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**CONCLUSIONS
OF
THE EUROPEAN OMBUDSMEN CONFERENCE**

Co-organised by

**MR. ALVARO GIL-ROBLES,
COMMISSIONER FOR HUMAN RIGHTS**

and

**Mrs. LEONARDA KUODIENE
LITHUANIAN OMBUDSMAN**

Vilnius, Lithuania, 5 – 6 April 2002

In the framework of the Lithuanian Presidency of the Council of Europe, the Lithuanian Ombudsman and the Minister for Foreign Affairs agreed with the Commissioner for Human Rights, Mr. Alvaro Gil-Robles, to co-organize the next Ombudsmen Conference in Vilnius on 5 – 6 April 2002. The Commissioner for Human Rights would like to thank the Georgian Ombudsman for having consented to hold the meeting in Lithuania rather than in Georgia, as was previously decided during the Warsaw meeting on 28 and 29 May 2001.

The theme dealt with at the meeting between the European Ombudsmen and the Commissioner was “The role of the Ombudsmen in the protection of human rights”. Four sessions took place and the European Ombudsmen arrived at the following conclusions, presented at the closing ceremony by the Director of the Office of the Commissioner for Human Rights:

1. The participants attach great importance to the role of the Ombudsman in the protection of human rights. Indeed, human rights are not a luxury but a necessity for the enhancement of democracy. More than that, in our continent they form the basis, the common principles, and the constitutional heritage on which the Europe of tomorrow is being constructed. Protecting human rights is not an option, but the surest route to a common democratic stability.

The role of the Ombudsman in this respect is obvious. The Ombudsman is the link between the actors of human rights protection: the authorities and the individuals. Effective human rights protection requires in fact a synergy between State authorities and civil society and the Ombudsman may be an effective tool to achieve this synergy.

2. As stressed by the Mediator of the French Republic, Mr. Bernard Stasi, independence is essential to the effective functioning of the Ombudsman. This independence must be maintained towards the political power, various political parties, the Administration, as well as towards the lobbyists seeking to pressurise Ombudsmen to defend specific interests.

The independence should be asserted in the Ombudsman's status, but also in the Ombudsman's action. Indeed, the election by a qualified majority of the Parliament as well as irremovability and non-reappointment are undoubtedly elements that reinforce independence, though none of them can be considered as a condition *sine qua non* of the institution's independence. Moreover, the real guarantee of independence lies in the character, the will and the courage of the Ombudsmen who should have the capacity to resist all pressures, promises and temptations and, instead, engage in a constructive criticism. This means that they have to try to establish a mutual trust and confidence in their relations with the Administration. They should bring the Administration to understand that they are partners and allies, in so far as they help the Administration to remedy its mistakes and improve the respect for fundamental rights and freedoms.

3. As indicated by Mr. Sammut, in mature democracies that generally abide by the rule of law, offences against traditional human rights may not be a blatant everyday occurrence. Yet this does not rule out the possibility of the rights of citizens being threatened by public authorities. Within bureaucracies one may come across officials with a sense of self-importance, indifference, obsession with rules and procedures, and lack of sensitivity to the problems that ordinary people face.

In new democracies, but quite often also in the older ones, the Ombudsman will be called upon to take action with a view to preventing arbitrariness and human rights abuses.

Mr. Hanzek rightly pointed out that some groups of the population complain less than others. Quite often there is an absence of complaints from precisely the most vulnerable sectors of the population, such as children, elderly people, foreigners, minorities of all kinds. This does not mean that violations do not occur among these groups; often, indeed, it is quite the opposite. The reason probably lies elsewhere: too little information about their own rights, unfamiliarity with the system, lack of trust in society, fear, etc. For the individual to be able to lodge a complaint, at least four conditions need to be met. These are: the awareness of one's own rights and the rights of others; the existence of complaint procedures; the absence of fears of negative consequences of complaining; and confidence that the system is capable of correcting violations.

