

REPUBLIC OF LITHUANIA
LAW
ON THE SEIMAS OMBUDSMEN

3 December 1998 NoVIII-950
(As last amended on 13 May 2010 – NoXI-808)
Vilnius

CHAPTER I
GENERAL PROVISIONS

Article 1. Purpose of the Law

This Law establishes the basic legal principles of activities and powers of the Ombudsmen of the Seimas of the Republic of Lithuania (hereinafter referred to as the Seimas Ombudsmen) as well as the organisational structure of the Office of the Ombudsmen of the Republic of Lithuania Seimas (hereinafter referred to as the Seimas Ombudsmen's Office).

Article 2. Definitions

As used in this Law:

1. “**Bureaucracy**” means actions on the part of official when the latter, instead of dealing with the matter on the merits, observes unnecessary or invented formalities, unreasonably refuses to settle issues within the official's jurisdiction or delays decision-making or carrying out of official duties or performs other malfeasance or misfeasance in office (refuses to inform a person of his rights, gives a deliberately misleading or improper advice, etc.). Also considered as bureaucracy shall be the officials' style of work when they fail to implement or to properly implement laws or other legal acts shall also be treated as bureaucracy.

2. “**Official**” means a state and municipal institution or agency employee, as well as any other employee performing public administration functions; an employee of a public institution and non-governmental organisation with powers of public administration granted according to the procedure prescribed by law, who exercises powers of administration over persons not subordinate to him; a person authorised by the state, performing the functions prescribed by law which have been granted by the state.

3. “**Complainant**” means a natural or a legal person who applies to the Seimas Ombudsmen's Office filing a complaint about abuse of office by or bureaucracy of officials.

4. **“Abuse of office”** means acts or omission on the part of the official when the powers granted to him are exercised not in accordance with laws and other legal acts but for self-seeking purposes or for other personal considerations (abuse of official position, revenge, envy, careerism, provision of illegal services, etc.) as well as actions of the official whereby he exceeds his authority or his arbitrary actions.

Article 3. Purpose of Activities of the Seimas Ombudsmen

The purpose of activities of the Seimas Ombudsmen is to protect a person’s right to good public administration securing human rights and freedoms, to supervise fulfilment by state authorities of their duty to properly serve the people.

Article 4. Basic Principles of Activities of the Seimas Ombudsmen

The Seimas Ombudsmen shall observe the following principles in their activities:

1) respect for the person and the state. Pursuant to the Constitutional provision that state authorities shall serve the people, the Seimas Ombudsmen shall seek to ensure each person’s right to good public administration;

2) freedom and independence of activities. The Seimas Ombudsmen shall be independent from other institutions. The rights and duties of each Seimas Ombudsman shall be equal, each of them shall act independently within their spheres of jurisdiction;

3) accountability. The Seimas Ombudsmen shall be accountable for their activities to the Seimas of the Republic of Lithuania;

4) compliance with the law. The Seimas Ombudsmen shall act in accordance with the Constitution of the Republic of Lithuania, this and other laws and legal acts, international treaties and agreements and principles of law;

5) impartiality and fairness. The Seimas Ombudsmen shall protect all persons equally (equally fairly) regardless of their ethnic background, race, gender, language, origin, social status, religious beliefs or political convictions. The Seimas Ombudsmen shall be objective and fair in their activities;

6) proportionality. When defending human rights and freedoms, the Seimas Ombudsmen shall seek to maintain the balance between a person’s private interests and public interests, and, when defending the rights and freedoms of a specific person, not to violate other persons’ rights and freedoms;

7) openness. The Seimas Ombudsmen shall openly provide information to the public about their activities and the abuse of office by and bureaucracy of officials as well as about other violations of human rights and freedoms;

CHAPTER II

THE SEIMAS OMBUDSMAN

Article 5. The Seimas Ombudsman

The Seimas Ombudsman shall be a state official appointed by the Seimas of the Republic of Lithuania (hereinafter referred to as the Seimas) who protects human rights and freedoms, investigates the complainants' complaints about abuse of office by or bureaucracy of officials and seeks to upgrade public administration.

