



REPUBLIC OF ANGOLA
OMBUDSMAN



ORGANIC LAW OF THE OMBUDSMAN'S STATUTE



PROVEDOR DE JUSTIÇA



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Translation of the Original Version

DATASHEET

Title

ORGANIC LAW OF THE
OMBUDSMAN'S STATUTE

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CHAPTER I

General provisions

Article 1 (Object)

This law establishes the status of the Ombudsman and the procedure to be followed in handling complaints.

Article 2 (Definition and functions)

1. The Ombudsman is an independent public entity whose object is to defend the rights, freedoms and guarantees of citizens, ensuring, through informal means, the justice and legality of public administration activity.
2. The Ombudsman performs his duties based on the domestic legislation in force and on the treaties, conventions and other international instruments, of which Angola is a party, in terms of rights, of the freedoms of fundamental guarantees.
3. The ombudsman ensures cooperation with related institutions and international organizations, in the context of defending and promoting citizens' rights, freedoms and guarantees.
4. The ombudsman is assisted by a deputy ombudsman.

Article 3 (Scope of action)

The Ombudsman's action is exercised in the following scope:

- a) Central and local public administration bodies and services;
- b) Local government bodies and services;
- c) Defence and national security bodies;
- d) Independent administrative entities;
- e) Public institutes, public companies and public capital;
- f) Concessionaires of public services and exploration of public domain goods;

- g) Public associations and other public bodies;
- h) Private entities that exercise public powers or that provide services of general interest.

Article 4

(Right of complaint and power of initiative)

1. The Ombudsman exercises his functions based on complaints made by citizens and legal persons, for actions or omissions of the entities referred to in the previous article, which affect their rights, freedoms, guarantees or legally protected interests.
2. The complaints referred to in the previous paragraph, do not depend on any term and are independent of the graceful or contentious laid down in the constitution and the law.
3. The absence of a period, under the terms of the previous number, for accepting complaints does not prejudice the prescription of the claimed right.
4. The Ombudsman's activity can also be exercised on his own initiative, in cases of violations of citizens' fundamental rights, freedoms and guarantees and is independent of the gracious or contentious laid down in the constitution and the law.

Article 5

(Nature of the activity)

In the performance of his duties, the ombudsman requests clarifications and issues recommendations to the bodies and services that are within the scope of his activity, without decision-making power.

CHAPTER 2

BYLAWS

SECTION 1 Ombudsman

Article 6

(Eligibility requirements)

The ombudsman is elected from among citizens of Angolan nationality who meet the eligibility requirements for Members of the National Assembly and who enjoy a proven reputation, integrity and independence and are in full enjoyment of their civil and political rights.

Article 7

(Designation and possession)

1. The Ombudsman is elected by the National Assembly, by resolution of the absolute majority of the Deputies in office and takes office, in a plenary meeting, before the President of the National Assembly.
2. at the time of investiture, the Ombudsman takes the following oath:
«I swear, on my honour, to faithfully play the role of Ombudsman, in which I am invested, promoting and defending the rights, freedoms, guarantees and legally protected interests of citizens, in strict respect for the Constitution and other laws of the Republic of Angola».

Article 8

(Term of office)

1. The ombudsman is elected for a term of 5 years, renewable only once.
2. After the end of his mandate, the Ombudsman remains in office until his successor takes office.
3. The appointment of the ombudsman must take place 30 days before the term of office of his predecessor and he must take office at the first plenary meeting of the National Assembly, after his election.
4. If the National Assembly is not in office or if the National Assembly is dissolved, the election takes place within 30 days, counting from the first plenary meeting of the National Assembly.

Article 9

(Termination of service)

1. the reasons for the Ombudsman's departure from office are as follows:

- a) Death;
 - b) Permanent physical or mental disability;
 - c) Loss of eligibility requirements;
 - d) Renounce;
 - e) Conviction for a felony with a prison sentence of more than 2 years.
2. The facts determining the termination of the Ombudsman's duties are verified by the National Assembly.
 3. The declaration of resignation, provided for in paragraph d) of paragraph 1 of this article, is presented to the President of the National Assembly.
 4. The Ombudsman is not subject to the legal provisions in force on age-limit retirement.

