

Statutory RL (Regional Law) no. 1, dated 30 August 2008
Statute of Autonomy of Lombardy

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Art. 61

Regional Ombudsman

1. The Regional Ombudsman is a regional independent body.
2. The Regional Ombudsman:
 - a) protects the individual and associated citizens' rights and interests within the regional processes, by supervising and promoting knowledge, transparency, the rule of law, progress and impartiality;
 - b) plays a role in the protection of convicts, taxpayers, pensioners, consumers and users;
 - c) performs other duties provided for by the law.
3. The Ombudsman fulfils his tasks by providing a non-jurisdictional protection of rights and interests and acting as a mediator.
4. The Ombudsman is chosen from among persons with experience in the fields of law, economics and public administration. He is appointed, by secret ballot, by a two-third majority of the Regional Council over the first three polls and an absolute majority from the fourth poll onwards.
5. The Ombudsman's mandate lasts for six years and he cannot be re-elected.
6. The Ombudsman intervenes as a matter of course or on request by the people concerned and periodically reports back to the Regional Council and Government about his activity.
7. The law, approved by the majority of the Regional Council members, establishes the remit and the ways in which the Ombudsman is supposed to exercise his functions, the requirements for being appointed, any reasons for ineligibility and incompatibility and his remuneration, while ensuring his effective autonomy and independence.

RL no. 18, dated 6 December 2010
Rules and regulations of the Regional Ombudsman

Art. 1

Scope

1. This law rules and regulates the Regional Ombudsman's activity and performance of duties pursuant to article 61 of the Statute of Autonomy and in compliance with the principles of the ombudsman's protection of community and international organizations.
2. The Regional Ombudsman, henceforth called the Ombudsman, exercises his functions fully autonomously and independently and is not subject to any hierarchical or functional control by the regional bodies.

TITLE I

APPOINTMENT AND ORGANIZATION

Art. 2

Election

1. The Ombudsman is elected by a two-thirds majority of the Regional Council over the first three polls and an absolute majority from the fourth poll onwards. Voting takes place by secret ballot.
2. Eligible candidates are citizens with experience in the fields of law, economics and public administration who are capable of providing the maximum guarantee of independence, impartiality and administrative expertise.
3. Candidates must have a minimum ten-year professional experience within public or private organizations or companies, in a managerial or comparable self-employed position, in sectors such as those referred to in paragraph 2 and preferably dealing with the protection of citizens' rights. Public offices such as those of member of the national parliament, member of the regional council, president or councillor of the region, president or councillor of the province, mayor or town councillor of municipalities with populations larger than 15,000, held for at least ten years, are deemed to meet the experience required.

Art. 3

Ineligibility, incompatibility, duties

1. People who do not qualify for election to the Ombudsman's office are as follows:
 - a) members of Government, Parliament and councils of the regions, provinces and municipalities, presidents of the regions and provinces, mayors, regional, provincial and municipal councillors of either metropolitan or mountain areas;
 - b) people who have other public political offices and members of national, regional and local executive bodies of political parties, trade

- unions or industry associations;
- c) civil servants working for the Region, executives and employees of bodies operating within the regional system.
 2. The public offices referred to in paragraph 1, a) and b), must have come to an end at least a year earlier.
 3. Regional Law no. 25 dated 4 December 2009 (Rules and regulations for appointments and designations within the remit of the Regional Council) applies to that which is not expressly regulated by the law herein, including procedures concerning the candidacy and the assessment of requirements and provisions relating to ineligibility, incompatibility and conflicts of interests.
 4. The Ombudsman's duties are also incompatible with the exercise of any self-employed, subordinate, commercial or professional activities.
 5. The ineligibility provisions laid down in this article apply as of right and lead to the dismissal from office, which is declared by the Regional Council.
 6. The person holding the Ombudsman office shall be required to reside in the region of Lombardy.

Art. 4

Term of office

1. The Ombudsman shall remain in office for six years and cannot be re-elected.
2. At least two months before the end of the Ombudsman's office, the Regional Council is convened to proceed with the election of the Ombudsman's successor. Should the Ombudsman's mandate terminate for a different reason from the expected end of office, the Regional Council will proceed with the new election within two months from its cessation by applying the procedures referred to in articles 2 and 3.
3. The Ombudsman's powers shall be extended until the successor takes office, subject to cases of lapse, revocation, resignation or permanent impediment.