Creating these conditions is an essential element of the Ombudsman's work. In concrete terms this consists of activities involving the promotion of human rights, helping to improve the legislation, and direct communication with marginalized or underprivileged groups.

4. The situation with respect to Roma communities, discussed during the last session of our conference, offers a concrete example of a situation that a minority group may face. Discrimination, lack of education, insufficient health care, heavy unemployment, and limited access to justice were identified as the predominant problems of this minority. Participants called on Ombudsmen to act with a view to bringing an end to the *de facto* segregation that exists within the educational system of several Council of Europe member States and provide equal access to some of the most elementary rights, such as the right to quality education, the right to a fair hearing and the right to social security.

5. The discussions on the basis of the presentation by Mr. Nowicki, the Kosovo Ombudsman, have shown that Ombudsmen can be confronted with crises of various types (economic, political, war and post-war crises) and that they may have an important role to play in these situations. Recent experience (since the 11 September terrorist attacks) shows that crises may take multiple forms and require the Ombudsmen's particular vigilance. This is all the more so as the reply to human rights violations cannot and should not be a diminution of the protection of human rights, but rather their reinforcement.

The Ombudsmen's constructive criticism, the flexibility of their working methods and their spirit of conciliation and mediation make them well placed to promote solutions to crises in full respect of human rights and democratic principles. The action of the State Ombudsman and the Ombudsmen of the Entities in Bosnia and Herzegovina and the activities of the Kosovo Ombudsman are examples of the positive impact that this institution can have in post conflict situations in consolidating peace through the defence of human rights. The situation faced by several Ombudsmen acting in difficult political circumstances, as is particularly the case in Moldova, also has been mentioned.

Indeed, political players in crises situations do not always positively perceive the criticism offered by Ombudsmen. The Ombudsman institutions may thus, in times of crises, need the active support of their colleagues from other European countries to consolidate their position and to maintain their independence.

The effective functioning of Ombudsman institutions in Council of Europe member States is not a domestic issue. It is a matter of interest to all those concerned with Europe's democratic stability.

The Ombudsmen of Council of Europe member States must be ready to confront crises and to react, where necessary. They consider that the Commissioner for Human Rights might appropriately and effectively coordinate their possible responses to such crises. As a first step, a meeting on the role of Ombudsmen in crises situations could be convened.

APPENDIX I

PROGRAMME

THEMES :

- I. The role of the Ombudsman in the regular functioning of the administration
- II. The role of the Ombudsman in the day-to-day enjoyment of human rights
- III. The Ombudsman and the protection of human rights in crisis situations
- IV. Access to education by Roma/Gypsy community and the role of the Ombudsman

Thursday, 4 April 2002

Arrival of participants

15:00 - 18:00 Guided tour of Vilnius

Friday, 5 April 2002

8:30 - 9:00 Registration of participants

9:00 Opening ceremony at the City Hall
Welcome speeches by :

- Mrs. Leonarda Kuodienė, Head of the Seimas Ombudsmen's Office
- Mr. Alvaro Gil Robles, Council of Europe Commissioner for Human Rights
- Mr. Artûras Paulauskas, Speaker of the Seimas of the Republic of Lithuania

9:30 First plenary session

Theme I: The Role of the Ombudsman in the regular Functioning of the Administration

Chair: Mrs. Leonarda Kuodienė

Introductory report: Mr. Bernard Stasi, Médiateur of the French Republic

Open discussion

- 10:45 Coffee break
- 11:00 Continuation of discussions on Theme I
- 12:15 Lunch
- 14:00 Second plenary session

Theme II: The Role of the Ombudsman in the day-to-day enjoyment of Human Rights

Chair: Mr. Joseph Sammut, Maltese Parliamentary Ombudsman

Introductory report: Mr. Martjaz Hanzek, Ombudsman of Slovenia

Open discussion

- 15:30 Coffee break
- 15:45 Continuation of discussions on Theme II, conclusions of the first working day
- 17:00 Transfer to hotels
- Gala dinner

