

**VARIA** 64 (E)

Nikolaus SCHWÄRZLER  
Ombudsman of Vorarlberg ret.

**OMBUDSMAN 2014 - AFTER THE BOOM IN THE  
REGENERATION ?**

Project: 64 - 2015

06/16

## **Ombudsman 2014 – After the boom in the regeneration?**

MMag. Dr. Niolaus Schwärzler

Retr. Ombudsman of the Autonomous Province of Vorarlberg  
and retr. President of the European Ombudsman Institute (EOI)

### **Bibliography Information EOI – European Ombudsman Institute**

Author: MMag. Dr. Nikolaus Schwärzler

Editing: Dr. Josef Siegele, General Secretary

Copyright©EOI

## Contents

### **OMBUDSMAN 2014 – After the boom in the regeneration?**

(Stopovers in Abkhazia, England, Italy, Russia, Switzerland)

Contents	3
I.	
The importance of the Ombudsman also below the national organization	4
II.	
Does recession require the waiver to legality?	6
III.	
„To the South of Denmark“ - the resistance to the boom	12
IV.	
A lamb breaks through the silence - but who gives it a voice?	13
V.	
The Ombudsman of Abkhazia as an example and model in Eastern Europe	15
VI.	
Conclusio	17

## **OMBUDSMAN 2014 – After the boom in the regeneration?**

(Stopovers in Abkhazia, England, Italy, Russia, Switzerland)

### **I.**

#### **The importance of the Ombudsman also below the national organization**

A starting point of my scientific curiosity was finding of answers to the questions onto the Topic III.

The boom in the establishment of national ombuds-institutions was followed mainly in Italy and Russia through a gratifying number of regional ombuds-institutions in major cities and regions and a very large number of local ombudsman-offices. It's to remark that the established European Community of the Council of Europe called the countries in Eastern Europe to something, what even its heartlands were not able to provide.

The ombudsman expert from Zurich, Prof Dr Walter Haller, has conclusively proved in a publication<sup>1</sup> of the European Ombudsman-Institute, that there is no hierarchy possible under the ombuds-institutions of three different levels like national, regional and local level.

Each ombudsman on every level has to stay in the same proximity to the citizens and to have the same instruments and the same qualifications at his disposal. Also the task can only be the same – mutatis mutandis. So it's quite self-evident to ask both the regional and the local ombudsmen after their experiences and to involve it into the reflection about steps which are needed for remedying the recognized deficiencies in the citizen's protection.

You could also think that those persons appointed to offices during the boom of the installation of the ombudsman institutions did not expect any elimination of deficits. I'm convinced that such deficits were painfully perceived.

This survey resulted in following advices:

- strengthening of the citizen's initiatives, especially of the NGOs
- co-operation with the members of parliaments in parliamentary enquetes, mutual round tables,
- increased, explanatory media work from the ombudsman himself
- presentation of the ombudsman's value for right-seeking citizens
- constitutional status for the ombudsman as institution

---

<sup>1</sup> Cf. Varia 55 - EOI, Haller Walter, hierarchical structure of ombuds-institutions?

- strengthening of consciousness in the Parliament, that the work of the ombudsman guarantees social stability and an ombudsman can be a mediator between state, social and economic interests
- creation of international rules onto the status of the ombudsman
- if there is a threat of weakening due to the conflict: support through the international organizations.
- state funding of local (ombudsman) institutions,
- increasing of the reputation of the ombudsman by the civil society
- deepening of the awareness of common grounds between ombudsman, mass media and NGOs
- professional lobbying, public petitions, influence on parliamentarians
- use of the legal instruments; cooperation between ombuds-institutions within the UN-network, of ombudsman-communities and international organizations,
- introduction of legal sanctions in case of obstruction of the Ombudsman while taking in his tasks
- demonstrating that even the most expensive management is a poor one, if it violates the civil and human rights, while the ombudsman is a widely proven and highly efficient organization that is used to prevent the poor administration and human rights violation,
- creation of the awareness of the importance of the ombuds-institutions
- transparency of the ombuds-institution also in terms of its cost for to reach the sympathy
- awareness in the government and members of the parliament should be aware of the ombudsman's activities also in their meaning, namely through clearing up the conflicts, increasing of the citizen's satisfaction who are also voters
- it is needed to create awareness that human rights are important also in times recession and that the most vulnerable groups need even more protection during this time, "... the reduction of resources can never justify a weakening of human rights"
- involvement of the European Commissioner for Human Rights
- convoking of a conference of European national human rights institutions which makes thematically decisions, publication of a document with underlining of the issue that there is work needed against this trend
- in times of recession the needs of the less-favored are even bigger
- an ombudsman has to explain the efficiency of his work and he or she requires the public opinion to counteract the tendency

- repeatedly seen elements of the counteracting are patience, perseverance, strictness/strength, trustworthiness, sense of responsibility and quality of work
- accentuation of the important role of the ombuds-institution for making it possible that the citizens are able to enjoy their rights

All answers grow up from the self reflectioning position and they see a high level resource in the highest quality of work and quality of the personality of the ombudsman.

