

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (85) 13

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON THE INSTITUTION OF THE *OMBUDSMAN*^{1,2}

(Adopted by the Committee of Ministers on 23 September 1985
at the 388th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members, in particular through the maintenance and further realisation of human rights and fundamental freedoms ;

Bearing in mind Assembly Recommendation 757 (1975) on the conclusions of the meeting of the Assembly's Legal Affairs Committee with the *Ombudsmen* and parliamentary commissioners in Council of Europe member states, held in April 1974 ;

Having regard to Resolution No. 2 of the European Ministerial Conference on Human Rights on the role of the Council of Europe in the further realisation of human rights (Vienna, 19-20 March 1985) ;

Welcoming the remarkable development of the institution of the *Ombudsman* in recent years at national, regional and local level in Council of Europe member states ;

Considering that, having regard to the complexities of modern administration, it is desirable to supplement the usual procedures of judicial control ;

Recalling the functions of the *Ombudsman* involving, *inter alia*, consideration of individual complaints concerning contended errors or other shortcomings on the part of the administrative authorities with a view to enhancing the protection of the individual in his dealings with those authorities ;

Considering that through these functions the institution of the *Ombudsman* can, bearing in mind the specific situation in each country, contribute towards the strengthening of parliamentary control ;

Considering, furthermore, that the opinions of the *Ombudsman* may constitute a major factor in the evolution of general principles and rules governing the functioning of the administration and the conduct of public employees,

Recommends the governments of member states :

a. to consider the possibility of appointing an *Ombudsman* at national, regional or local level or for specific areas of public administration ;

b. to consider empowering the *Ombudsman*, where this is not already the case, to give particular consideration, within his general competence, to the human rights matters under his scrutiny and, if not incompatible with national legislation, to initiate investigations and to give opinions when questions of human rights are involved ;

1. The term *Ombudsman* in this recommendation relates to *Ombudsmen*, parliamentary commissioners, mediators and persons discharging similar functions.

2. When this recommendation was adopted, the Representative of the Federal Republic of Germany, in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, reserved the right of his Government to comply with it or not.

c. to consider extending and strengthening the powers of the *Ombudsman* in other ways so as to encourage the effective observance of human rights and fundamental freedoms in the functioning of the administration.