



International Ombudsman Institute
Institut International de l'Ombudsman
Instituto Internacional del Ombudsman

Anca Dragu,
President of the Senate of Romania
Calea 13 Septembrie no. 1 - 3, sect. 5
BUCHAREST
ROMANIA

Ludovic Orban,
President of the Chamber of Deputies
Str. Izvor no. 2-4, sect. 5
BUCHAREST
ROMANIA

VA-5618/0003-IK/2012 (VA/5618/INT)

Vienna, 24 June 2021

Dear President Dragu

Dear President Orban

The International Ombudsman Institute (IOI), established in 1978, is the only global organisation for the cooperation of more than 200 independent Ombudsman institutions from more than 100 countries worldwide. In recent years, IOI has responded to circumstances that pose a threat to the independent and continuous work of Ombudsmen around the world. The IOI takes such threats to the independence of one of its member institutions very seriously.

The IOI has learned that the Legal Committees of the Romanian Chamber of Deputies and Senate recently rejected the annual activity reports of the People's Advocate of Romania and subsequently dismissed the current office holder, Ms Renate Weber.

Ombudsmen are officers of Parliaments, report to Parliaments and, accordingly, enjoy a special relationship with Parliaments. Parliaments, in turn, are the cornerstones of national human rights protection. Thus, the IOI underlines the vital importance of a good working relationship between

Parliaments and Ombudsman institutions. Discussing the reports of Ombudsman institutions in Parliament is a well-established instrument to alert parliament about instances of human rights violations in the country that can be considered by parliament and the government. Ombudsman institutions should have the ability to table reports in Parliament at any time in accordance with their establishing laws and Parliaments should not reject a report as this undermines the important, independent and impartial status of an Ombudsman Institution.

Moreover, the IOI emphasizes that any action taken must be in observance of the international standards of the universal and great doctrine of the rule of law. Thus, if the instrument of rejecting a report is not enshrined in either the Constitution or the law of the Ombudsman institution, parliamentarians should abstain from using such an instrument.

Any dismissal of an Ombudsman not regulated by or without regard to clear criteria undermines the independence and impartiality of the Ombudsman Institution. The European Commission for Democracy through Law ('Venice Commission') stated this in its 'Principles on the Protection and Promotion of the Ombudsman Institution' ('Venice Principles'), which the Committee of Ministers of the Council of Europe endorsed at the 1345th Meeting of the Ministers' Deputies on 2 May 2019.

The Venice Principles state in relevant part:

11. The Ombudsman shall be removed from office only according to an exhaustive list of clear and reasonable conditions established by law. These shall relate solely to the essential criteria of "incapacity" or "inability to perform the functions of office", "misbehaviour" or "misconduct", which shall be narrowly interpreted. The parliamentary majority required for removal – by Parliament itself or by a court on request of Parliament- shall be equal to, and preferably higher than, the one required for election. The procedure for removal shall be public, transparent and provided for by law.¹

¹ Venice Commission. 2019. Principles on the protection and promotion of the Ombudsman institution ("The Venice Principles"), Opinion No. 897/2017, available online at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e).

The Venice Commission's Opinion no. 685/2012 on Romania reflects the substance of this principle as well:

80. (...) In order to be effective in the protection of human rights, the Advocate of the People has to be independent, including from Parliament, which elects the office holder. In view of this need for independence, special guarantees are required against unjustified dismissal and references to the principle of symmetry. (...)

81. (...) the absence of such guarantees can lead to serious problems, not only as concerns the protection of human rights, which are the essential task of the Advocate, but also as concerns the control of government emergency ordinances and, consequently, for the rule of law.²

The IOI cannot support any conduct which is not in line with international standards on Ombudsman Institutions such as the Venice Principles. These standards should not be circumvented in the removal procedure. Additionally, the selection and appointment of the new People's Advocate should adhere to these standards as well. In this context, the Venice Principle 6 states that

The Ombudsman shall be elected or appointed according to procedures strengthening to the highest possible extent the authority, impartiality, independence and legitimacy of the Institution. The Ombudsman shall preferably be elected by Parliament by an appropriate qualified majority.

Principle 7 further emphasizes that "The procedure for selection of candidates shall include a public call and be public, transparent, merit based, objective, and provided for by the law."

² Venice Commission. 2012. Opinion on the compatibility with constitutional principles and the rule of law of actions taken by the government and the parliament of Romania in respect of other state institutions and on the government emergency ordinance on amendment to the law no. 47/1992 regarding the organisation and functioning of the Constitutional Court and on the government emergency ordinance on amending and completing the law no. 3/2000 regarding the organisation of a referendum of Romania. Opinion no. 685/2012, available online at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)026-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)026-e).

The IOI stresses the importance of the prompt selection of a successor to Ms Weber in accordance with the above-mentioned principles because an effective and independent Ombudsman Institution is a key element for the promotion and protection of human rights in Romania, Europe and beyond.

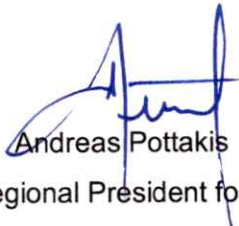
The IOI takes any threat to the independence of any of its member institutions very seriously. Accordingly, the IOI will continue to monitor closely the situation in Romania and will act according to the IOI Guidelines on the Support to Colleagues under Threat as deemed appropriate.

To voice its concerns about the recent developments described above and to discuss the way forward, the IOI would highly welcome a joint meeting with Ms. Anca Dragu, President of the Senate of Romania, and Mr. Ludovic Orban, President of the Chamber of Deputies of Romania.

For the IOI,



Chris Field
IOI President



Andreas Pottakis
IOI Regional President for Europe



Werner Amon
IOI Secretary General