After the evaluation through the ombuds colleagues it is clear that the quality of a person and the quality of his work are very important, and now there is the question of the education of the ombuds-persons and another question whether this education is considered to be adequate.

Here are some examples:

Academic education in law, economics, political science, administration science, lecturer at the university	Sufficient education
Study of rights, lawyer test, practice as a lawyer	Further necessary: communication training and public relations education
Study of law, nine practical years in the administration, nine years of private business, nine years as lawyer,	Further necessary: training in communications and public relations
Study of Law	Depending on the situation: multilingualism, social skills, public relations
Doctorate of the jurisprudence, university teaching experience for constitutional law, government official, leader of three departments	Sufficient education and experience

## II.

### **Does recession require the waiver to legality?**

During this project after I. there were certain signs corroborating for the fact that – an absolutely legitimately hypothesis about a supposed connection with a "worsening of the times" – an inclination increases in times of lower prosperity to examine the state management in the farthest sense for a possibility of a rather inconceivable reduction in the area of the legal protection.

We know an example from Italy where an attempt started to eliminate the ombudsman due to the reason that there were no necessary means available for the "Difensore Civico" (DC). In that country this would have caused that there were no more DCs to be expected for Italian regions and the number of the municipal DC would have to decrease, although this not quite rational solution of one DC per municipality did not reach the final aim removing it to more than three quarters.

Another point of my curiosity was the question whether it requires few parameters and if those are available for to judge proper decisions on the necessity and the sense of the creation or abolition of local ombuds-institutions soundly.

Such parameters were not known. They are also barely conceivable, as the survey demonstrated the correspondent view that the demand of the ombudsman increases clearly in times of a recession by the necessity to take up social benefits.

It was not to expect that – with just hesitantly growing belief in a free market economy – functioning democracy, understanding and quick accustoming to a rule of human rights and strict obeying of the legislative principles would have passed off in a rapid way.

While there are negotiations conducted about the conditions on the approximation or taking of young Eastern-European democracies into the European Union, it wasn't the same by the admission of these countries to the Council of Europe. Undoubtedly and without any negotiations it was bound to the compliance with democratic standards. It also included the acceptance of the European Convention on Human Rights and the establishment of at least a national ombuds-institution.

It means that the society of any country that wanted to become a member of the Council of Europe, had to fight against a half-hearted appreciation of a General Declaration of human rights and against the consciousness that the commitment was not legally binding, but to reach to the awareness that at the level of basic rights there is an era of the liability and the enforceability coming and the state authorities have to make a supervisory body facing the citizens, which is entitled to request a highest quality of loyalty to the constitution, legality and fairness also towards the highest institutions.

So the first question to 42 selected ombuds-institutions was whether the members of the society need an ombudsman for the protection of their rights in times of boom or in times of recession.

Five colleagues answered that the citizens need a permanent protection by the ombudsman. Two colleagues said that his protection is rather required in times of prosperity.

But eighteen colleagues thought the protection was required rather in times of recession and seven colleagues called for the ombudsman in any case in time of recession.

So one can fear now that there could possibly come a fire warning for the elimination or at least weakening of the ombuds-institutions under the call for a sleek and

sparing state. The pity for the already weak people will rather be limited in times of recession rather because "we all feel bad right now".

But the strong majority of the ombudsmen themselves expressed their conviction that the ombudsman is certainly not dispensable in bad times. The socially disadvantaged citizens should not be condemned to fall one more step down because of lack of legal protection. Citizens should be intercepted by the ombudsman during the falldown – equated with each other. While watching the annual reports of even the Western European ombuds-institutions there is growing number of ombudsmen dealing with social law cases detectable. So the annual reports provide practical evidence of increased demand for the ombuds-services in times of recession.

There was a tendency recognizable to withdraw the protection of the citizen using the ombudsman in times of recession, contrary to the actual increased demand. Hence the question arises with which operational tool such a trend can be countered.

