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Item 71 (b) of the provisional agenda\*

**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

### **The role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law**

#### **Report of the Secretary-General\*\***

#### *Summary*

The present report is submitted pursuant to General Assembly resolution [77/224](#), in which the Assembly requested the Secretary-General to report to it at its seventy-ninth session on the implementation of the resolution, in particular on obstacles encountered by States, and on best practices in the work and functioning of Ombudsman and mediator institutions, as well as on solutions to promote their role and work in the promotion and protection of human rights, good governance and the rule of law.

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\* [A/79/150](#).

\*\* The present report was submitted to the conference services for processing after the deadline for technical reasons beyond the control of the submitting office.



## I. Introduction

1. The present report is submitted pursuant to paragraph 12 of General Assembly resolution 77/224, in which the Assembly requested the Secretary-General to report to it at its seventy-ninth session on the implementation of the resolution, in particular on obstacles encountered by Member States, and on best practices in the work and functioning of Ombudsman and mediator institutions, as well as on solutions to promote the role and work of the Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law.
2. On 4 April 2024, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent two questionnaires to the relevant stakeholders, one to Member States (see annex I) and another to Ombudsman and mediator institutions (see annex II), with a deadline of 10 May 2024. This methodology was aimed at collecting concise and up-to-date information on the subject matter. Replies to the questionnaire were received from 23 Member States and 39 Ombudsman and mediator institutions.
3. The present report is based on an analysis of the information contained in the responses received.

## II. Information received from Member States

4. Six Member States (see annex I) reported having Ombudsman or mediator institutions enshrined in their respective Constitutions and legislation. Two Member States reported that their Ombudsman or mediator institutions were established only by constitution and one Member State reported that its Ombudsman institution was established only by legislation. One Member State reported that its mediator institution was established by decree.
5. No Member State reported the intention to merge its non-accredited Ombudsman or mediator institutions with an existing national human rights institution in order to create one strong institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).<sup>1</sup>
6. Seven Member States stated that their respective Ombudsman or mediator institutions were adequately funded to function efficiently and independently. Sixteen Member States did not provide information on funding.
7. Eleven Member States indicated that their national legal framework protected their Ombudsman or mediator institutions against coercion, reprisals, intimidation and threats. One Member State reported having established avenues for reporting or disclosing any attempt to threaten, coerce or intimidate public officials in the exercise of their mandates, which also applied to its Ombudsman or mediator institution. Another Member State referred to the independence and autonomy of its Ombudsman institution as the basis for protection against coercion, reprisal and intimidation.
8. Eight Member States reported that their Ombudsman or mediator institutions had been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Of those eight Member States, one reported that its Ombudsman or mediator institution exercised that mandate together with the national human rights institution and civil society organizations. None of the Member States indicated that

<sup>1</sup> Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>.

due consideration was given to the Paris Principles when assigning a national preventive mechanism.<sup>2</sup>

9. Two Member States reported having designated their Ombudsman institutions as national monitoring mechanisms under the Convention on the Rights of Persons with Disabilities.<sup>3</sup> One Member State indicated that its Ombudsman institution monitored developments regarding the equal treatment of persons with disabilities.

10. No response was received to the question on whether Governments were developing and conducting outreach activities to raise public awareness on the important role of Ombudsman and mediator institutions. However, nine Member States described outreach activities carried out by their respective Ombudsman or mediator institutions, including training activities or the conduct of seminars targeting public officials. One Member State provided information on outreach activities aimed at raising awareness on the importance of mediation.

11. With regard to obstacles encountered in the implementation of General Assembly resolution 77/224, two Member States responded that they had not encountered any obstacles. One Member State, while not mentioning any obstacle, noted the need to strengthen the implementation of the recommendations of its Ombudsman institution.

### **III. Information received from Ombudsman and mediator institutions**

12. A total of 39 Ombudsman and mediator institutions responded to the questionnaire (see annex II). Of those 39 institutions, 21 are accredited by the Global Alliance of National Human Rights Institutions, including 17 with “A” status (fully compliant with the Paris Principles) and 4 with “B” status (partially compliant with the Paris Principles).