Article 6. Eligibility for the Position of the Seimas Ombudsman

A citizen of the Republic of Lithuania who is a person of high moral character, has a BA and MA in law or is a university graduate in law and who has a record of at least ten years of practice or teaching of law shall be eligible for appointment to the position of the Seimas Ombudsman.

Article 7. Appointment of the Seimas Ombudsmen

1. The Seimas shall appoint two Seimas Ombudsmen for the term of five years on the nomination of the Speaker of the Seimas of the Republic of Lithuania.

2. The Seimas shall appoint one Seimas Ombudsman for the investigation of activities of officials of state institutions and agencies and one Seimas Ombudsman for the investigation of activities of officials of municipal institutions and agencies.

3. If the powers of the Seimas Ombudsmen are terminated ahead of term, the Seimas shall make a new appointment to the position of the Seimas Ombudsman.

Article 8. The Oath of the Seimas Ombudsman

1. Before entering the office of the Seimas Ombudsman, the person appointed Ombudsman shall swear an oath of allegiance to the State of Lithuania. When swearing the said oath the person shall enjoy the right to choose one of the following texts of the oath:

1) "I, Ombudsman of the Seimas of the Republic of Lithuania, (name, surname), swear to be loyal to the State of Lithuania, to observe its Constitution and laws, to perform my duties in good faith, to protect human rights, freedoms and lawful interests, to be always impartial and to protect the secrets entrusted to me.

So help me God.”;

2) "I, Ombudsman of the Seimas of the Republic of Lithuania, (name, surname),

swear to be loyal to the State of Lithuania, to observe its Constitution and laws, to perform my duties in good faith, to protect human rights, freedoms and lawful interests, to be always impartial and to protect the secrets entrusted to me.”

2. Repealed

3. The oath shall be sworn to the Speaker of the Seimas of the Republic of Lithuania.

4. The Seimas Ombudsman shall sign the text of the oath. The text of the oath shall be kept in the Seimas.

Article 9. Expiry of Powers of the Seimas Ombudsman

1. The powers of the Seimas Ombudsman shall terminate:

1) upon the expiry of the Ombudsman’s powers;

2) upon the Ombudsman’s resignation;

3) upon the Ombudsman’s death;

4) when the Ombudsman is absent from work due to temporary incapacity for more than 120 calendar days in succession or for more than 140 calendar days during the last twelve months, unless the law establishes that due a certain illness the Seimas Ombudsman shall retain his office for a longer period or when he is incapable to perform his duties as established in the opinion of the medical commission or the commission for the establishment of disability;

5) when the judgement of conviction passed on the Ombudsman by the court becomes effective;

6) when the Ombudsman is given a no-confidence vote by over a half of the Seimas members.

2. In the case specified in subparagraphs 2 and 4 of paragraph 1 of this Article the decision concerning the termination of powers of the Seimas Ombudsman shall be taken by the Seimas on the recommendation of the Speaker of the Seimas.

3. In the case specified in subparagraph 4 of paragraph 1 of this Article the Seimas shall resolve the issue of termination of powers of the Seimas Ombudsman only upon receipt of a finding of the commission of doctors formed by the Health Minister.

4. In the cases specified in subparagraphs 1 and 2 of this Article the Seimas Ombudsman shall continue in office until the new appointment is made to the post of the Seimas Ombudsman.

Article 10. Activities Incompatible with the Duties of the Seimas Ombudsman

The Seimas Ombudsman may not hold any other elective or appointive office in state and municipal institutions and agencies, nor may he be employed in private legal entities. The Seimas Ombudsman may not receive any remuneration other than his official salary and

remuneration for scientific and pedagogical work in higher educational establishments or establishments for upgrading the qualification of civil servants, informal education of adults and author's fees for creative work.

Article 11. Submission of Annual Reports

1. The Seimas Ombudsmen shall every year by the 15th day of March submit to the Seimas the annual report for the preceding calendar year. The report shall be considered in the Seimas. The entire report shall be placed on the website of the Seimas Ombudsmen's Office.