Article 10

(Immovability)

The Ombudsman is immovable and cannot cease his functions before the term of office for which he was elected expires, except in the cases provided for in the previous article.

Article 11

(Vacancy)

1. In the event of a vacancy in the office of Ombudsman, before the end of his term of office, for any circumstance provided for in paragraph 1 of article 9 of this Law, the National Assembly shall designate the new Ombudsman, within 30 days.
2. While the process of appointing the new holder is in progress, the Deputy Ombudsman is responsible for ensuring, on an interim basis, the management of the Ombudsman.
3. In the event of a simultaneous vacancy of the office of Ombudsman and Deputy Ombudsman, the Director of Specialized Areas is responsible for ensuring, on an interim basis, the day-to-day management of the Ombudsman.

Article 12

(Immunities)

1. The Ombudsman is not civilly or criminally liable for the recommendations, repairs

or opinions he issues or for the acts he performs in the performance of his duties.

2. The Ombudsman may only be arrested after charges have been levied and after suspension from office by the National Assembly, except in flagrant offence for a felony punishable by a prison sentence of more than 3 years.
3. Triggering the criminal proceeding against the Ombudsman and in the event of guilt being formed, the National Assembly decides on the suspension of the Ombudsman, for the purposes of continuing the process.

Article 13

(Incompatibility and impediments)

The Ombudsman is subject to the incompatibilities and impediments of the Judicial Magistrates and the Public Prosecution.

Article 14

(Duty of secrecy)

The Ombudsman is bound to observe confidentiality with regard to the facts brought to his attention in the performance of his duties, in accordance with their nature.

Article 15

(Job security and employment stability)

1. The Ombudsman may not be prejudiced in terms of the stability of his employment in his framework of origin, his position and career and the social security system of which he is a beneficiary.
2. the period of service provided as an Ombudsman counts for all purposes as having been provided in the framework of origin job, as well as for retirement purposes.

Article 16

(Identification and free transit)

1. The Ombudsman is entitled to a special identification card, issued by the National Assembly.
2. The card shall be both a laissez-passer and a means of access to all the places where the services provided for in Article 3 operate, as well as to places of conditional access.

Article 17

(Ombudsman's Office)

1. The Ombudsman is supported by an office that directly provides him with all technical and administrative assistance in the performance of his duties, the composition and functioning of which are defined in the Ombudsman's institution Law.
2. The members of the Ombudsman's office may be recruited from other State services, on secondment or as a service commission, with the prerogatives that are inherent to them.
3. The members of the Ombudsman's office shall apply, with the necessary adaptations, to the rules of appointment, remuneration and the rules governing the guarantees and duties of the staff serving in the offices of holders of ministerial departments.

Article 18

(Duties and competences)

The Ombudsman has the following tasks and powers:

- a) Issuing recommendations to the competent bodies, with a view to correcting illegal acts by the bodies and agents of the Public Authorities and improving the respective services;
- b) Monitor the implementation of the recommendations issued when assumed by the recipient of the same;
- c) To instruct processes for the mere investigation of citizens' complaints, for acts or omissions practiced by public authorities;
- d) To carry out visits to all and any department of the entities subject to its scope of action, under the terms of Article 3, hearing the respective bodies and agents, requesting the necessary information, as well as the display of documents it deems convenient;
- e) To seek, in collaboration with the competent bodies and services, the most appropriate solutions to protect the legitimate interests of citizens and to improve administrative action;
- f) Request the Constitutional Court to declare any rule unconstitutional;
- g) Issue opinions, at the request of the National Assembly, on any matters related to its activity;