Until now we are talking about the level at the level of the society and about the level of the country's institutions which is essential for "successful jumping in the Council of Europe's boat", because the degree of hardship to provide the required inputs would be outweighed by the benefits from the further belonging to Europe.

The question arises how does it look like on the middle regional level and on the most basic local level?

Until now I have not found any exhaustive elaborations dealing with this ombudsman's issue below the national level. However, I have no hope that in medium term such work will be found because of too much aspects, and I am still missing these and those points of view offering the consideration in every product.

Does it match the life experience that someone (in this case a country is meant) who remained in a dictatorship in a shorter time than one generation, is ready to establish a supervisory body against his own administration on the lower than the national level?

Setting up of an ombuds-institution must be caused not only by predictable budgetary reasons. As several surveys of the Swiss government showed, even the most experienced ombudsmen and also the European Ombudsman Institute) are not going to be able to calculate what savings the creation of ombudsman provides. As to my knowledge, there is no other country in the world where the question of cost has been raised so rigorously.

However there is knowledge to be inserted that in a high developed standard of ombudsman competences there two different but fundamental powers of the ombudsman existing, which are:

- a) the task of serving the citizens with information and advice and
- b) the task only to investigate if there are complaints against the administration.

This question of the savings which is not effective by reaching the goals is based on the assumption that the ombudsman could be active by a) and b):

- a) a citizen makes a request to the authority only if the ombudsman met the request for target-oriented (in the legal system in the process for communication of information). This saves the unnecessary administrative time and effort. This is a saving in relation to a request which is eventually not so easy to be detected, improved or rejected first and later to be proceeded again after the possible improvements. If there would not be any ombudsman, so a rather small part of the applicants would go to the lawyer. Otherwise a professional group of lawyers would miss their income which is reachable without the existence of the ombudsman.
- b) The recipient of an administrative decision asks the ombudsman to ascertain whether the decision is legal or it could be successfully beaten by the higher instance. The information provided by the ombudsman would then save the administrative appeal in the event that the ombudsman can positively explain the legal correctness of the decision or he facilitates the appeal decision by the fact that the appeal must be executed in a more professional way without the advice of the ombudsman. Regarding the lawyer's position as a possibly lost income the fact counts as under a) said.
- c) The same counts for the next instance of a court as last national level instance.
- d) And regarding the supranational institution as the European Court of Human Rights that what was said counts again, it only has the impact on a budget that is to be borne by the member countries of the Council of Europe. If the consultation of any existing Ombudsman before bringing a complaint to this Court would become a mandatory, it could spare a very heavy workload and enormous costs for this court.

There is no data to the number of processes which may be affected by a) till d) and to the costs the country can save by a lower number of cases related in the first instance or other instance comparing to the financial outlay caused by the ombuds-institution.

Regarding the ombudsman there are figures hard to find because it not so easy to calculate how many staff there should be in order to fulfill the task in a saving forming manner as it is adopted by the parliament through deciding the budget.

In my judgment there is no question how to keep an ombuds-institution under control with arithmetic means because all known attempts have failed so far which tried to justify the target on this topic – a justification for creation or rejection of this establishment – with an operational tool of the cost-benefit calculation.

In every country there will be citizens on all three levels available who are burdened in their relationship with the administration, which are collapsing in this respect, who see themselves in the wrong law and know no other way than to go to the ombudsman.

I think that the government and the parliamentarians know pretty well about how satisfied or dissatisfied the citizens of their country are with the administration including the government. This knowledge needs to be judged in sincerity to be assessed.

So it can only be the political will to create an institution that will be able to following actions:

- a) to evaluate the width and justifiability of the state bodies way of conduct according to the criteria of objectivity, accuracy and fairness,
- b) to evaluate the legal validity and acceptability of state decisions or non-decisions, i.e. the action or omission,
- c) to provide the citizen with information and advice in cases which require a legally relevant action,
- d) to listen to the burdened citizens with all the human and psychological sensitivity and to reconcile the citizens again with his government in case of need.

The reasonable as ideal staffing of the ombudsman institution can arise only in the course of a certain observation period. It should not be the case that the recognition of the usefulness or even necessity of the ombudsman institution for a specific government unit is then postponed until consideration of saving potentials of the budget per se and not due to the knowledge of human needs.

Hence the question arises of what is the real crux of the matter in the phase of reflection whether an ombudsman institution should be created.

The creation of this institution is the work of politicians who are influential at a certain time.