13. Of the 18 Ombudsman or mediator institutions with no accreditation status, 6 reported having considered applying for accreditation. Twelve Ombudsman or mediator institutions indicated they had not considered applying for accreditation, since there were already national human rights institutions in their respective countries that had been accredited by the Global Alliance of National Human Rights Institutions.

14. A total of 25 Ombudsman or mediator institutions reported that they had been established on the basis of both constitutional and legislative provisions. Nine Ombudsman or mediator institutions indicated that they had been established only by constitution. Four Ombudsman or mediator institutions reported that they had been established only by law. One Ombudsman institution reported that it had been established by presidential decree.

15. Nineteen Ombudsman or mediator institutions stated that they were receiving adequate financial resources to discharge their mandates independently and efficiently. Fifteen Ombudsman or mediator institutions reported a lack of adequate

<sup>2</sup> Article 18 (4) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment makes reference to the Paris Principles, calling upon States parties to give due consideration to the Principles when setting up their national preventive mechanisms.

<sup>3</sup> Article 33 (2) of the Convention on the Rights of Persons with Disabilities makes reference to the Paris Principles, calling upon States to take the Principles into account when setting up their national monitoring mechanisms.

funding to fully exercise their mandates. Five Ombudsman or mediator institutions did not provide information on whether they were receiving adequate funding.

16. All 39 Ombudsman and mediator institutions indicated issuing annual reports and that the issuing of such reports was mandated by their enabling laws.

17. A total of 38 Ombudsman or mediator institutions reported that they were cooperating with both relevant State bodies and civil society organizations. One mediator institution reported that it collaborated mainly with State bodies and did not indicate whether it cooperated with civil society.

18. All 39 Ombudsman or mediator institutions reported that they were developing and conducting outreach activities to raise public awareness on the important role of their institutions at the national level.

19. Twenty-one Ombudsman or mediator institutions indicated that they had encountered obstacles in the implementation of General Assembly resolution [77/224](#). Eleven Ombudsman and mediator institutions noted that they needed additional funding to ensure the effective implementation of their mandates. Five Ombudsman or mediator institutions reported that there were shortcomings in their enabling laws. The shortcomings cited included limited mandates in terms of geographic coverage and a lack of functional immunity or power to act on their own initiative. Three Ombudsman or mediator institutions reported a lack of cooperation on the part of national authorities and one Ombudsman institution reported interference in the exercise of its mandate by national authorities. Three Ombudsman and mediator institutions reported political, security and economic difficulties that hampered their ability to operate. The political and security difficulties reported included instances of ongoing occupation, armed conflict and unilateral coercive measures. Eighteen Ombudsman or mediator institutions did not report any obstacles to the implementation of the resolution.

#### **IV. Best practices in the work and functioning of Ombudsman and mediator institutions**

20. Three Member States reported that their respective Ombudsman or mediator institutions were members of or were collaborating with international and regional networks of Ombudsman, mediator and other national human rights institutions, such as the Global Alliance of National Human Rights Institutions, and were cooperating with the United Nations. Of the 39 Ombudsman or mediator institutions, 27 indicated that they were members of or were collaborating with international and regional networks, including the Global Alliance of National Human Rights Institutions and its four regional networks, the International Ombudsman Institute, the African Ombudsman and Mediators Association, the Association of Ombudsmen and Mediators of la Francophonie and the Ibero-American Federation of Ombudsmen.

21. One Member State reported the collaboration between its Ombudsman institution and research institutions to carry out research and teaching activities related to human rights, as a best practice. Although not directly related to General Assembly resolution [77/224](#), another Member State reported that it was conducting activities to promote mediation, including the implementation of a project to popularize alternative dispute resolution by improving the competencies of mediators and creating a national register of mediators.