2. The Seimas Ombudsmen shall on a regular basis notify of their activities in the media.

CHAPTER III

ACCEPTANCE AND INVESTIGATION OF COMPLAINTS

Article 12. Complaints within the Jurisdiction of the Seimas Ombudsmen

1. The Seimas Ombudsmen shall investigate complainants' complaints about the abuse of office by and bureaucracy of officials or other violations of human rights and freedoms in the sphere of public administration.

2. The activities of the President of the Republic, members of the Seimas, the Prime Minister, the Government (as a collegial institution), the State Controller and judges of the Constitutional Court and other courts, municipal councils (as collegial institutions) shall be outside the Seimas Ombudsman's powers of investigation.

3. The legality and validity of procedural decisions of the prosecutors, pre-trial investigation officials shall also be outside the Seimas Ombudsmen's powers of investigation, however, complaints about the actions of the prosecutors, pre-trial investigation officials, which violate human rights and freedoms, shall fall within the investigative jurisdiction of the Seimas Ombudsmen.

4. The Seimas Ombudsmen shall not investigate complaints arising from the labour legal relations and about the legality and validity of court decisions, judgements and rulings.

Article 13. Filing of Complaints

1. The complainant shall have the right to file a complaint with the Seimas Ombudsman about the abuse of office by or by bureaucracy of officials if he believes that his rights and freedoms have been violated thereby.

2. The Seimas Ombudsman shall also investigate complaints of complainants referred to him by the Seimas members, which are in conformity with the requirements of Article 14 of this Law.

3. As a rule, complaints shall be filed in writing. If a complaint is received verbally, by telephone or if the Seimas Ombudsman establishes from the mass media or other sources the presence of elements of abuse of office by the officials, bureaucracy or instances of violation of human rights and freedoms, the Seimas Ombudsman may open investigation into the matter on his own initiative.

4. Verbal or written applications of complainants, which contain not complaints about officials but requests for explanations, other information or requested documents, etc. shall not be treated as complaints.

Article 14. Requirements of Complaint

1. The following shall be stated in the complaint:

- 1) the addressee - the Office of the Seimas Ombudsmen (the Seimas Ombudsman);
- 2) full name and address of the complainant;
- 3) full names and positions of the officials against whom the complaint is filed, the institution or agency in which they are employed;

4) a description of the decision or actions complained about, the date and the circumstances under which they have been performed;

5) a formulated request addressed to the Seimas Ombudsman;

6) the date on which the complaint has been drawn up and the complainant's signature.

2. Attached to the complaint may be:

- 1) a copy of the contested decision;
- 2) the available evidence or its description;

3. Non-compliance with the form of the complaint prescribed by paragraph 1 of this Article or failure to present the required particulars may not be grounds for refusing to investigate the complaint, except for anonymous complaints and in cases where the investigation may not be opened due to insufficiency of facts of the matter, while the complainant fails to submit the facts on the Seimas Ombudsman's request or in case the text of the complaint is illegible.

Article 15. Time Period for Filing a Complaint

The deadline for filing complaints shall be one year from the commission of the act complained about or adoption of the contested decision. Complaints filed after the deadline shall not be investigated unless the Seimas Ombudsman decides otherwise.

Article 16. Anonymous Complaints

Anonymous complaints shall not be investigated unless the Seimas Ombudsman decides otherwise.

Article 17. Refusal to Investigate a Complaint

1. The Seimas Ombudsman shall make a decision to refuse to investigate a complaint within 7 working days from the date of receipt thereof informing the complainant about this if:

- 1) the Ombudsman comes to the conclusion that the complaint has no substance;
- 2) the complaint is filed after the deadline set in Article 15 of this Law;
- 3) the circumstances indicated in the complaint are outside the Seimas Ombudsman's investigative jurisdiction;
- 4) a complaint relating to the matter has already been resolved or is pending in court;
- 5) a procedural decision has been taken to open pre-trial investigation in relation to the subject matter of the complaint;
- 6) the Ombudsman comes to the conclusion on the expediency of investigating the complaint in another institution or agency.