If I will write an essay on a specific topic, so it is a commonly committed way to be based on definitions of the relevant terms. To my opinion, it is an extended helpful way but it should result in the politician's own responsible assessment and it should not lead to a dead end of "art for art's sake". The question of providing the citizens with a comprehensive competent ombudsman available – in better times as in bad times – is the declaration of bankruptcy when it comes to the integrity of the politician to the sovereign, to the citizen.

It requires the clear and unambiguous political will of the politicians to serve the people of their region. Quite in contrast to lactating weighing whether the

ombudsman also reindeers and whether he would be able to save more as he caused to costs, a politician of a consolidated democracy said, the existence of the Ombudsman has to stand also in case, if he has nothing to do because the administration pays strict attention to the principles of constitutional and legal fidelity, of objectivity and fairness just because of the fact of his existence. That's wise!

The existence of the ombudsman is the fruit of the political will to serve the citizens.

The concrete interest in the experience of the ombudsman colleagues began with the observation that the interest in maintaining of once reached density of existing institutions has observable waned.

Before the fall of the USSR the building of the largest number of ombuds-institutions in Europe fell into the period between 1970 and 1989 into the grosso modo prosperitive time. This period was characterized by citizen's disaffection towards their country because there often was a general assessment that it has shown itself with his apparatus as arrogant and cold to the citizen.

Therefore the cause of creation was not a needy population, but one that could no longer agree with the style of the state power occurrence to the citizen.

However, it was on the other side a time of flowering of constitutional instruments. There was no lack of suitable methods for establishment of compliance in specific administrative procedures.

The call for the protection of citizens' rights through the ombudsman could still get around the continent almost everywhere. The citizen was no longer willing to put up with authoritarian posturing of the state departments neither he wanted to feel as an underling. A period of prosperity coincided with the time of booming ombuds-institutions.

As already indicated, the second boom period of such procedural guarantees and rights protection institutions in Eastern Europe coincided closely with the citizen's emancipation against a state apparatus, against whom he now wanted to defend himself.

Neither was the state apparatus staffed with such people that had been able to change themselves of imperious airs a dictatorial period from one year to the other, nor was it common for the inhabitants after the decades of the lack of opportunities of defending now to tread a way of remedy to tread because of the imperious tone of the civil servants which had not changed so quickly.

It was rather the pressure from the outside, which prompted the parliaments and governments striving for Europe to establish ombuds-institutions according to the "European" dictation, even when the Western European democracies called their young partners in Eastern Europe to something – **I almost mean, as a rule** – what they were not even ready to give to their own citizens.

But what would happen now, when the prosperity was about to slow down?

Signs of trimming of the possibilities of ombudsman institutions as seen in Russia – here especially the example of Kaliningrad and in Italy, where in the middle of the current decade the central state power has chosen the way to stipulate the regions and municipalities to eliminate the ombuds-institutions by refusing funds.

### **III.**

#### **„To the South of Denmark“- the resistance to the boom**

Do the developments really need any rest periods in order to be ready for a new impulse? Or is it for a long, often very long time just over, when the wrought iron is cold and it has lost its malleable solubilizing glow?

I prefer to use the terms of the formerly white spots on maps in more striking manner and I say, that the countries to the South of Denmark are still undiscovered by ombudsman essentials.

It is only true so far as there are yet no ombudsmen or people's lawyer or Difensore Civico at national level neither in Germany, nor in Switzerland or in Italy, so in three core European countries.

It is skipped that in Germany there are a national Committee on Petitions of the German Bundestag and committees on petitions of the Landtags, and even the civil commissioners which are extremely close to the ombudsman concept, in Switzerland there are very few cantonal and several local ombuds-institutions and in Italy there were ca. 100 local Difensore Civici in about half of the regions, in this number unfortunately no longer.

Nevertheless there is no the achievement of a classic national ombudsman in Europe only in those countries and Belarus, where they are well aware about what value differences are to place from permitted until commanded.

The serious attempts were already made in Switzerland and Italy in order to establish a national ombudsman.

Germany understands the Committee on Petitions of the Bundestag simply as a "second route" (kind of a "soft law"? simply the legal citizen's protection against the administration / the state? A modified "ombudsman concept"?).

Anyway – also in these countries "to the South of Denmark" there is no less protection of the citizen against the overbearing state, but has it already achieved a reasonably and well even aspired final version?

## IV.

### **A lamb breaks through the silence – but who gives it a voice?**

It's just the epitome of peacefulness meant with the word "lamb". And this term is to associate with all positive things you can imagine.