22. One Member State reported that its mediator institution had developed a service charter on the protection of the rights of users of public services in digital matters and had created a mediation training centre. Other best practices reported included the establishment by mediator institutions of digital communication channels and regional

offices to enhance accessibility to their services. Another Member State reported that it was proposing to issue instructions to ministers and other agencies, so as to enhance the response to the recommendations of its mediator institution. Still another Member State highlighted that the independence of its Ombudsman institution, which was guaranteed by law and the institution's discretion in exercising its functions, was considered a best practice.

23. Two Ombudsman institutions reported that they had established human rights observatories that involved civil society organizations, with a view to monitoring and reporting on the state of human rights in their respective countries. Three Ombudsman institutions reported on collaboration with peer Ombudsman institutions to exchange best practices on human rights, monitor deforestation in the Amazon and mainstream disability rights in the public service.

24. Other best practices reported by Ombudsman and mediator institutions included the appointment of focal points in public administration to facilitate the exchange of information and ensure the efficient handling of complaints. In terms of accessibility to services, two mediator institutions reported that they had established regional offices to bring services closer to the population.

## V. Conclusion

25. Of the 39 Ombudsman and mediator institutions that responded to the questionnaire, 25 (64 per cent) reported that they had been established through both constitutional and legislative frameworks. Nine institutions (23 per cent) had been founded solely by constitutional means, four (10 per cent) solely by legislation and one (3 per cent) by presidential decree. There was a strong reliance on a combination of constitutional and legislative frameworks for the creation of Ombudsman or mediator institutions, with fewer institutions being founded on a singular legal basis. In terms of financial resources, 49 per cent of institutions reported receiving adequate funding, whereas 38 per cent expressed concern over low or insufficient levels of funding. The proportion of Ombudsman and mediator institutions reporting inadequate funding highlights the need for States to provide sufficient financial support to ensure that Ombudsman and mediator institutions can operate effectively and independently.

26. All 39 institutions (100 per cent) reported that they prepared annual reports as required by their enabling laws. Furthermore, 38 institutions (97 per cent) reported cooperating with both State bodies and civil society organizations, whereas 1 institution (3 per cent) reported cooperating with State bodies only.

27. It is essential to ensure that the services of Ombudsman and mediator institutions are accessible to all. Although most of the Ombudsman and mediator institutions reported that they were engaged in general outreach activities, very few Member States reported that they were raising public awareness about the critical role played by those institutions. Enhancing public knowledge and understanding of Ombudsman and mediator institutions is vital for maximizing their effectiveness in promoting accountability, good governance and human rights.

28. Regarding specialized mandates, eight Member States (21 per cent) reported that their Ombudsman institutions had been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, none of the Member States indicated that due consideration had been given to the Paris Principles when designating a national preventive mechanism. In addition, two Member States (5 per

cent) reported having designated their Ombudsman institutions as national monitoring mechanisms under the Convention on the Rights of Persons with Disabilities.

29. Approximately 54 per cent (21 out of 39) of the institutions reported obstacles in implementing General Assembly resolution [77/224](#). Key issues highlighted included the need for additional funding (38 per cent), limitations in their enabling laws (13 per cent), a lack of cooperation or interference by national authorities (8 per cent), and political, security and economic difficulties (8 per cent). Overall, although many Ombudsman and mediator institutions report that they were established through constitutional or legal frameworks, there is a need to address the critical issues faced by some institutions, such as insufficient funding, shortcomings in their enabling laws in terms of limited geographic coverage, a lack of functional immunity or power to act on their own initiative and a lack of cooperation from national authorities.

30. Ombudsman and mediator institutions play a crucial role as accountability mechanisms that uphold good governance, the rule of law and human rights. It is imperative that Member States ensure that the foundational tenets of those institutions are in line with the Paris Principles and the principles on the protection and promotion of the Ombudsman institution (the Venice Principles).<sup>4</sup>

## VI. Recommendations

### A. Recommendations to Member States

31. **Ombudsman and mediator institutions are essential in efforts to achieve the Sustainable Development Goals, including Goal, 16 by fostering peaceful and inclusive societies. Consequently, Member States are encouraged to establish independent Ombudsman and mediator institutions, strengthen existing institutions in accordance with the Venice Principles and the Paris Principles, and seek the assistance of OHCHR in that regard.**