Art. 5

Revocation

1. The Ombudsman may be revoked by resolution of the Regional Council, which must be voted by a two-thirds majority of the members of the Council assigned to the Region, for serious reasons relating to the performance of his duties or in the case of permanent impediment.

Art. 6

Remuneration

1. The Ombudsman is entitled to a remuneration for the performance of his duties and to subsistence and travel expenses to the extent provided for by the legislation in force for the regional councillors of Lombardy.

Art. 7

Head office and organization

1. The Ombudsman operates from the offices of the Regional Council, which provides the premises, the financial, human and instrumental resources required to ensure adequate and prompt response to citizens.
2. The Regional Council President's Office, together with the Ombudsman, appoints the supporting structure with the appropriate personnel resources from within the council organization. The supporting structure functionally reports to the Ombudsman. Regional Law no. 9 dated 3 May 2004 (Provisions relating to the availability of personnel to the Regional committee for communications (Comitato regionale per le comunicazioni, CORECOM) and the regional Ombudsman) applies to the Ombudsman.
3. The structure ensures suitable opening times to the public also by relying on the availability of the local offices of the Region.

TITLE II

EXERCISE OF FUNCTIONS

Art. 8

Functions

1. The Ombudsman guarantees the non-jurisdictional protection of the rights and interests of individual and associated citizens and exercises the other functions defined by article 61 of the Statute of Autonomy and by the law. He thus contributes with local government bodies to the pursuit of progress, impartiality, transparency and the rule of law, also by putting forward his own proposals. To this aim, the Ombudsman also plays the role of mediator between the persons concerned and local government bodies, with a view to achieve the consensual settlement of the disputes submitted to him.
2. The Ombudsman exercises the function of Guarantor of the protection of convicts, taxpayers, pensioners, consumers and users, in compliance with the rules and regulations laid down in this law and other specific regional provisions. In particular, the Ombudsman:
 - a) carries out the activities provided for in regional law no. 8 dated 14 February 2005 (Provisions for the protection of people confined in the penal institutions of the Lombardy Region);
 - b) carries out the functions provided for in article 22 of regional law no. 10 dated 14 July 2003 (Reorganization of the regional tax legislation – Consolidation act for the regulation of regional taxes);
 - c) collaborates with the Guarantor of the protection of children and youth pursuant to regional law no. 6 dated 30 March 2009 (Setting up the position and Office of Guarantor of the protection of children and youth).
3. While carrying out his activity, the Ombudsman conforms to principles

of efficacy, effectiveness, informality and collaboration with the government bodies concerned. Special attention is focused on the enhancement of relationships between the government and disadvantaged right holders.

4. As the Guarantor of Prisoners' Rights, the Ombudsman addresses the action of the regional government, regional public bodies, organizations or agents supplying regional public services or parties that have an agreement with regional public bodies, which cooperate with penal institutions and external penal enforcement offices based in Lombardy. In other words, he makes sure that people whose personal freedom is subjected to restrictive measures are provided with services aimed at the protection of their health, the improvement of their quality of life, education and professional training, as well as at their recovery, reintegration into society and participation in the labour market. With the purpose of exercising the functions provided for by this law, the Ombudsman is entitled to visit penal institutions in compliance with the legislation in force. If breaches jeopardising the provision of the services above are detected but not solved, the Ombudsman may recommend the regional bodies overseeing the service suppliers above to take suitable measures, including the granting of replacement powers.

Art. 9

Areas of action

1. The Ombudsman may take action towards the Region and the regional system agencies, as well as towards agents or organizations supplying regional public services pursuant to the regional legislation in force and the supplying licences or agreements.
2. The Ombudsman may also take action towards municipalities, mountain communities, provinces, agents or organizations supplying local public services that are based in the Lombardy area whenever this is provided for by the law.
3. The Ombudsman may take action, within the limits and by the methods provided for by the national law, towards state peripheral offices and agents or suppliers of national public services.
4. The government agencies and other bodies towards which the Ombudsman takes action are expected loyally to collaborate and support the performance of his duties for the purposes laid down in this law.