- h) To contribute to the promotion and protection of fundamental rights, freedoms and guarantees;
- i) Promote the dissemination of the content of each of the fundamental rights and freedoms of citizens;
- j) Promote the dissemination of the purpose of the Ombudsman institution, the means of action at its disposal and how to appeal to it;
- k) To intervene, under the terms of the applicable law, in the protection of collective or diffuse interests, when bodies or agents of public authorities are involved;
- l) Visiting penal institutions, internment centres, homes for the incapacitated or elderly, hospitals and similar services, assessing in the field the humane conditions of imprisonment, internment or reception, and, whenever they observe inhumane situations that endanger the lives of the users, beneficiaries or recipients, recommending, to the service visited, the immediate suppression of the said findings and informing the superior supervisory or superintendent body thereof;
- m) Present the annual report to the National Assembly;
- n) Alert the Executive to the situation of violation of fundamental rights, freedoms and guarantees, being able to recommend the adoption of solution measures;
- o) Recommend the ratification of or accession to international instruments on fundamental rights, freedoms and guarantees, promote and ensure the harmonisation of national legislation and practices with regard to international instruments to which Angola is a party, and promote their implementation;
- p) Present to the Executive, the National Assembly or any other competent body, on its own initiative or upon request, opinions, recommendations, proposals and reports on the promotion and protection of fundamental rights, freedoms and guarantees, namely on acts or legislative, administrative or administration of justice initiatives on situations of violation of fundamental rights, freedoms and guarantees or risk of violation;

- q) Cooperate with international, regional and national organizations, with judicial and administrative authorities, public and private entities, civil society organizations, non-governmental organizations and other institutional partners in the field of protection and promotion of fundamental rights, freedoms and guarantees.

Article 19

(Intervention limits)

1. The Ombudsman has no competence to cancel; suspend; revoke or modify the acts of the public authorities and their intervention does not suspend the time limits for appeals, whether hierarchical or contentious.
2. The Ombudsman's intervention is not limited by the use of gracious or contentious means provided for in the Constitution and the law.

Article 20

(Form of acts)

In the performance of his duties, the Ombudsman issues orders, circulars, service orders and other acts provided for by law.

Article 21

(Report and collaboration with the National Assembly)

1. The Ombudsman submits an annual report on his activities to the National Assembly by 31 March of the following year, containing the main complaints received and the recommendations made, the results obtained, the degree of cooperation between the bodies of the public authorities and their holders and other elements that prove useful for public knowledge of the exercise of his functions, which is published on the Ombudsman's Institution's website and through other communication mechanisms.
2. The report referred to in the previous paragraph is sent to the other sovereign bodies.
3. The Ombudsman may participate in the work of the National Assembly's Specialized Work Commissions, whenever they request their presence.
4. The Ombudsman, whenever necessary, adopts specific mechanisms for collaboration and interaction with the National Assembly.

SECTION II
Deputy Ombudsman

Article 22
(Deputy Ombudsman)

1. The Deputy Ombudsman is elected by the National Assembly, by an absolute majority of the Deputies in office and takes office, in Plenary Meeting, before the President of the National Assembly.
2. The Deputy Ombudsman shall apply, with due adaptations, the provisions of articles 6, 7, 8, 9, 10, 12, 13, 14, 15 and 16 of this Law.
3. The Deputy Ombudsman replaces the Ombudsman, in his absences and impediments.

Article 23
(Vacancy)

In the event of a vacancy in the office of Deputy Ombudsman, before the end of his mandate, for any circumstance provided for in paragraph 1 of Article 9 of this Law, the National Assembly shall appoint the new Deputy Ombudsman within 30 days.

Article 24
(Office of the Deputy Ombudsman)

1. The Deputy Ombudsman is supported by an office that directly provides him with all technical and administrative assistance in the performance of his duties, the composition and functioning of which are defined in the Ombudsman's institution Law.
2. The members of the Deputy Ombudsman's office may be recruited from other State services, on secondment or as a service commission, with the prerogatives that are inherent to them.
3. The members of the Deputy Ombudsman's office shall apply, with the necessary adaptations, to the rules of appointment, remuneration and the rules governing the guarantees and duties of the staff serving in the offices of holders of ministerial departments.

SECTION III

Organic

Article 25

(Organs and services)

The composition, organisation and functioning of the other bodies and services of the Ombudsman's institution are defined in the Ombudsman's institution Law.

