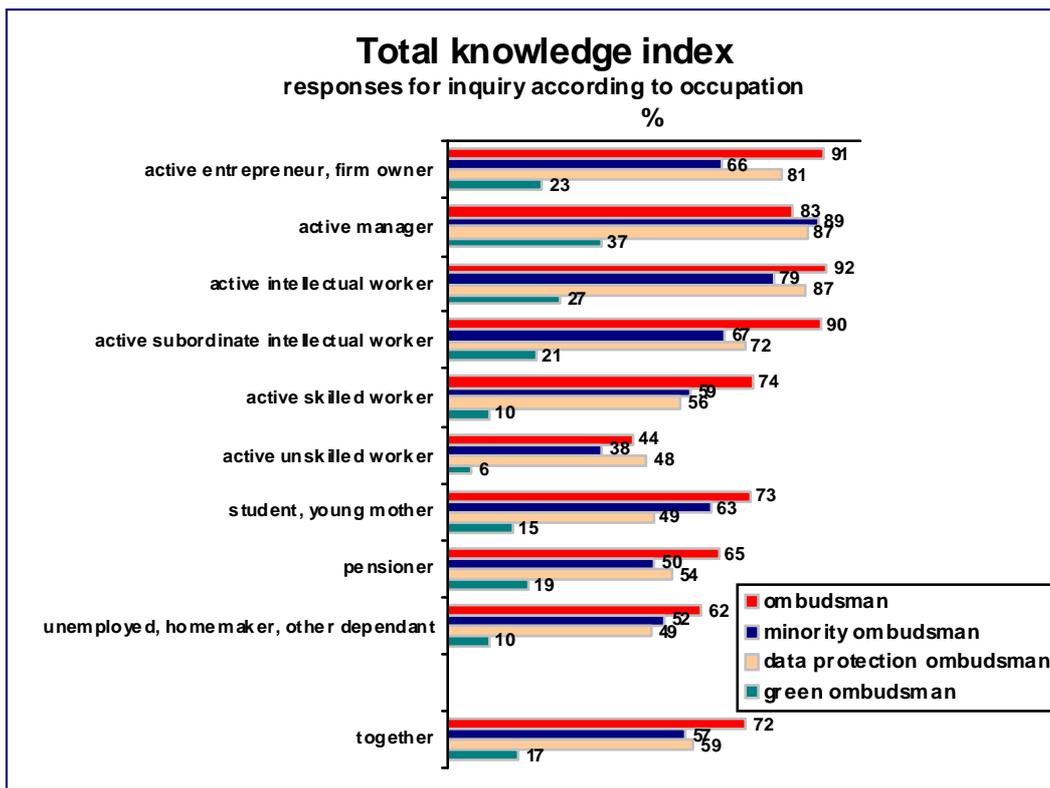
All four positions are best known among wealthy people and less known among the poor.

The positions of the general, minority and data protection commissioners are known at the same extent in Budapest and country cities, a little bit less known in small towns and even less in communities. In case of the position of the green ombudsman the value of the total knowledge index is only outstanding in the capital.

Among active earners entrepreneurs, firm owners, managers and intellectual workers are the most familiar with the institution and the unskilled workers are the less familiar with the ombudsmen. The knowledge of pensioners, respectively the unemployed and other dependants also lags behind the average.

Those who have some kind of political party preferences – and also informed us about it during the research – are more frequently familiar with the ombudsman institution than those not having any political party preferences. The total knowledge index does not differ significantly in the potential electoral camps of various political parties.

Table 5 ❖ Proportion of those having heard about the ombudsmen (total knowledge)					
	ombudsman	minority ombudsman	data protection ombudsman	green ombudsman	knows about at least one of them
	%	%	%	%	%
man	74	60	61	18	81
woman	70	55	58	16	78
18-30 years old	68	57	51	13	76
31-45 years old	77	63	63	15	86
46-60 years old	80	67	71	23	86
above 60 years	61	42	50	17	67
maximum 8 primary school years	53	41	41	9	65
industrial school	70	50	53	10	75
secondary school	85	70	72	22	91
college, university	88	82	85	37	91
poor	49	38	41	9	61
in medium financial situation	77	60	62	17	83
wealthy	88	76	76	27	93
Budapest	79	67	67	30	84
county town	80	67	70	15	87
other town	73	54	57	16	79
community	62	51	51	12	72
total	72	57	59	17	79



Since 1998 the total knowledge index of ombudsman positions has increased in a greater extent than the average among women, the 46-60 years old, and people in medium financial situation and people living in county towns.