2. Where a decision is taken to refuse to investigate a complaint, grounds for refusal must be specified. In the cases where the complaint falls outside the Seimas Ombudsmen's remit, refusal to investigate shall also indicate the institution or agency the complainant may address on the matter.

3. A complaint filed repeatedly after its investigation shall not be investigated except in cases where new circumstances are indicated or new facts are presented. If the complainant abuses the right to apply to the Seimas Ombudsman, correspondence with such a complainant may be ceased upon the decision of the Seimas Ombudsman.

4. If the circumstances specified in paragraph 1 of this Article are disclosed in the course of complaint investigation the complaint investigation shall be discontinued.

5. The complaint shall be left unprocessed if the complainant fails to furnish information the absence whereof precludes the initiation of complaint investigation, also if the text of the complaint is illegible.

6. If the complainant's request not to investigate the complaint is received, the Seimas Ombudsman shall cease the investigation. The Seimas Ombudsman may open the investigation on his own initiative.

Article 18. Time-limits for Complaint Investigation

A complaint must be investigated and the complainant must be given a response within 3 months of the day of the receipt of the complaint, except for the cases where the complexity of circumstances, abundance of information or continuity of actions being complained about necessitates prolongation of the complaint investigation. The complainant shall be notified of the Seimas Ombudsman's decision to extend the time-limit for the complaint investigation. Complaints shall be investigated within the shortest time possible.

Article 19. Rights of the Seimas Ombudsman

1. When performing his duties, the Seimas Ombudsman shall have the right to:

1) request immediate provision of information, material and documents required for the discharge of his functions, be granted access in the manner prescribed by laws to the documents which constitute a State, professional, commercial or bank secret as well as documents which contain information about personal data protected by law. Should it be necessary to execute the right, the assistance of police officials shall be enlisted and an appropriate statement of the seizure of documents shall be drawn up;

2) having produced the certificate of employment, enter the premises of institutions and agencies (enterprises, services or organisations), and at any time of the day, if persons are kept in the premises for 24 hours or more, and unrestrictedly meet and interview persons present in the premises. The territory and premises of institutions and agencies the activity of which are regulated by a statute shall be entered with the officials of the institutions and agencies accompanying;

3) request written or oral explanations from the officials whose activities are under investigation;

4) question the officials and other persons;

5) attend the meetings of the Seimas, the Government, other state and municipal institutions and agencies when the issues under consideration are related to the activities of the Seimas Ombudsmen or the matter investigated by the Seimas Ombudsman;

6) enlist the services of officials of the government agencies, ministries and local authorities, as well as officials and experts of municipal institutions and agencies;

7) inform the Seimas, the Government and other state institutions and agencies or the appropriate municipal council of the gross violations of law or deficiencies, contradictions or gaps in laws or other legal acts;

8) recommend to the Seimas, state or municipal institutions and agencies to amend the laws or other statutory acts which restrict human rights and freedoms;

9) draw up a record of administrative violation of law for failure to comply with the demands of the Seimas Ombudsman or for interfering in any other with the fulfilment by the Seimas Ombudsman of the rights granted to him;

10) apply to the administrative court with a request to investigate conformity of an administrative regulatory enactment (or its part) with the law or Government resolution;

11) propose to the Seimas to apply to the Constitutional Court regarding the conformity of legal acts with the Constitution and laws of the Republic of Lithuania;

12) refer the material to pre-trial investigation body or the prosecutor, if elements of crime are detected;

13) apply to the court for the dismissal of officials guilty of abuse of office or bureaucracy;

14) recommend to the collegial body or official to repeal, suspend or amend the decisions which are contrary to the laws and other legal acts, or propose to adopt decisions the adoption whereof has been precluded by abuse of office or bureaucracy;

15) recommend to the collegial body, head of the agency or a superior institution or agency to impose disciplinary penalties on the official at fault;

16) recommend to the prosecutor to apply to the court according to the procedure prescribed by law for the protection of public interest;

17) bring to the officials' attention the facts of negligence in office, non-compliance with laws or other legal acts, violation of professional ethics, abuse of office, bureaucracy or violations of human rights and freedoms and recommend to apply measures to eliminate the violations of laws and other legal acts, their causes and circumstances;

