

ANNEX 9

REPORT

THE PARLIAMENTARY OMBUDSMEN

Marianne von der Esch
International Coordinating Director

Visit to the Office of the People's Advocate in Tirana, Albania, October 1 - 8, 2000

The mission

Upon request of the Council of Europe I had the pleasure to carry out an expert mission within the Office of the People's Advocate in Tirana, Albania, October 1- 8, 2000. The purpose of the mission was to assist the People's Advocate, Mr. Ermir Dobjani, and his staff with advice on the basic running of the Institution, including such matters as how to handle cases (complaints), the development of a case-filing system, liaising with the government and the administration, liaising with the public, dealing with the media and other fundamental questions that might arise during my visit to the Office.

The Council of Europe, in co-operation with the People's Advocate of Albania and the Friends of the People's Advocate, arranged an information meeting/ seminar on October 5, 2000, concerning the role and functions of the People's Advocate of Albania. As I already was due to be in Tirana at that time, the Council of Europe invited me to participate at the information meeting/seminar as an expert together with Mr. Jernej Rovsek, Deputy Ombudsman of Slovenia, Mr. Andreas Takis and Mr. Christos Adam, both Senior Investigators from the office of the Greek Ombudsman to make presentations within the theme "The Ombudsman in a democratic society, including in a society in transition".

The People's Advocate

Background

According to the Law of the People's Advocate the mission of the People's Advocate is to redress grievances and address issues arising from maladministration in the public sector by way of recommendatory oversight, to bring about improvements in the standard and quality of services and to promote fairness in public administration. It is a prime obligation which demands the performance of the Office and the conduct and integrity of its staff to be of standards no less high than what it seeks on the part of the public sector in pursuit of this mission.

Mr. Dobjani was elected People's Advocate by the Albanian Parliament on February 16, 2000, with 2/3 of the votes of all Members of Parliament, out of 3/5 required by the law. The three Commissioners (deputies) were elected on March 29, 2000. The *budget* for the office (about USD 250.000) was approved in April, 2000. On June 15, 2000, the real work commenced (proceeding of 60 complaints that had already reached the People's Advocate at that time). Provision with premises and preparation of the rehabilitation of the Office started in July. During my stay (October 1-8), the Office of the People's

Advocate was still waiting for the previous tenant to move out of another five office rooms, which were still occupied although they were supposed to be rented by the People's Advocate. The People's Advocate had since long been promised that this would take place.

My meetings at the Office

The People's Advocate, Mr. Dobjani

During my stay at the Office of the People's Advocate Mr. Dobjani gave a very interesting introduction to the Office and the work that had been done so far. We also had several discussions and I had the opportunity to give him further details concerning my observations and suggestions. Mr. Dobjani stressed the importance and expressed his gratitude to the Council of Europe, the Danish Embassy/ Danida, the "Friends of the People's Advocate" and some Swedish institutions regarding the economical as well as moral assistance that was granted the People's Advocate.

The Commissioners

I spent at least half a day with each of Mr. Dobjani's three Commissioners, Mr. Jorgo Dhrami (Head of the Department of Police, Secret Service, Prisons, Armed Forces and Juridical Power), Mr. Agron Çausi (Head of the Department of Public Administration) and Ms. Florina Nuni (Head of the General Department "for issues not covered in the areas of the previous Departments") and their experts. During the different meetings with the Commissioners and their staff I was furnished with all kinds of information and statistics concerning the areas of supervision, the various kinds of complaints each department had received and concluded etc. At each meeting I gave a general introduction to the Swedish Parliamentary Ombudsman system (which has existed since 1810), described and discussed the way complaints of various kinds are handled at our office in Stockholm. I also gave all kinds of advice that I thought useful for a recently established Ombudsman's office.

"Archives and protocol" employees

Further I met with "archives and protocol" employees. Today the registration procedure/diary etc. is still done by hand. We had - as I found it - fruitful discussions concerning routines of registration, the development of a case-filing system, the importance of having a lockable and fireproof storage-room for the archives, boxes for storage etc.

The media adviser

During a trip to the the very ancient town of Kruja I had a most interesting discussion with the media adviser (spokesman) of the Office, Mr. Artur Lazebeu, concerning the relationship between the People's Advocate, the administration, the people and the media. We thoroughly discussed different ways of spreading the information about the newly established institution.