Table 6	❖	Proportion of those having heard about the ombudsmen (total knowledge)							
		ombudsman		minority ombudsman		data protection ombudsman		knows about at least one of them	
		1998	2007	1998	2007	1998	2007	1998	2007
		%	%	%	%	%	%	%	%
man		65	74	51	60	50	61	71	81
woman		51	70	40	55	38	58	59	78
18-30 years old		62	68	53	57	49	51	72	76
31-45 years old		65	77	48	63	52	63	71	86
46-60 years old		60	80	49	67	47	71	66	86
above 60 years		44	61	31	42	25	50	49	67
maximum 8 primary school years		41	53	31	41	25	41	48	65
industrial school		52	70	40	50	40	53	62	75
secondary school		78	85	64	70	61	72	84	91
college, university		93	88	72	82	88	85	95	91
poor		44	49	32	38	23	41	51	61
in medium financial situation		56	77	43	60	43	62	64	83
wealthy		78	88	63	76	68	76	82	93
Budapest		74	79	58	67	59	67	78	84
county town		57	80	42	67	47	70	63	87
other town		59	73	46	54	42	57	66	79
community		50	62	39	51	35	51	57	72
total		58	72	45	57	43	59	65	79

Knowledge about the tasks and activity of parliamentary commissioners

The frequency of mentioning any knowledge is the same concerning the three ombudsmen in office (31-33), while this percentage is 5% in case of the green ombudsman.

Table 7	❖	Indexes characterizing the knowledge on ombudsmen				
		ombudsman		minority ombudsman	data protection ombudsman	green ombudsman
			%	%	%	%
active knowledge		25	9	10	2	
passive knowledge		47	49	49	15	
mentions any knowledge		33	31	32	5	

Parliamentary Commissioner for Civil Rights

Starting out the naming of the position the majority of 330 responses (20%) relating to the general commissioner is about that the general ombudsman protects citizen's rights and constitutional rights. Nearly the same number of people (18%) mentioned that petitions can be submitted to the ombudsman, but the replying persons did not concretized in which case and what kind of complaints can be submitted. 11% of the above replying 330 persons

emphasised that by reason of legal violations it is possible to address the ombudsman. Responses of similar character were given by those 9% of replying people who highlighted that the ombudsman fights against injustice, unlawfulness, and other 9% who found that the ombudsman protects the rights of people. 8% considered it important to mention that the ombudsman protects citizen's rights against institutions, firms, offices and authorities.

Parliamentary Commissioner for Future Generations

8 out of 51 replying persons mentioned the environmental protection and 25 the youth. 7 persons emphasised that this position has been established nowadays.

Parliamentary Commissioner for the Rights of National and Ethnic Minorities

314 replying persons mentioned the minority ombudsman. A quarter of them mention Roma, 15 % ethnicity, 55% minorities.

12% of the responses touch upon that the minority ombudsman steps up against discrimination and negative discrimination.

Commissioner for Data Protection and Freedom of Information

35% of the 315 replying persons only repeated the name of the position in various forms. In general 27%, more concretely 15% stated that it is about the protection of personal data.

Opinions on the system of parliamentary commissioners

Besides disclosing the knowledge of the Hungarian population on the parliamentary commissioners the research also aimed at identifying the valuation and attitude of the population to the ombudsman institution. So that not only the attitude of the group familiar with the ombudsmen and the Parliamentary Commissioners' Office could be found out, but also those of the less informed layers, the inquirers briefly presented the replying persons the sphere of tasks of the Office as follows:

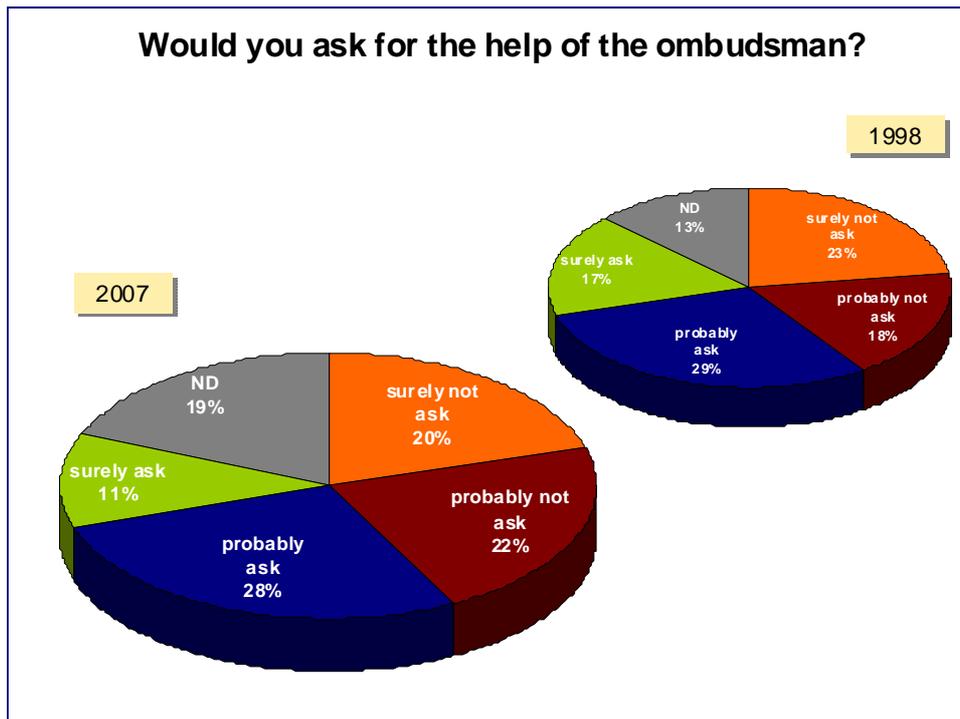
Everyone can turn to the Parliamentary Commissioners' Office, namely the ombudsmen if he/she is not satisfied with the proceedings of an authority or organisation feeling that during the administration his/her human rights were violated, par example he/she was treated in an unjust way, was misinformed or measures were taken in his/her case unreasonably slowly.