CHAPTER III

Procedure

Article 26

(Assumption of complaint admissibility)

The complaint to the Ombudsman must contain, in particular:

- a) The narration of the facts;
- b) The date of the occurrence;
- c) The complainant's identity and address, without prejudice to the anonymous report;
- d) The signature of the complainant, whenever possible;
- e) The identity, whenever possible, of the agent who performed or omitted the act underlying the complaint;
- f) The existing evidence.

Article 27

(Presentation of the complaint)

1. The complaint may be presented orally, in writing, by telephone, electronically or by other means of communication and must contain the elements established in the previous article;
2. When presented orally, the complaint is reduced to the document that the complainant

signs, whenever he knows and can do so, unless it is an anonymous complaint.

3. The complaint must not contain terms offensive to the good name or honour of the persons or institutions concerned.
4. When the complaint is not submitted under the terms of the previous article, its correction is ordered, within 30 days.
5. The complaint can be made to the Ombudsman, directly, or through the Provincial Services of the Ombudsman.
6. The complaint does not require the constitution of a lawyer.
7. The exercise of the right to complain does not exclude the use, by the author, of the gracious and contentious means provided for in the Constitution and the law, nor does it interfere in the processing of his acts, without prejudice to the provisions of the following article.

Article 28

(Prior consideration of the complaint)

1. The complaint is subject to preliminary assessment, investigation and confirmation in order to assess its admissibility, timeliness and reasonableness.
2. A complaint submitted in bad faith, without foundation, is outright dismissed.

Article 29

(Instruction)

1. The instruction of the process consists of requests for information, inspections, examinations, inquiries or any other reasonable procedure that does not conflict with the fundamental rights of the citizen and is carried out by informal and expeditious means.
2. The diligences are carried out by the Ombudsman and his collaborators, and their execution may also be requested directly from the Public Prosecution's Office or from any other public entities, with priority and urgency, when applicable.

Article 30

(Duty of cooperation)

1. The bodies and agents referred to in article 3 of this Law have the duty to provide all

- clarifications and information requested by the Ombudsman.
2. The bodies and agents referred to in the preceding paragraph provide the Ombudsman with all the collaboration requested of them, namely, providing information, inspections through the competent services, documents and processes for examination, if requested to do so provided that the law permits under the law.
 3. The provisions of the preceding paragraph do not prejudice the legal restrictions regarding professional secrecy, justice and the State, nor the invocation of the State's best interests, in cases duly justified by Organs competent bodies, in matters relating to security, defense, or international relations.
 4. The Ombudsman may set, in writing, a period of not less than 15 days, in the Province of Luanda and 30 days, in the other Provinces, for the satisfaction of requests that he formulates with a note of urgency.
 5. The Ombudsman may request the presence of representatives of the bodies and agents referred to in paragraph 1 of this article, at the Ombudsman or any other place that he indicates, upon request to the hierarchically competent entity, or any holder of body subject to its scope of action, under the terms of article 3 of the present Law, in order to be provided with the due cooperation.
 6. In the event of unjustified non-compliance with the duty to cooperate, as provided for in paragraphs 1,2,3,4 and 5 of this article, by an official or agent of the services subject to the Ombudsman's scope, this communicates to the respective hierarchical superior, supervisory or supervisory body, for the purpose of complying with the duty of cooperation, without prejudice to other procedures that may be applicable.

Article 31 (Depositions)

1. The Ombudsman may request testimony or information from any citizen, whenever he deems it necessary to establish facts.
2. The absence from service is considered justified, determined by the duty of appearance to the Ombudsman, in case of notification for testimony.
3. In the event of a refusal to testify or a failure to appear, on the designated day and time, the Ombudsman may notify, by letter addressed to the superior, in the case of a civil servant, the persons who must be heard.

4. In the event of an unjustified lack of appearance or a refusal to testify, the Ombudsman shall inform the Public Prosecution of the fact, requesting the presentation of the defendant, for testimony.

Article 32
(Archiving)

1. The complaint shall be filed; in the following cases:
 - a) Where the object of the complaint does not fall within the Ombudsman's sphere of competence;
 - b) Where the Ombudsman concludes that the complaint is unfounded or that there are insufficient elements for any procedure to be adopted;
 - c) Where the illegality or injustice alleged has already been remedied.
2. The person concerned must always be informed of the decision to close the case and be advised of the procedure to be followed, if desired.

