

African Ombudsmen Second Regional Colloquium, 19th February 2015, Nairobi. Speech by Sofie From-Emmesberger, Ambassador of Finland to Kenya

- Thank you for the invitation. Unfortunately the Finnish Parliamentary Ombudsman's office is not able to participate in the colloquium and I'd like to share their apologies and greetings with all of you.
- Finland has supported the Kenyan Commission on Administrative Justice since 2012. We are very satisfied to see the institution grow and establish itself. Looking into the last year it's evident that Kenyan citizen's know better what is the role and functions of the CAJ/ombudsman, and that the CAJ capacity to provide services has increased. The exponential increase in number of complaints received and handled is one indication of this. We are well aware of the resource constraints that limit the scope of work, and hope that CAJ is able to influence the future budgeting processes so that institution's needs are covered. Clearly Kenyans seem to feel that there is a need for such an institution.
- The office of the Parliamentary Ombudsman was created in 1919; it was the second in the world. It is now 95 years ago that the Office received the first complaint ever.
- The institution has had its ups and downs in the history; the ombudsman himself proposed in his first annual report that the office should be shut down as a useless entity. A decade later (in 1932) the government did not budget any funds for ombudsman, and the future of the institution was under threat.
- We are content that these challenges were overcome and that we now have a well-established Ombudsman whose role as a promoter of rule of law, constitutional principles and human rights is appreciated in our society. The scope of ombudsman's work and mandate has evolved over the years in order to better respond to both national and international developments for example in the field of human rights.
- There is a whole variety of mandates and roles of the ombudsman institutions and there is no one-size-fits-all model. In Finland the Ombudsman is a supreme oversight agency of legality elected by the national parliament. The scope of the Ombudsman's oversight includes courts, authorities and public servants as well as other persons and bodies that perform public tasks. Private entities in general are outside of the scope, nor may the Ombudsman examine the parliament's legislative work, the activities of parliamentarians or the official actions of the Chancellor of Justice.
- As a consequence of a long-process that led to a constitutional reform of 1995 that fully incorporated human rights in the Finnish Constitution, the Ombudsman's mandate was also extended to oversee and protect fundamental and human rights. A Human Rights Centre was created in Parliamentary Ombudsman's office in 2012. Consequently, in Finland, the National Human Rights Institution consists of the Parliamentary Ombudsman together with the Human Rights Centre and its Human Rights Delegation.

- However, as early as the 1980s, the actions of the authorities were being evaluated in the Ombudsman's decisions in the light of the human rights conventions, even though the so-called human rights mandate requiring it had still not been written into the Constitution. In those days, the Ombudsman's decisions included a reminder of the direct applicability of human rights conventions and of their impact as guidelines for statutory interpretation. In particular, emphasis was placed on the importance of interpreting the law in a manner amenable to human rights.
- In an amendment of the Parliamentary Ombudsman Act that entered into force end of last year (2014), the Ombudsman was assigned the duties of a National Preventive Mechanism under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this capacity, the Ombudsman's competence also extends to private parties maintaining places where persons deprived of their liberty are held or may be held. The Parliament is currently debating the ratification of the UN Convention on the Rights of Persons with Disabilities. Under this bill, Ombudsman as a part of Finland's National Human Rights Institution would be appointed the mechanism designated to promote, protect and monitor the rights of persons with disabilities.
- Another type of reform of the Parliamentary Ombudsman Act (in 2011) made the oversight of legality more effective. The reform gave the Ombudsman wider range of operational alternatives, and greater discretionary powers as well as stressed the citizen's perspective. The period within which the complaints can be made was reduced from five years to two. The Ombudsman was granted the possibility of referring a complaint to other competent entity. This has enabled a more appropriate targeting of resourcing for example. It has also contributed to reduction of the average time taken to deal with complaints: it was 3.4 months in 2014 whereas it had been 5.4 months at the end of 2012.
- A person wishing to file a complaint in Finland can turn to a number of different oversight agencies: depending on the theme these can be for example the ombudsman, Chancellor of Justice, so called Regional State Administrative Agencies and other more specific supervisory boards like that of healthcare and police. There are also ombudsmen appointed for specific topics, such as children, gender equality, minorities and data protection.
- As there are many actors the oversight agencies in Finland have actually investigated whether there are overlaps in their work. It seems that due to for example well-defined and limited mandates and interagency coordination it is actually relatively rare that a case would be handled at the same time by different entities.
- We believe that knowledge sharing and peer learning can have powerful effects, and we hope that this colloquium will increase understanding of successes and challenges of ombudsman in both African and international context. We hope that you all can take

home some concrete recommendations or suggestions for action that can enhance the effectiveness of your work. I hope you all a very fruitful and inspiring meeting.