Saturday, 6 April 2002

- 9:00 Third plenary session

Theme III: The Ombudsman and the Protection of Human Rights in Crisis situations

Chair: Mr. Alexei Pottinga, Parliamentary Advocate of Moldova

Introductory report: Mr. Marek Antoni Nowicki, Kosovo Ombudsman

Open discussion

- 10:45 Coffee break
- 11:00 Continuation of discussions and conclusions on theme III
- 12:00 Lunch

14:00 **Theme IV: Access to Education by Roma/Gypsy community and the Role of the Ombudsman**

Chair: Mr. Fernando Mora, Office of the Commissioner for Human Rights

Introductory report: Mr. Julius Rostas, European Roma Rights Centre and Mr. Bernard Rorke, Roma Regional Participation Programme

Open discussion

15:15 Coffee break

15:30 Continuation of discussions on Theme IV and conclusions

17:00 Conclusions on the conference

Closing dinner

Sunday, 7 April 2002

Departure of participants

A P P E N D I X I I

List of participants / Liste des participants

A. OMBUDSMEN, PARLIAMENTARY COMMISSIONERS, ETC. OMBUDSMEN, COMMISSAIRES ARLEMENTAIRES, ETC.

MEMBER STATES / ETATS MEMBRES

ALBANIA / ALBANIE

Mr. Agron CAUSHI, Deputy Ombudsman People's Advocate, TIRANA

Accompanied by

Mrs. Mimoza SKENDERAJ, People's Advocate Institution, TIRANA

AUSTRIA / AUTRICHE

Mr. Peter KOSTELKA, Ombudsman of Austria, Austrian Ombudsman Joard, VIENNA

BELGIUM / BELGIQUE

Mr. P-Y. MONETTE, Federal Ombudsman of Belgium Office of the Federal Ombudsman of Belgium, BRUSSELS

Mr. Dr. Herman WUYTS, Federal Ombudsman of Belgium, BRUSSELS

CROATIA / CROATIE

Ms Marta VIDAKOVIĆ MUKIĆ, Deputy Ombudsman, National Ombudsman of Croatia, ZAGREB

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Mr. Otakar MOTEJL, Public Defender of Rights , BRNO

Accompanied by

Mr. Dalibor VOJTA, Assistant to the Public Defender of Rights, BRNO

DENMARK / DANEMARK

Mr. Jorgen HEISTVIG-LARSEN, Head of Section, Institution of the Danish Parliamentary Ombudsmann, COPENHAGEN

ESTONIA / ESTONIE

Mr. Allar JÖKS, Legal Chancellor, Office of the Legal Chancellor, TALLINN

FINLAND / FINLANDE

Ms Kirsti KURKI-SUONIO, Legal Officer Office of the Parliamentary Ombudsman, HELSINKI

FRANCE

Mr. Bernard STASI, Médiateur de la République, PARIS

Mr. Robert CALENS, Consultant, Médiateur de la République, PARIS

Mr Philippe BARDIAUX, Conseiller, Affaires Internationales, PARIS

GREECE / GRECE

Mr. George KAMINIS, Deputy Ombudsman of Greece, ATHENS

Mr Dimitris CHRISTOPOULOS, Deputy Ombudsman, ATHENS

GEORGIA / GÉORGIE

Ms Nana DEVDARIANI, Public Defender, Public Defender Office of Georgia, TBILISSI

HUNGARY / HONGRIE

Mr. Albert TAKACS, Deputy Parliamentary Commissioner for Human Rights, BUDAPEST

Accompanied by

Ms. Dr. Kinga DERY, Legal expert

ICELAND / ISLANDE

Mr. Robert SPANO, Deputy Parliamentary Ombudsman of Iceland, REYKJAVIK

ITALY / ITALIE

Ms Maria Grazia VACCHINA, Médiateur du Val d'Aoste, AOSTA

LATVIA / LETTONIE

Ms Ineta VAIVARE, Lawyer, Latvian National Human Rights Office, RIGA

LITHUANIA / LITUANIE

Mrs Leonarda KUODIENE, Head of the Seimas Ombudsmen's Office of the Republic of Lithuania, VILNIUS