Willingness for making use of the ombudsman system

Following this brief orientation we asked the replying persons whether if such matter occurred with them in the future, they would themselves ask for the help of the ombudsman or not. Responses show that the willingness in people for this form of redressing legal violations is relatively high.

In a given case – according to its own belief – 11% of the grown-up population would surely, while further 28% would probably address the Office with its problems. 22% of them considered it unlikely and 20% totally impossible to turn to one of the ombudsmen with their injuries. 13% of them could not take a stand in this question.

In 1998 more people responded in the merits this question and the frequency of those being certain to address the ombudsman in case of legal violations decreased with 6 percent.



Those who are certain in turning to the ombudsman in a concrete case are over-represented among the graduated, and those who are certain in not turning to him are more numerous than the statistically attended figure among people above 60 years.

Among people without any political party preferences those who would not ask for the ombudsman's help are more numerous and those who would ask for it are less than the average.

Table 8	❖ Would you ask for the help of the ombudsman?				
	surely not ask	probably not ask	probably ask	surely ask	ND
	%	%	%	%	%
man	20	20	30	11	20
woman	21	24	26	12	17
18-30 years old	18	21	28	13	21
31-45 years old	17	22	31	13	17
46-60 years old	18	26	31	12	13
above 60 years	29	19	20	8	24
Maximum 8 primary school years	26	20	21	10	22
industrial school	21	20	28	11	21
secondary school	19	25	31	10	15
college, university	10	22	35	20	13
poor	26	20	21	9	25
in medium financial situation	19	23	29	12	18
wealthy	17	23	34	13	12
Budapest	20	21	25	9	24
county town	12	21	32	20	15
other town	26	19	26	10	19
community	20	25	28	10	17
total	20	22	28	11	19

Community confidence index of the Parliamentary Commissioners' Office

Besides the willingness to ask for help the confidence of the population towards the Parliamentary Commissioners' Office was also examined by an other question not related to personal activity. They were questioned how the Parliamentary Commissioners' Office serves, besides several other political institutions, the good of people today in Hungary. The inquired persons could express their opinions on a scale from 1 to 5 according to the school rating, where rate 5 naturally meant that the institution concerned serves very good, while rate 1 meant that it does not serve at all the good of people. The then received responses were transformed to points from 0 to 100 for the sake of the easier comparison.¹

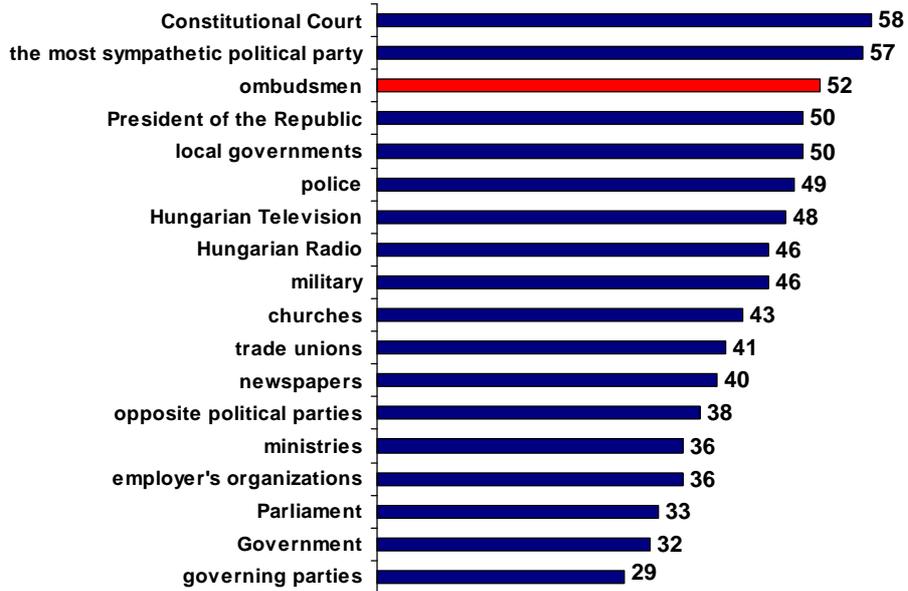
70-94% of the inquired undertook to judge the social utility of various institutions. 76% qualified the ombudsman institution.