As such a structure I have met and also appreciate the "British and Irish Ombudsman Association" (BIOA). According to my observation its work was always focusing in the fields of communication and training.

However, there is a significant difference from the ombudsman systems of the countries of continental Europe which is the fact that in this union of ombuds-institutions two types are combined, but they are numerically predominant across the Channel by far: the "private sector ombudsman".

To the beginning of 2013 there was a change in the leadership of this union that has already shortened the name from previously BIOA to the "Ombudsman Association".

The new chairman has now directed the question to the members, if it would be worth to think about three changes to the ombudsman beings on the islands in the northern part of Europe:

- a) Do we agree, for example, that all public sector ombudsmen should be empowered to undertake „own motion“ investigations?
- b) Are we united in a few that in the private sector decisions should be automatically binding on the body in jurisdiction, but not in the person in complaining?
- c) Are there circumstances in which an Ombudsman's final decision should be subject to appeal – if so, when and to whom?

The Ombudsman's Office of the Republic of Austria has become 36 years old. It is a classic public sector ombudsman. From the very beginning it was given the power to check the legality of action and omission of the state administration also on its own initiative ("ex officio").

This power is one of the pillars and the effectiveness of their work. If any given authority had to expect that its actions and omissions could be reviewed by the people's lawyer without being required a specific complaint of a citizen, it would think twice before any misbehavior.

An occasional street runner interested in such things or an ombudsman or an informed politician could be surprised that the public sector ombudsman in Ireland and Britain does not know this achievement yet and it is just partially equipped over a more archaic tool of his work – by our scale.

An ombudsman, who is responsible for the demolition industry, is not easy to imagine for continental European terms; he is a classic private sector ombudsman.

Now the step is considered that its decision should be automatically binding on the entrepreneurs belonging to this sector, but not for the consumer leading a complaint against him. We can only look with great restraint on this subject because the systematics of this area is still strange to us.

But why should we not get closer with sincere curiosity and a bit of admiration towards this topic?

Perhaps there would be good reasons that the reader of OA could only shake his head looking at our shortcomings.

Why did the continental Europeans not yet discover the "private sector ombudsman"?

About 10 years ago, an ombudsman of a Baltic country has turned a question to the European Ombudsman Institute (EOI) to think about the idea of being able to take legal remedies against the final execution of a case through the ombudsman. And if a positive answer is possible, so at which institution such an appeal should be addressed, either to a court or to the Government, to a ministry or a parliamentary committee?

Even from the question of Tony King it can be seen that the question should be asked in terms of both public and private sector ombudsman as well. Unfortunately there is a lack of knowledge and empathy in the system to me for to say something on behalf of a private sector ombudsman something to a lack of knowledge and empathy in the system to me.

The public sector ombudsman is a "boarder organ", where there is no further appeal beyond. He is elected by Parliament and his position is at least equal to each governing body, as it is conceptually inconceivable that another appeal would be possible to its final judgment. He can at any time re-evaluate the matter, because his "decision" never arises in legal force.

A circle might be looped around the ombudsman and the OA in the concept of "soft law" as we understand it, a law which causes no obligations. Also an investigation "ex officio" is unsuccessful and does not reach any mandatory, which can be enforced, but it entrusts the Ombudsman to the way of conviction the "enemy", mostly the administration, the authority on the way to lead law.

The magazine "Ombudsman Association" (formerly BIOA) is of course the self-given voice of the association and I think they will also reach those who can expand the systems of the private and the public sector ombudsman.

My question was meant in the following intention: Who gives a voice to these extremely valuable considerations within the European ombuds family to be heard from the Canary Islands to Vladivostok? The ombuds-institutions should provide each other with the information, making it possible to provide an impetus for further development in their own area.

It was the era of Bruno Kreisky, in which the Ombudsman's Office, the Austrian national ombudsman, was created.

We can be happy that the ombudsman in our country is no longer a far too "soft" Ombudsman Law. If an ombudsman sets a request for examination to the Constitutional Court because of doubts about the legality of a regulation and it will be granted, the ombudsman's soft law applied by the Constitutional Court becomes a compelling, though strict law.

In a few countries, however – especially in Eastern Europe – an ombudsman may order an audit of the constitutionality of laws, but we are in Austria not yet so advanced – unfortunately.

But who gives us the requisite voice to achieve this?

The EOI should perceive the object to provide such knowledge to all ombudsman institutions of our continent through a platform supervised by the EOI in order to contribute to a European homogeneity and to a final developing of the ombudsman institution.