Article 33
(Forwarding)

1. When the Ombudsman recognizes that the complainant has, within his reach, a gracious or contentious means, especially provided for in the law, he can limit himself to forwarding it to the competent authority and monitoring its outcome.
2. Regardless of the provisions of the preceding paragraph, the Ombudsman must always inform the complainant of the gracious or contentious means available to him.

Article 34
(Free correspondence)

1. All correspondence relating to the Ombudsman's activity is exempt from stamps and fees, due to its public nature, defense and citizen's judiciary.
2. The Ombudsman must also have a free telephone line for complaints from citizens, for children's messages and for calls from the elderly, people with disabilities and prisoners.

Article 35

(Secrecy of correspondence)

1. Correspondence addressed to the Ombudsman cannot be subject to any form of censorship.
2. The conversations referred to in paragraph 2 of the previous article cannot be listened to or interfered with.

Article 36

(Cases of low complexity)

In cases of low complexity, without a continuous character, the Ombudsman may limit himself to making a call to the competent body or service or to close the matter, after clarifications provided by that body or service.

Article 37

(Prior hearing)

The Ombudsman must always listen to the bodies or agents questioned, allowing them to provide all necessary clarifications, before drawing any conclusions.

Article 38

(Reporting of infringements and publicity)

1. If, in the course of the proceedings, there is sufficient evidence of a criminal or disciplinary offence, the Ombudsman shall inform the Public Prosecution's Office, the supervisory or superintendent body or the competent hierarchical authority, as appropriate, to initiate the appropriate criminal or disciplinary proceedings.
2. Whenever circumstances so justify, the Ombudsman may order the publication of communiqués or information on the conclusions reached in the proceedings, using, if necessary, the media, benefiting from the principle of gratuity inherent to his functions.
3. The facts subject to professional secrecy, legal secrecy and State secrecy shall be exempt from the provisions of the preceding paragraph.

Article 39

(Complaint of the Ombudsman's acts)

The Ombudsman's acts are liable to complaint to the Ombudsman himself.

Article 40

(Recommendations)

1. The Ombudsman's recommendations are addressed to Organs competent bodies to correct the irregular act or situation, and must contain:
 - a) The mention of the illegal or unjust act or fact and its legal framework;
 - b) The proposal for a measure to correct the irregular act or situation;
 - c) The maximum period for the correction of the act or irregular situation.
2. The body receiving the recommendation must, within 45 days, in the Province of Luanda and 60 days, in the remaining Provinces, from the date of its receipt, communicate to the Ombudsman the position taken on the recommendation.
3. Failure to comply with the recommendation must be substantiated.
4. If the recommendation is not heeded and whenever the Ombudsman does not obtain the due collaboration, he must report the fact to the competent hierarchical superior or to the supervisory or supervisory body.
5. The Ombudsman's conclusions are always communicated to the bodies or agents concerned and, whenever it results from a citizen's complaint, to the complainant.

CHAPTER IV

Remuneration Scheme for the Ombudsman and the Deputy Ombudsman

SECTION I

Remuneration

Article 41

(Right to remuneration)

1. The Ombudsman and the Deputy Ombudsman have the following rights:

- a) Monthly Base Salary;
 - b) Supplements;
 - c) Social benefits, under the terms of the law.
2. The supplements referred to in paragraph b) of the previous number include:
- a) Representation allowance;
 - b) Risk Subsidy;
 - c) Finery allowance;
 - d) Headship allowance;
 - e) Household Income Allowance.

Article 42
(Ombudsman)

The Ombudsman is responsible for the remunerations and other rights listed below:

- a) Monthly Base Salary, corresponding to 90% of the basic salary of the President of the Republic;
- b) Allowance for representation expenses, in the amount of 45% of the respective basic salary;
- c) Headship allowance, in the amount of 60% of the respective basic salary;
- d) Risk Subsidy, in the amount of 30% of the respective base salary;
- e) Finery allowance, in the amount of 30% of the respective basic salary;
- f) Household Income Allowance, under the terms defined in the legislation in force.