From the 18 institutions examined in our research 4 reached 50 or more points on the hundred-grade confidence index in December 2007, while 14 got a qualification worse than the medium. Even the most highly qualified institution, the Constitutional Court received only 58 points. So in this atmosphere of the disillusion from political institutions the 52 point rate of ombudsmen signifies confidence, at last in a relative sense.

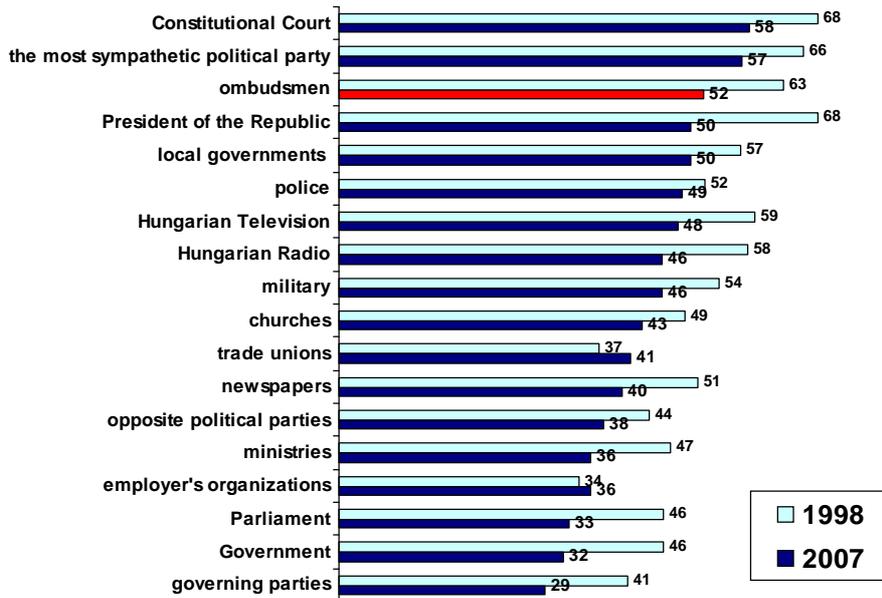
From 1998 the confidence index of all examined institutions significantly decreased except for trade unions and employer's organizations. The decrease is 11 points in case of the ombudsmen.

¹ Ratings were made corresponded the following points: 1=0, 2=25, 3=50, 4=75, 5=100.

Confidence index of institutions



Confidence index of institutions



The confidence towards the ombudsman institution decreased in a larger extent than the average among the graduated and people living in Budapest (with 14 points in both group).

Opinions on the ombudsman institution

Table 9	❖ Opinions on the ombudsman institution				
	not agrees at all	mainly not agrees	mainly agrees	totally agrees	ND
	%	%	%	%	%
Good that there exist ombudsmen, thus there are at least someone to force the authorities to observe the law.	4	7	38	34	17
The operation of ombudsmen is useful, since in a democratic state it is necessary that more organizations ensure the emergence of people's rights.	3	11	38	30	17
Good that there exist ombudsmen, because an authority must not avoid the judgement of such high-ranked personalities.	4	10	38	29	19
The operation of ombudsmen is useless if they are not entitled to oblige the abusing authorities to modify their decisions.	21	26	22	12	19
The operation of ombudsmen might be rather expensive; the citizens' money should be spent for more important targets instead.	19	28	23	8	22
There is no reason for the operation of ombudsmen, since they are also standing on the side of power and do not help at all the man-in-the-street.	26	34	17	5	19

Comparing the data of our present inquiry with those of ten years ago, it must be established that public opinion on ombudsmen has become more neutral and less extreme: the proportion of those totally agreeing with positive assertions has decreased, and those as well who totally reject the negative ones. All this means at the same time that there are less positive expectations and assumptions at the moment concerning the operation of ombudsmen than it were in 1998.

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