32. **Member States are encouraged to ensure that adequate funding is provided to Ombudsman and mediator institutions to enable them to discharge their mandate in an independent and efficient manner.**

33. **Member States are encouraged to ensure adequate protection for Ombudsman and mediator institutions against coercion, reprisals, intimidation and threats.**

34. **Member States should give due consideration to international human rights standards, including the Paris Principles and the Venice Principles, when designating Ombudsman and mediator institutions as national preventive mechanisms under article 18 (4) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and as national monitoring mechanisms under article 33 (2) of the Convention on the Rights of Persons with Disabilities.**

35. **Member States are invited to share and exchange best practices on the work and functioning of their Ombudsman and mediator institutions, including by engaging more actively with OHCHR, pursuant to General Assembly resolution [77/224](#).**

<sup>4</sup> Available 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).

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**B. Recommendations to Ombudsman and mediator institutions**

36. Ombudsman and mediator institutions should develop or strengthen cooperation with State bodies, civil society organizations and other stakeholders.
37. Ombudsman and mediator institutions should conduct public and other awareness-raising activities on their roles and functions, in collaboration with relevant stakeholders, in order for the population to know about their mandates.
38. Ombudsman and mediator institutions are encouraged to continue to engage with OHCHR, the Global Alliance of National Human Rights Institutions, the International Ombudsman Institute and other regional networks and associations to exchange experiences, lessons learned and best practices.
39. Ombudsman and mediator institutions that are mandated to promote and protect all human rights are encouraged to request, in cooperation with OHCHR, accreditation by the Global Alliance of National Human Rights Institutions.
40. Ombudsman and mediator institutions are invited to share and exchange best practices on their work and functioning, including by engaging more actively with OHCHR, pursuant to General Assembly resolution [77/224](#).

## Annex I

### Questionnaire sent to States on 4 April 2024

1. If your country has Ombudsman or mediator institutions, have you endowed them with an adequate constitutional and legislative framework, as well as financial and all other appropriate means, in order to ensure the efficient and independent exercise of their mandate and to strengthen the legitimacy and credibility of their actions as mechanisms for the promotion and protection of human rights, the advancement of good governance and respect for the rule of law?
2. Has your country ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and/or the Convention on the Rights of Persons with Disabilities? In that case, has it assigned non-accredited Ombudsman or mediator institutions with the role of national preventive mechanism under the Optional Protocol, and/or national monitoring mechanism under the Convention? In doing so, has it taken into account the Paris Principles, as per article 18 (4) of the Optional Protocol and article 33 (2) of the Convention?
3. Do you develop and conduct, as appropriate, outreach activities at the national level, in collaboration with all relevant stakeholders, in order to raise awareness of the important role of Ombudsman and mediator institutions?
4. Has your country taken appropriate steps to ensure that adequate protection exists for Ombudsman and mediator institutions against coercion, reprisals, intimidation or threats, including from other authorities, and that any such acts are promptly and duly investigated and the perpetrators held accountable?
5. If your country has an Ombudsman or a mediator institution, is it accredited by the Global Alliance of National Human Rights Institutions?
6. Have you considered merging any non-accredited institutions with an accredited national human rights institution in order to have one strong institution in full compliance with the principles relating to the status and functioning of national institutions for protection and promotion of human rights (the Paris Principles)?
7. If you have not considered merging any non-accredited institutions with an accredited national human rights institution, please explain the reasons why you consider it necessary to have them separate.
8. Please share best practices on the work and functioning of Ombudsman or mediator institutions, as well as on solutions to promote the work and functioning of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law, individually or in collaboration with the Office of the United Nations High Commissioner for Human Rights, the Global Alliance, the International Ombudsman Institute and other international and regional ombudsman networks.
9. Please provide any additional comments you may have.