Mrs Genovaite RACHINSKIENE, Ombudsman of the Seimas of the Republic of Lithuania, VILNIUS

Mrs Zita ZAMZICKIENE, Ombudsman of the Seimas of the Republic of Lithuania, VILNIUS

Mr Kestutis MILKERAITIS, Ombudsman of the Seimas of the Republic of Lithuania, VILNIUS

Mr Romas VALENTUKEVICHIOUS, Ombudsman of the Seimas of the Republic of Lithuania, VILNIUS

MALTA / MALTE

Mr. Joseph SAMMUT, Parliamentary Ombudsman, Ombudsman Office, VALLETTA

MOLDOVA

Mr. Alexei POTINGA, Avocat parlementaire, Centre pour les Droits de l'Homme de Moldova, CHISINAU

THE NETHERLANDS / PAYS-BAS

Mr. Roel FERNHOUT, National Ombudsman of The Netherlands, THE HAGUE

NORWAY / NORVEGE

Mr Arne FLIFLET, Parliamentary Ombudsman of Norway, OSLO

POLAND / POLOGNE

Mr. Stanislaw TROCIUK, Deputy Ombudsman of Poland, WARSAW

Accompanied by

Ms. Joanna PISARCZYK, Counsellor, Office of the Ombudsman of Poland

PORTUGAL

Mr. Jose Pereira COUTINHO, Deputy Ombudsman, LISBOA

ROMANIA / ROUMANIE

Mr. Ion Oltea TOANA, Head of Department Office of People's Advocate, BUCAREST

RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE

Mr Oleg MIRONOV, Commissioner on Human Rights of the Russian Federation, MOSCOW

Accompanied by

Mr Igor ASTAPKIN

Mr Konstantin FROLOV

Mr. Vladislav SAVISKI, Kalmikia Regional Ombudsman, ELISTA

Mr. Rashid VAGIZOV, Tatarstan Regional Ombudsman, KAZAN

Mr. Inokenti ZHMAKOV, Krasnojarsk Regional Ombudsman, KRASNOJARSK

Mr. Vasilij GLOTOV, Amursk Regional Ombudsman, BLAGOVESHCHENSK

Mr. Vladislav VINOGRADOV, Astrackan Regional Ombudsman, ASTRACKAN

Mr Michail TARANCOV, Volgograd Regional Ombudsman, VOLGOGRAD

Mr Nikolai VOLKOV, Kemerov Regional Ombudsman, KEMEROVO

Mr Leonid VOKUEV, Komi Regional Ombudsman

Mr Sergei MATVEEV, Perm Regional Ombudsman, PERM

Mr Aleksandre LANDO, Saratov Regional Ombudsman, SARATOV

Mrs Tatjana MERZLIAKOVA, Sverdlovsk Regional Ombudsman, EKATERINBURG

Mr Vecheslav OSIN, Smolensk Regional Ombudsman, SMOLENSK

Mr Sergei KRYZHOV, Moscow Regional Ombudsman, MOSCOW

Mrs Irina VERSHININA, Kaliningrad Regional Ombudsman, KALININGRAD

Mrs Galina BARDIER, Saint-Petersburg centre "Strategy", SAINT-PETERSBURG

SLOVENIA / SLOVÉNIE

Mr. Matjaž HANŽEK, Human Rights Ombudsman, Slovenian Human Rights Ombudsman Office, LJUBLJANA

Ms N. KUZMIČ, Public and International relations officer, Slovenian Human Rights Ombudsman Office, LJUBLJANA

SPAIN / ESPAGNE

Mr. Enric R. BARTLETT, Deputy Ombudsman, Sindik de Greuges (Ombudsman) of Catalonia, BARCELONA

SWEDEN / SUEDE

Mr. Kerstin ANDRE, Parliamentary Ombudsman, STOCKHOLM

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / “L'EX-RÉPUBLIQUE YUGOSLAVE DE MACÉDOINE”