The Director of International Affairs

Ms. Estella Dashi, Director of International Affairs, - whom I met in Stockholm in May 2000, together with Mr. Dobjani, during a study visit by Ombudsman Institutions from South Eastern Europe (one of the activities under the Project on Independent National Human Rights Protection Institutions, including Ombudsmen, coordinated by the Council of Europe) - played an important role as a coordinator during my visit. Her exquisite knowledge of languages is of great importance to the Office, specially from an international point of view.

Other members of the staff

As mentioned earlier, I met all the experts at the different departments. Several of them, as well as other members of the staff, had individual questions/issues raised and discussed during my week.

Conclusions

The Office; premises, equipment etc.

The Office is in immediate need of further premises. At present the staff at each department (the commissioner, the five experts and the secretary) are all seated in the same room (some 25 - 30 square metres) and at the same table. There seemed to be only one computer at their disposal. But, as said, the Office is supposed to get access to further rooms within a near future (?). The rooms, as well as the entrance, were in great need of repair and painting.

Concerning the registration procedure/diary, that is today done by hand, it was - according to the opinion of the staff as well as to my own - very obvious that it has to be computerized as soon as possible with assistance from a suitable consultant.

The Danish Embassy/Danida plays an *extremely* important role for the building up of the Institution as they have furnished the Office with most of the existing equipment and acted as consultants in various fields. Not to forget the importance of the assistance, support and help of all sorts from the "Friends of the People's Advocate". But there still is a *great demand* for computers and other technical equipment as well, i.a. book shelves, storage boxes for the archives, a fireproof storage-room and also to consider the security aspects for the personnel (as you never know the intentions of a visiting complainant!).

The Staff

I was extremely impressed by the academical qualifications and the professional experiences of the jurists and by the conscientious staff that Mr. Dobjani has managed to engage to the Office. It was a great feeling to be received and treated in such a cordial way, as I was, by all the staff. They made me feel that my visit was useful to them, which - indeed - was the purpose of my mission.

The Swedish Parliamentary Ombudsmen has the intention to Invite 4-5 English speaking members of the staff (probably in January or February, 2001) to spend a week at the office in Stockholm to get a first-hand impression of the functioning and organisation of our office. (Unfortunately the Swedish office has no possibility to pay for the costs of the tickets and the accommodation.)

In connection with this I want to mention the importance of the contacts between the Office of the People's Advocate and equivalent offices in, above all, neighbouring countries and other states in Central and Eastern Europe.

I have complete confidence that the staff - provided with the necessary equipment and, with assistance of different kinds of experts/consultants (when needed), language and computer courses etc., - will accomplish their future work in a most satisfactory way.

*The relation between the People's Advocate and the Public Administration/
Government*

The Swedish word *Ombudsman* denotes a person whose task is to take care of somebody else's interest. The Ombudsman idea in fact contains an element of paradox; an Ombudsman can be described as a state institution with the task of protecting the individuals against other institutions of the state. It is quite natural that such an institution must fulfil certain requirements in order to maintain its credibility. The Ombudsman must have sufficient resources and extensive powers of investigation, but above all an Ombudsman office *must be protected against pressure and other forms of undue influence from the organisations that it supervises*. The nature of a Parliamentary Ombudsman Institution differs in important respects from all other organs of a state; it is not a court of law and it is not an administrative agency. In fact it does not exercise any public power in the usual sense. The power of a Parliamentary Ombudsman is of a moral rather than a legal character.

The Office of the People's Advocate must consequently be protected against pressure and other forms of undue influence from the Public Administration/Government.

As mentioned, my mission also included participation at a Seminar in Tirana on October 5, 2000, concerning the role and functions of the People's Advocate in Albania. The Seminar was very well attended. I.a. the Deputy Prime Minister, other Ministers, the President of the Supreme Court, the President of the Constitutional Court and many other very high ranking officials attended the Seminar. One thus can gather that the Institution is considered highly important within the Government and Public Administration of Albania. - I am merely stating that, as an Ombudsman Institution plays a very important role in the process of democracy for a country in transition, it was with great satisfaction that I noted the audience as well as the questions put during the Seminar.

During my visit to the Office of the People's Advocate I was told that the cooperation during the investigations with the different public authorities/officials had - so far - functioned quite smoothly. I also understood that the authorities/ officials, at all levels within the public sector, seemed to have accepted recommendations, guiding pronouncements and other statements made by the People's Advocate.