Article 43
(Deputy Ombudsman)

The Deputy Ombudsman is responsible for the remunerations and other rights listed below:

- a) Monthly Base Salary, corresponding to 85% of the basic salary of the President of the Republic;
- b) Allowance for representation expenses, in the amount of 45% of the respective basic salary;
- c) Headship allowance, in the amount of 55% of the respective basic salary;
- d) Risk Subsidy, in the amount of 30% of the respective base salary;

- e) Finery allowance, in the amount of 30% of the respective basic salary;
- f) Household Income Allowance, under the terms defined in the legislation in force.

SECTION II
(Other Rights)

Article 44
(Other rights)

1. Without prejudice to the rights mentioned in the previous article, the Ombudsman and the Deputy Ombudsman shall have the right to
 - a) Official car fuel;
 - b) Use of mobile means of communication;
 - c) Personal security;
 - d) Monthly disability allowance and transmission of this right due to death, under the terms of this Law and other legislation in force;
 - e) Use and carrying of firearms;
 - f) A driver;
 - g) Two domestic employees;
 - h) Diplomatic passport for you, your spouse and minor children;
 - i) An annual ticket, for you and your spouse, to a destination to which the national airline flies, to the interior or exterior of the Country;
 - j) Health insurance for you, your spouse and two minor children;
 - k) Holiday allowance;
 - l) Installation allowance;
 - m) Daily subsistence allowance to cover mission expenses.
2. In the event of criminal proceedings, the Ombudsman and Deputy Ombudsman have special jurisdiction.

Article 45
(Monthly lifetime grant)

1. The monthly life grant is awarded to the Ombudsman and the Deputy Ombudsman

who have held office for 10 years or more, consecutive or interpolated.

2. The monthly life grant referred to in the preceding paragraph shall be 80% of the basic monthly salary corresponding to the post for which the recipient was most remunerated.
3. The monthly subsistence allowance shall be automatically updated in accordance with the updated basic salary for its calculation.
4. The monthly life grant is not transferable.

Article 46

(Suspension of monthly lifetime grant)

1. The monthly life grant shall be suspended immediately if the holder resumes the function or position which led to its award.
2. The monthly life grant must also be suspended if the holder takes up public office for which he or she is paid monthly.

Article 47

(Accumulation of pensions)

1. The monthly lifetime grant provided for in Article 45 may be combined with the retirement pension to which the respective holder is also entitled.
2. The processing of the monthly lifetime grant is done by the Ministry of Finance.

Article 48

(Grant in case of incapacity)

When, in the course of the duties referred to in article 2 of this Law or because of them, the holder of the position becomes physically or psychically disabled for the same exercise, he is entitled to a monthly subsidy corresponding to 50% of the basic salary of the respective position, while the incapacity lasts.

SECTION III

Discounts

Article 49

(Discounts)

Remunerations and allowances perceived by the Ombudsman and the Deputy Ombudsman are subject to the discounts established by law.

CHAPTER V

Ombudsman institution

Article 50

(Definitions and nature)

1. The Ombudsman institution is the technical and administrative support structure required to carry out the Ombudsman's duties and tasks.
2. The organization and functioning of the ombudsman institution are regulated by the Ombudsman institution Law.

Article 51

(Staff management and disciplinary power)

It is incumbent upon the Ombudsman to perform all acts relating to the admission and functional provision of the Ombudsman's staff and to exercise disciplinary power over him.

CHAPTER VI

Final dispositions

Article 52

(Revocation)

All legislation that contradicts this Law is revoked, namely Law No. 4/06, of 28 April (Law of the Ombudsman Statute), and Law No. 5/06, of 28 April (Organic Law of the Ombudsman).

Article 53

(Doubts and omissions)

The doubts and omissions resulting from the application and interpretation of this Law shall be resolved by the National Assembly.

Article 54

(Entry into force)

This Law shall enter into force on the date of its publication.

It was approved by the National Assembly in Luanda on 20 May 2020.

The President of the National Assembly, Fernando da Piedade Dias dos Santos.

Promulgated on 30 July 2020.

To be published.

The President of the Republic, JOÃO MANUEL GONÇALVES LOURENÇO.

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