Mr. Branko NAUMOSKI, Ombudsman of Macedonia, SKOPJE

UKRAINE / UKRAINE

Ms Nina KARPACHOVA, Ukrainian Parliament Commissioner for Human Rights, Office of the National Ombudsman of Ukraine, KIEV

Accompanied by

Mr. Volodymyr TARASOV, Deputy Head of Informational-analytical Department

Mr. Sergiy KOZACHEVSKYY, International Relations Officer

NON-MEMBER STATES / ETATS NON MEMBRES**BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE****Federation of Bosnia and Herzegovina**

Ms Branka RAGUZ, Federal Ombudsperson, Ombudsman Institution, SARAJEVO

Ms. Vera JOVANOVIC, Federal Ombudsperson, Ombudsman Institution, SARAJEVO

Accompanied by

Mr. Neven PECELJ, Ombudsman Institution, SARAJEVO

Republika Srpska

Mr. Franjo CRNJAC, Ombudsman of Republika Srpska, BANJA LUKA

Mr. Darko OSMIC, Ombudsman of Republika Srpska

Ms. Slavica SLAVNIC, Ombudsman of Republika Srpska

UNITED NATIONS MISSION IN KOSOVO / MISSION DES NATIONS UNIES AU KOSOVO

Mr. Marek Antoni NOWICKI, Ombudsperson, Ombudsperson Institution of Kosovo, PRISHTINA

B. ROMA/GYPSY REPRESENTATIVES / REPRESENTANTS DE LA COMMUNAUTE ROM/TSIGANE

Mr Bernard RORKE, Manager of the OSI Roma Regional Participation Program, Budapest (Hungary)

Mrs Anna CERVENAKOVA, Ministry of Justice, Prague (Czech Republic)

Mr Julius ROSTAS, Legal Advisor at the European Roma Rights Centre, Budapest (Hungary)

Ms Renata M. ERICH, Member of the Board of the Romano-Centro, Wien (Austria)

Mr. Josiph TICHINA, Lithuanian Roman Community Center, Vilnius (Lithuania)

Mr. Kazimieras ALEKSANDRAVICHIOUS, Lithuanian Roman Community Center, Vilnius (Lithuania)

C. OTHER PERSONALITIES / AUTRES PERSONNALITES

Mr. Nail ATALAY Ombudsman, Office of the Ombudsman Nicosia (Cyprus)

Mrs. Marjorie FARQUHARSON, Expert, Edinburgh (Scotland)

D. COUNCIL OF EUROPE / CONSEIL DE L'EUROPE**Commissioner for Human Rights / Commissaire aux Droits de l'Homme**

Mr Alvaro GIL-ROBLES, Conseil de l'Europe, F-67075 Strasbourg Cedex

Directorate General II Human Rights / Direction Générale II - Droits de l'Homme

Ms Kristina PENCHEVA, Programme Adviser, Human Rights Co-operation and Awareness Division, Council of Europe, – 67075 Strasbourg Cedex

Ms Françoise MANTION, Secretariat of the European Social Charter, Council of Europe, F-67075 Strasbourg Cedex

Venice Commission / Commission de Venise

Ms Maria de Jesus SERRA LOPES, Portuguese member of the Venice Commission, LISBOA (Portugal)

Ms Sarah BURTON, Administrator, Secretariat of the partial agreement on democracy, Council of Europe, F-67075, Strasbourg Cedex

Directorate General IV Social Cohesion / Direction Generale IV- Cohésion Sociale

Mr. Henry SCICLUNA, Head of the Migration and Roma/Gypsies Department, Council of Europe, F - 67075 Strasbourg Cedex

**Office of the Commissioner for Human Rights /
Bureau du Commissaire aux Droits de l'Homme**

Mr. Christos GIAKOUMOPOULOS, Directeur du Bureau

Mr. Fernando MORA, Collaborateur du Commissaire

Mrs. Alexandre GUESSEL, Administrateur au bureau du Commissaire

Mrs. Christine GIGANT, Assistante particulière auprès du Commissaire