The relation between the People's Advocate and the media /public

In a country with a *newly established Ombudsman Office* it is of utmost importance to have positive relations with the media, to inform the media about the new institution so that the media - on their part - can supply the public with correct information. It is also of greatest importance that the decisions with recommendations etc, are well motivated and

in accordance with the law as - on the assumption that the press is free - the media plays such an important roll for the impact of the work of the Ombudsman.

Positive relations with the media already at the implementation stages pay a good dividend later when the Ombudsman finds it necessary to publish reports in the public interest. Relations with media also need to be planned to get a positive response. This requires a good deal of transparency in the processes to be used in the office.

I learned from my different meetings - and the Seminar - that the relation between the Office and the media is good. But it is something that always has to be worked upon. Through i.a. media conferences - either just to introduce/explain the Ombudsman system or if there has been a case of particular interest. It might also be of considerable value to issue a "Media Guide" on the People's Advocate in a way that permits easy reference by working journalists. The guide can serve as a document to which the journalists may refer to gain factual information as to what the Institution is and how it works etc.

I want to stress the importance of well written and well motivated decisions as journalists often quote the judgements of an Ombudsman in news-papers or other media. *Media can be a most important tool for the implementation of the judgements/recommendations in the society.*

As there still does not exist an information pamphlet concerning the Office it is of great importance that this will be produced as soon as possible.

I am convinced - on the assumption that the political situation will remain stable, that the attitude of the Albanian Public Administration "accepts" the supervisory role of the People's Advocate and the recommendations made by the Institution (which obviously is the case) and that the knowledge of the Institution soon will spread to the public - that the Office of the People's Advocate will become a most important tool in the process of improving democracy in Albania, a country in transition.

I agree with Mr. Dobjani when he - at the Seminar concerning the People's Advocate of Albania - said: "We are on the right track making small but sure steps."

Stockholm, November 6, 2000

Marianne von der Esch

For Your information I enclose statistics from the Office of the People's Advocate of Albania showing

- "Activities carried out from 15 June till October 2000" (Encl. 1)
- "Activities displayed according to sections June 15-1 October 2000" (Encl. 2)
- "Areas" (Encl. 3)
- "A Break Down of the complaints according to Areas (Encl. 4)

REPUBLIC OF ALBANIA
PEOPLE'S ADVOCATE

ACTIVITIES CARRIED OUT

from 15 June till October 2000

Complaints, request notices received	453
In process	227 ~50%
Finished	226~50%

**The outcome of
the 226 solved cases**

- Out of PA jurisdiction and competencies	112~54%
- In favour of the complainer	48~21 %
- Unjust	56~25%

Total 226

**ACTIVITIES DISPLAYED ACCORDING TO SECTIONS
15 JUNE -1 OCTOBER 2000**

General no. of complaints	453
From these	
Agron Çaushi (Dep. of Public Adm.)	139 = 32%
Jorgo Dhrami (Dep. of Police, Secret Servic, Prisons, Armed Forces and Juridical Power)	216=48%
Florina Nuni (General Department)	88 = 20 °,%
In process	227
From these	
Agroni Çaushi	74 = 35°,%
Jorgo Dhrami	105 = 46 %
Florina Nuni	38 = 19 %
Solved	226
From these	
Agron Çaushi	65 = 30%
Jorgo Dhrami	111 = 49 %
Florina Nuni	50 = 21 %
From the solved cases	
Out of PA jurisdiction and competencies	122 = 54 %
Agron Çaushi	21
Jorgo Dhrami	63
Florina Nuni	38
In favour of the complainant	48 = 21 %
Agron Çaushi	14
Jorgo Dhrami	28
Florina Nuni	6
Unjust	56 = 25 %
Agron Çaushi	30
Jorgo Dhrami	20
Florina Nuni	6

AREAS

Judiciary	101
Police	41
Law enforcement office	29
Prosecutors	15
Military	15
Prisons	8
Social Insurance	21

OTHERS 207**From these**

Agriculture	24
Urban arrangement	19
Ownership	34
Employment relationship	16
Versus Municipality	18
Taxes	7

**A Break Down of the complaints according to
AREAS**

From the 453 complaints, for

Judiciary	101	22%
Police	41	9 %
Law enforcement office	29	6 %
Prosecutors	15	3 %
Military	15	3 %
Prisons	8	2 %
Ownership	34	8 %
Agriculture	24	5 %
Social insurance	21	5 %
Urban arrangement	19	4 %
Versus Municipality	18	4 %
Employment relationship	16	3 %
Taxes	7	2 %
Others	105	23%