The drop is to undermine the stone, but only if it really falls.

## **V. The ombudsman in Abkhazia as an example and model in Eastern Europe**

As part of my project , I would like therefore concludes in this section - make specific reference to the creation of a new ombudsman institution in Abkhazia because there selected not only an ombudsman , but at the same time a law was passed with this option , the wide-ranging powers for - as a notable example including the future development of ombudsman in Eastern Eurpe and can be used as a positive model in these regions .

At first reading, it can be seen that following items are present:

- the people's lawyer is responsible for the protection of the citizens at the levels of the republic and the local self-administration,
- the people's lawyer is guaranteed independence and immunity,
- the people's lawyer can divest himself a statement in the matter of his office,
- the support of the restoration of the injured rights and freedoms of the person and the citizen of the republic is a major task of the people's lawyer,
- the people's lawyer should contribute to the perfection of the legislation in the matter of the protection of the rights and freedoms,
- the people's lawyer should have a university education and knowledge in the area of the rights and freedoms at his disposal,
- the candidature of the people's lawyer is suggested to the people's assembly by the president of the republic,
- any single representatives and their unions can direct the suggestions to the candidature to the president,
- the president orders and dismisses the people's lawyer by consent (with an easy majority) of the people's assembly,
- the one and same person may be suggested only once,

- the term of office amounts five years, a reappointment is allowed,
- the dismissal occurs by presentation of a court judgment in relation on the people's lawyer and by longer durable office prevention than 3 months, also with the loss of ascertained legal incapacity,
- a complaint with the people's lawyer can be raised because of activity or idleness after judicial or administrative-official official channels,
- the term to the personal submission of the complaint amounts 12 months up from injury or becoming known the injury,
- within 10 working days from preservation of the complaint the people's lawyer informs the complaint leader whether he takes over the complaint for the clarification, declines and explains the reasons for it or passes on the complaint to a responsible person, this all in writing form,
- people's lawyer has the right on access and right on meeting participation,
- the people's lawyer has the right to receive the information necessary for the clarification,
- he people's lawyer has the right to give recommendations to the restoration of rights,
- a department which receives a decision of the people's lawyer has to check it within 20 days and has to inform the people's lawyer in writing of the result,
- in case of the not timely proceeded execution of the preceding ordered judicial remedy the people's lawyer has the right to require the introduction of an administrative or criminal procedure
- the people's lawyer is obliged to inform in writing the complaint person,
- the people's lawyer is entitled to publish information about his activity,
- the public media are obliged to publish materials sent days from the people's lawyer within 10 days or to put away broadcasting time for his appearance,
- the people's lawyer can become active ex officio by plentiful or coarse injuries of civil rights and citizen's freedoms,
- the people's lawyer has the right to direct suggestions to state organs and office persons who refer to the protection of civil rights and citizen's freedoms,
- in case of coarse or mass injuries of civil rights and citizen's freedoms the people's lawyer has the right to appear with a report by the next meeting of the public assembly,
- the people's lawyer can turn to the people's assembly for the foundation of a committee of the people's assembly to the investigation of the facts of the injury of civil rights and citizen's freedoms and he can take part in the work of this committee,
- the people's lawyer directs a report to the people's assembly and other addressees yearly within 60 days,
- the people's lawyer can also direct special reports to the people's assembly,
- the impediment of the activity of the people's lawyer or the non-fulfillment by office persons leads to the responsibility,
- the people's lawyer fixes the number of the employees in a staff plan,
- the people's lawyer can have representative or assistant in towns and districts of the republic of Abkhazia,

- the costs of the people's lawyer and his office and staff are fixed in separate way in the republican budget of the republic of Abkhazia.

This compressed summary shows the honest and successful efforts of the legislative tradition of the Russian legal culture to connect European models at a high level.

Something sounds similar to the Law of the people's lawyer of Vorarlberg/Austria which has been translated into Russian in 1987 and is the most advanced one in the opinion of the author of this text.

One remaining question for Abkhazia is still open which is beyond the no role playing position of a constitutional court: it is quite interesting if the Abkhazian people's lawyer is responsible only for massive or gross violation of civil rights and freedoms, but not for ordinary illegalities?

There are still some retrospective adjustments desirable, too, as it's the case in almost every model of a European ombuds-institution.

## **V. Conclusio**

In view of the huge system and level differences even in Europe the subject of ombudsman cannot be considered closed for a long time.

Vienna, September 2015

MMag. Dr. Niolaus Schwärzler  
Retr. Ombudsman of Vorarlberg