Art. 10

Request for action

1. On the request of any individual or associated person who is directly concerned, the Ombudsman takes action towards the bodies referred to in article 9 to make sure that:
 - a) the government process takes place regularly and the government measures are applied promptly and correctly;

- b) the expected measures are neither omitted nor delayed without reasons;
 - c) activities are carried out regularly and lawfully;
 - d) failure to respond or refusal to give information do not take place;
 - e) good government principles are complied with;
 - f) the principles regulating the supplying of public services laid down in the provisions for the protection of users are complied with;
 - g) there is neither discrimination nor inequality of treatment.
2. The presentation of the request to the Ombudsman is not subjected to formalities.
 3. The filing of jurisdictional or administrative complaints neither excludes nor limits the right to make applications to the Ombudsman.
 4. The Ombudsman assesses the grounds for the application and, in the case of negative evaluation, notifies the person concerned of the reasons for its dismissal. If there are grounds for action, the Ombudsman intervenes pursuant to article 11.

Art. 11 **Terms of Action**

1. The Ombudsman takes action during the process or once the measure has been taken.
2. The Ombudsman invites the government bodies or the persons concerned to provide all the information and clarifications required. The government bodies or the persons concerned shall provide the required information within thirty days maximum and may not refuse for reasons of confidentiality.
3. The Ombudsman may:
 - a) be given access to all the records and documents relating to the subject matter of his action, obtain a copy thereof and gain useful information, also by relying on the regional information systems;
 - b) convene the body responsible for the measure targeted by the complaint, possibly together with the persons concerned, with a view to achieve an agreement between the parties;
 - c) ask the competent bodies to take the measure, if this was expected and unlawfully omitted, or to make sure that activities or omissions deemed to be irregular are suitably rectified.
4. The body responsible for the measure shall report to the Ombudsman on the matter under examination within the terms laid down by the Ombudsman.
5. While taking action, the Ombudsman may detect any irregularity, negligence or delay by assessing the compliance of the issues submitted to his analysis with good administration practices and recommending remedies to any identified defaults.
6. The Ombudsman's action may be automatically extended to measures

and practices of nature and contents identical to those for which his action was required with the purpose of solving similar problems. The Ombudsman may also take action on his own initiative to tackle well-known, particularly serious, cases which are worrying the citizens.

7. If the Ombudsman, while performing his institutional duties, detects or is told about any failings or anomalies concerning the action of other government agencies or bodies which affect the quality and regularity of the direct or attributed regional administration activity, he shall report on it to the Regional Council and Government pursuant to article 15.

Art. 12

Results of the Ombudsman's action

1. Once the preliminary analysis has been carried out, the Ombudsman makes his observations and recommendations to the persons concerned and, if necessary, may define duties for the parties to perform or terms for the definition of the process.

2. The Ombudsman does everything possible to find a solution agreed by the parties and, to this end, he may also promote an agreement pursuant to law no. 241 dated 7 August 1990 (New regulations on administrative processes).

3. The bodies referred to in article 9 notify the Ombudsman and the persons concerned of the factual and legal reasons for which they are not inclined to accept all or part of the Ombudsman's observations.

4. The Ombudsman notifies the persons concerned of the progress and result of his action, while indicating any initiative they may additionally take within the administrative or jurisdictional contexts.

5. If the Ombudsman deems the information given to him neither relevant nor decisive, if the term referred to in paragraph 1 has elapsed in vain or the responsible official delays or prevents the Ombudsman from carrying out his functions, the Ombudsman may inform the agencies concerned of any resulting duties, including disciplinary measures or measures taken for the purpose of the assessment of executives. The Ombudsman shall be notified of said duties performed by the local government agencies and the other persons concerned.

Art. 13

Action for the protection of the right of access

1. The Ombudsman may be asked to take action for the protection of the right of access pursuant to article 25, paragraph 4, of law no. 241/1990, also in relation to the local government agencies' documents whenever the conditions provided for by the same law are satisfied.

Art. 14

(Obligations)

1. The Ombudsman and the personnel operating within his supporting structure are bound to the confidentiality of documents, news and information that may have been shared with them as a result of their duties pursuant to the relevant provisions.
2. If the Ombudsman gains knowledge of any fact amounting to an offence while carrying out his functions, he shall report it to the judicial authorities.

