

THE CURITIBA LETTER ABOUT THE OMBUDSMAN INSTITUTION

The plenary of the Second Latin American Symposium on the Ombudsman, handled by the International Bar Association and the City Hall of Curitiba, had together from the ninth to the twelfth of August 1987, the most important jurists from different countries, including Mr. Anders Wigelius, the Swedish Ombudsman, and Mr. Angelo Vidal D'Almeida Ribeiro, the Portuguese Ombudsman.

As far as the institution of the Ombudsman is concerned, it is considered as a Persuasion Magistrature, compatible with organisms and traditional ways of controlling the Public Power, even as their complement. These are the requisites to identify the institution:

I — Institutionalization by the Legislative Power, in the terms of its constitutional competence, with no prejudice of the promotion of pioneer experiences that divulge the institution such as Curitiba, giving it the necessary support for its definitive configuration, as well as evidencing its improvement according to the Latin American juridical systems;

II — Political and functional independence, financial and administrative autonomy, with identical guarantees of the Legislative Power members and the impediment of any other public, private activity or as a member of a Party;

III — Selection and destitution of its titular by the Legislative Power with qualified majority;

IV — Creation in the municipal, state and federal level, according to the principles of institutional unity in each of them, and also the unipersonality of the superior organisms of the institution, without prejudice of the necessary especializations;

V — Competence (skill) for, by provocation or not:

a) To protect the subjective rights, individual and comunitary interests, front of abusive behaviors, by action or omission of the Public Administration, centralized or decentralized, including the actions practiced by delegation or transference, in the three Powers level, taking care of morality, equality, efficiency and celerity of the administrative actuation;

b) To formulate recommendations, suggestions, censures, as the result of its activity, even though with no possibility of either cutting up administrative acts, or imposing sanctions. Otherwise, it is permitted to provoke the prompt actuation of competent organisms;

c) To verify the complaints referring to the administrative-procedimentals aspects of the jurisdictional function, recommending their correction;

d) To suggest modifications in the legislation;

VI — Attribution of wide power of inspection, investigation, requiring and summoning;

VII — Access (or advancement) in institutions, directly, unrestricted, informal, gratuitous (or free) for any people;

VIII — Rendering accounts and presentation of reports to the Legislative Power;

IX — Guarantee of the possibility of making public all its activities, informations and reports.

August 12th, 1987 — Curitiba

The following proposals were approved by acclamation during the plenary of the Closing Section:

1) Interpreting the feeling of the Second Latin American Symposium on the Ombudsman participants, it was required to be consigned in the annals of the conclave, the high contribution of the Executive Power of Curitiba for the creation of the institution in Curitiba. The attitude reveals an outstanding and democratic sensibility, offering to all people a powerful instrument of supervising the Public Administration;

2) Set out for the Municipal Council a motion in order to have the Councilmen sealing the Mayor's initiative, by approving the proposal of Ombudsman being definitely institutionalized. That is to say, Municipal Ombudsman being elected by the Councilmen and exercising its power under the control of representatives of the people;

3) Set out the conclusion of the Symposium for the National Assembly responsible for writing the new Brazilian Constitution, including the proposal of having the "Parliamentary Commissioner" adopted in the draft of the Constitution;

4) Register of special thanks to Mr. Anders Wigelius, Swedish Ombudsman and to Mr. Angelo Vidal D'Almeida Ribeiro, Portuguese Ombudsman, who presented their own experiences about the institution in their countries. Their orientation was of a great value for all the participants of a great help for the elaboration of the conclusions of the Symposium.