18) propose that material and non-material damage sustained by a person due to the violations committed by the official be compensated in the manner prescribed by law;

19) notify the Seimas, the President of the Republic or the Prime Minister of the violations committed by the ministers or other officials accountable to the Seimas, the President of the Republic or the Government (except for those listed in paragraph 2 of Article 12);

20) recommend to the Chief Official Ethics Commission to evaluate whether or not the official has violated the Law on Adjustment of Public and Private Interests in the Public Service;

21) refraining from the investigation on the merits of a complaint falling outside the remit of the Seimas Ombudsman give proposals or offer commentaries to appropriate institutions and agencies on the improvement of public administration in order to prevent violations of human rights and freedoms.

2. The Seimas Ombudsman may apply to the court for the dismissal of officials guilty of abuse of office or bureaucracy within a month's period from drawing up of the statement.

Article 20. Binding Character of the Seimas Ombudsmen's Requests

1. On the Seimas Ombudsmen's request the officials must forthwith present information, documents and material required for the performance of their functions.

2. When investigating a complaint, the Seimas Ombudsman shall have the right to apply to the official whose activities are under examination requesting the latter give an explanation within the set time period.

3. The institution and agency or official, to whom this proposal (recommendation) is addressed, must investigate the proposal (recommendation) of the Seimas Ombudsman and inform the Seimas Ombudsman about the results of the investigation.

4. Persons interfering with the performance of duties by the Seimas Ombudsman shall be held liable under law.

Article 21. Complaint Investigation

The Seimas Ombudsman shall investigate the circumstances specified in a complaint and draw up a statement stating the circumstances disclosed and evidence collected in the course of investigation as well as giving legal evaluation of the official's activities. The statement shall be signed by the Seimas Ombudsman. The statement of the Seimas Ombudsman shall be presented to the complainant as well as announced in the official website of the Seimas Ombudsmen's Office. The statement may also be submitted to the head of the institution or agency where the investigation has been conducted or the official whose actions have been subjected to investigation, also, as necessary, the head of a superior institution or agency as well as other institutions or agencies. In cases where the statement contains information which constitutes a State, official, commercial or bank secret as well as information about personal data protected under laws, not the full text of the statement shall be presented and announced.

Article 22. Decisions of the Seimas Ombudsman

1. Having completed the investigation the Seimas Ombudsman shall take a decision to:

- 1) recognise declare the complaint as justified;
- 2) dismiss the complaint;
- 3) discontinue the complaint investigation.

2. The period of complaint investigation shall be excluded from the limitation period which ~~labour~~ laws allow for the imposition of disciplinary penalty.

3. The investigation of a complaint shall be discontinued if the circumstances addressed in the complaint disappear during the investigation or the problems addressed in the complaint are

resolved in good will through the mediation of the Seimas Ombudsman as well as in other cases established by this law.

Article 23. Obligation to Keep State, Professional and other Secrets or Data Protected by Law

The Seimas Ombudsmen and other employees of the Seimas Ombudsmen's Office must keep the State, professional, commercial or bank secrets and personal data protected under laws which come to their knowledge in the exercise of their duties.

**CHAPTER IV
THE SEIMAS OMBUDSMEN'S OFFICE**

Article 24 The Seimas Ombudsmen's Office

The Seimas Ombudsmen's Office is budgetary institution. . independent state institution. The Seimas Ombudsmen's Office shall be a legal person, shall have a settlement account with a bank and a seal with the Lithuanian State emblem and the name "*Lietuvos Respublikos Seimo kontrolierių įstaiga*" (Office of Ombudsmen of the Seimas Republic of Lithuania) imprinted thereon and financed from the State budget. The head of the Seimas Ombudsmen's Office shall be responsible for the use and keeping of the seal of the Seimas Ombudsmen's Office.

Article 25. The Structure of the Seimas Ombudsmen's Office

1. The Seimas Ombudsmen's Office shall consist of the Seimas Ombudsmen, civil servants and other employees.

2. The Seimas Ombudsmen's Office shall be directed by the head of the Seimas Ombudsmen's Office. In the absence of the Seimas Ombudsman - head of the Office, the other Seimas Ombudsman shall act for him.