Art. 15

Reports to the Regional Council and Regional Government

- 1 The Ombudsman shall send a report to the Regional Council and Regional Government on the activity carried out over the previous year by the 31st of March of every year, highlighting delays and irregularities and making observations and recommendations. The annual report is published in the official Gazette of the Lombardy Region.
2. The council committees may hear the Ombudsman on a more in-depth analysis of the contents of the report or while carrying out their functions.
3. At any time, the Ombudsman may also send the Regional Council and Regional Government reports on specific issues that are particularly important or deserve urgent attention, making observations and recommendations as he may think fit.
4. Every other year, the Regional Government notifies the Regional Council of the measures taken relating to the reports received from the Ombudsman.

Art. 16

Information on the Ombudsman's activity

1. The Ombudsman informs the media of the activity carried out and the results achieved within the limits of people's confidentiality, by relying also on the Regional Council's communication facilities.

TITLE III

NETWORK OF CIVIC PROTECTION

Art. 17

Promotion of the network

1. The Ombudsman promotes relationships and agreements with the local government agencies concerned and with the Council of local autonomies and takes useful initiatives aimed at fostering the development and quality of the local civic protection.

Art. 18

Relationships with other protection bodies

1. The Ombudsman collaborates and shares information with the ombudsmen of the other regions, with the European Ombudsman, the

Council of Europe Commissioner for Human Rights and the international civic protection bodies.

TITLE IV TEMPORARY AND FINAL PROVISIONS

Art. 19 First election

1. The election of the Ombudsman must take place within one hundred and twenty days from this law taking effect. Until then, functions shall be exercised by the Regional Ombudsman in office pursuant to regional law no. 7 dated 18 January 1980 (Appointment of the regional ombudsman of Lombardy)

Art. 20 Repeals and amendments

1. The following provisions shall be repealed:
 - a) regional law no. 7 dated 18 January 1980 (Appointment of the regional ombudsman of Lombardy);
 - b) article 5 of regional law no. 7 dated 5 February 2010 (Rules and regulations on the implementation of the regional government programme and the amendment and integration of law provisions – Supplementary provisions 2010).
2. Regional law no. 6 dated 30 March 2009 (Setting up the position and Office of Guarantor of the protection of children and youth) is amended as follows:
 - a) in article 4, paragraph 2, and in article 6, paragraph 2 b), the word “civic” is repealed;
 - b) paragraph 1 of article 5 is replaced with the one below:

“ 1. The Guarantor is elected by the Regional Council according to the rules laid down for the Regional Ombudsman. The Guarantor’s mandate lasts for five years and he may be re-elected only one more time.
3. Article 10 of regional law no. 8 dated 14 February 2005 (Provisions for the protection of people confined in the penal institutions of the Lombardy Region) is replaced as follows:

“Art. 10

The Guarantor of Prisoners’ Rights

1. *The Regional Ombudsman performs the duties of Guarantor of Prisoners’ Rights . The Guarantor’s tasks are defined on the basis of specific regulations.”*

4. Regional law no. 10 dated 14 July 2003 (Reorganization of the regional tax legislation – Consolidation act for the regulation of regional taxes) is amended as follows:

a) article 22 is replaced with the following:

“Art. 22

Appointment of the Guarantor of regional taxpayers

1. *The Guarantor of the protection of regional taxpayers has been set up in the region.*

2. *Pursuant to article 61, paragraph 2, b) of the Statute of autonomy, the Regional Ombudsman performs the duties of the Guarantor of regional taxpayers within the limits of complaints relating to taxes referred to in Heading I of Title III.*

3. *The secretary’s office and technical functions are provided to the Guarantor of the protection of regional taxpayers by the Regional Ombudsman’s offices.”;*

b) paragraph 2 of article 25 is replaced with the following:

“ 2. As far as that which is not provided for by this Heading, the Guarantor of the protection of regional taxpayers operates in compliance with the regional law regulating the Regional Ombudsman’s activity.”.

Art. 21

Financial provision

1. After hearing the Ombudsman, the President’s Office, determines the financial resources to be allocated to the budget proposal of the Regional Council.

2. The expenses provided for in this law are catered for with sums allocated to U.P.B. (Basic Forecast Units) 7.1.0.1.169, “Operation of the Regional Council”, in the expense budget forecast for financial year 2010 and later.