Responses to this questionnaire were received from the Governments of Albania, Algeria, Australia, Azerbaijan, Denmark, Guatemala, Morocco, Norway, Poland, Senegal, Spain and Togo. The Governments of the Dominican Republic, El Salvador and Venezuela (Bolivarian Republic of) responded to the questionnaire which was intended for Ombudsman and mediator institutions. The Government of Lithuania sent a note verbale expressing support for the theme of the report and stated that it did not have information to provide on the implementation of the resolution. The Governments of Argentina and Lebanon provided general information on the efforts



taken to protect human rights at the national level. The Government of Qatar provided information on good practices in the implementation of the mandate of the national human rights institutions. The Government of the Russian Federation provided general information regarding the Commissioner for Human Rights, but did not respond to the questionnaire for Member States. The Government of Italy sent general information regarding steps taken to establish a national human rights institution.

## Annex II

### Questionnaire sent to Ombudsman and mediator institutions on 10 May 2024

1. Has your institution been provided with an adequate constitutional and legislative framework, as well as financial and all other appropriate means, in order to ensure the efficient and independent exercise of its mandate and to strengthen the legitimacy and credibility of its actions in the promotion of good governance and the respect for the rule of law and in the promotion and protection of human rights?
2. Does your institution publicly report on its activities, at least annually?
3. Does your institution cooperate with relevant State bodies and develop cooperation with civil society organizations?
4. Does your institution conduct outreach activities at the national level, in collaboration with all relevant stakeholders, in order to raise awareness of the important role of your institution, including in the promotion of the rule of law and good governance and in the promotion and protection of human rights?
5. In your view, what were the obstacles encountered by your State in the implementation of resolution [77/224](#) on the role of Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law, adopted by the General Assembly in December 2022?
6. Is your institution currently accredited by the Global Alliance of National Human Rights Institutions?
7. If not accredited by the Global Alliance, has your Ombudsman or mediator institution considered applying for accreditation?
8. If you have not considered applying for accreditation, please explain the reasons.
9. Please share experiences, lessons learned and best practices on the work and functioning of your institution, as well as on solutions to promote the work and functioning of your institution in the promotion of good governance and the rule of law and the promotion and protection of human rights, individually or in collaboration with the Office of the United Nations High Commissioner for Human Rights, the Global Alliance, the International Ombudsman Institute and other international and regional ombudsman networks.
10. Please provide any additional comments you may have.

Responses to the questionnaire were received from the following institutions:

#### **“A” status national human rights institutions**

People’s Advocate of Albania

Human Rights Defender of Armenia

Defensoría del Pueblo de Colombia

Defensoría de los Habitantes de Costa Rica

Commissioner for Administration and the Protection of Human Rights of Cyprus

Defensoría del Pueblo de Ecuador

Public Defender of Georgia

Procuraduría de los Derechos Humanos de Guatemala

Defensoría del Pueblo de Paraguay

The Commissioner for Human Rights of Poland

Ombudsman of Portugal

Defensor del Pueblo de España

Commission for Human Rights and Good Governance of the United Republic of Tanzania

Institución Nacional de Derechos Humanos y Defensoría del Pueblo de Uruguay

Independent Commission for Human Rights of the State of Palestine

#### **“B” status institutions**

Commissioner for Human Rights (Ombudsman) of Azerbaijan

Commissioner for Fundamental Rights of Hungary

Defensoría del Pueblo de Panamá

Defensoría del Pueblo de la República Bolivariana de Venezuela

#### **Institutions not accredited by the Global Alliance of National Human Rights Institutions**

Commonwealth Ombudsman of Australia

Médiateur Fédéral de Belgique

Federal Public Defender of Brazil

Médiateur de la République de Côte d'Ivoire

Public Defender of Rights of Czechia

Danish Parliamentary Ombudsman

Parliamentary Ombudsman of Malta

Office of the Ombudsman of Mauritius

Médiateur du Royaume du Maroc

Office of the Ombudsman of New Zealand

Parliamentary Ombud for Scrutiny of the Public Administration of Norway

People's Advocate Institution of Romania

Médiateur de la République du Sénégal

Office of the Ombudsman of Solomon Islands

Parliamentary Ombudsman of Sweden

Médiateur de la République Togolaise

Ombudsman Institution of Türkiye