3. The Board of the Seimas shall approve the maximum number of positions of the Seimas Ombudsmen's Office's civil servants and employees working under the employment contract and receiving the remuneration from the state budget and the state monetary funds.

4. The Seimas Ombudsmen shall have advisors. The advisor to the Seimas Ombudsman shall be a civil servant. A citizen of the Republic of Lithuania, who has a BA and MA in law or the single-stage university education in law, may be an advisor to the Seimas Ombudsman.

Article 26. Repealed

Article 27. Repealed

Article 28. Head of the Seimas Ombudsmen's Office

1. On the nomination of the Speaker of the Seimas, the Seimas shall appoint one of the appointed Seimas Ombudsmen as the head of the Seimas Ombudsmen's Office.

2. The head of the Seimas Ombudsmen's Office shall be the manager of State budgetary appropriations for the Seimas Ombudsmen's Office.

3. In addition to his direct duties, the head of the Seimas Ombudsmen's Office shall also perform the following functions:

1) represent the Seimas Ombudsmen's Office in its capacity as a legal person and organise its work;

2) approve the structure of the Seimas Ombudsmen's Office, define the functions of the organisational units and the employees of the Seimas Ombudsmen's Office, and approve Regulation of the Seimas Ombudsmen's Office;

3) admit to work and dismiss civil servants and other employees of the Seimas Ombudsmen's Office according to the procedure prescribed by laws;

4) set specific salary coefficients for the employees working under the employment contract;

5) grant leave to the Seimas Ombudsman, civil servants and other employees of the Seimas Ombudsmen's Office and send them on business trips, traineeships;

6) adopt decisions concerning the in-service training of civil servants and other employees of the Seimas Ombudsmen's Office;

7) impose disciplinary penalties on the civil servants and other employees of the Seimas Ombudsmen's Office;

8) organize the preparation and submitting to the Seimas of an annual report on the activities of the Seimas Ombudsmen.

4. The head of the Seimas Ombudsmen's Office shall issue orders on the issues falling within his competence.

CHAPTER V

**GUARANTEES OF THE SEIMAS OMBUDSMEN'S ACTIVITIES, OTHER
GUARANTEES**

Article 29. Remuneration for Work and Social Guarantees of the Seimas Ombudsmen

1. The amount of remuneration of and conditions of payment to the Seimas Ombudsmen shall be established by the Law on the Remuneration of State Politicians and State Officials.

2. The Seimas Ombudsmen shall be insured by the state social insurance in the manner prescribed by the Law on State Social Insurance.

3. The Seimas Ombudsman shall be entitled to the annual leave of 28 calendar days. The Seimas Ombudsman whose length of service in the public service in the state of Lithuania is over five years shall be granted 3 additional calendar days of annual leave for each subsequent three years of service; however, the aggregate duration of the annual leave shall not exceed 42 calendar days.

4. Upon the expiry of his term of office the Seimas Ombudsman shall be paid a gratuity on discharge in the amount of 2 monthly wages. The Seimas Ombudsman who is dismissed when he is incapable to continue in office for health reasons shall receive a gratuity on discharge in the amount of 3 monthly wages. Upon the death of the Seimas Ombudsman his family shall be paid a death benefit in the amount of the Ombudsman's 3 monthly wages. The above benefits shall be paid from the State budget appropriations allocated to the Seimas Ombudsmen's Office. Gratuity on discharge shall not be payable when the Seimas Ombudsman is dismissed at his own request or when the judgement of conviction passed on him becomes effective or when he is given a no-confidence vote by over a half of the Seimas members.

5. Upon the expiry of the term of office of the Seimas Ombudsman, except in cases when the judgement of conviction passed on him becomes effective or when he is given a no-confidence vote by over a half of the Seimas members, the Ombudsmen shall be entitled to be reinstated in his previous job according to the procedure laid down in the Law of the Republic of Lithuania on Public Service.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS