

Complaining as a form of political participation: The Québec Ombudsman (Public Protector) as watchdog or agent of change

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Introduction

Gammeltoft-Hansen (1998), the parliamentary Ombudsman of the time in Denmark, wrote that the non-traditional way to allow citizen participation characteristic of Ombudsman lies in : 1) its informal complain lodging process and the universal access to the office providing a «legal aid-like assistance», which helps citizens protect their rights; 2) its extensive inquisitorial powers, beyond the matter of inquiries, which allows him to go as far as asking «to prepare explanations of practice, consider questions of interpretation, and make statements on which criteria must be regarded as legal and obligatory/mandatory in connection with decisions on discretionary matters»² (p.191-192); 3) its own-initiative investigative powers. Overall, the flexibility of the whole framework and method of ombudsman serves to ensure the highest possible degree of influence by citizens over the State's administrative processes. In that sense, the Public Protector, Québec's province Ombudsman responds to this flexible instance and this is what gives its broad range capacity for the incumbent to explore and develop in his particular context. This is probably why the leadership of an individual ombudsman is so important for his accomplishments and that we see such a great variety of approaches and specificity despite a general and relatively simple idea.

This meets what Hill³ had stressed as the main characteristics of Ombudsman as an institution: established legally, functionally autonomous and operationally independent from executive and legislature, external to administration, specialist and expert, non-partisan, normatively universalistic, client-centered but not anti-administration, popularly accessible and visible. Without any coercitive power, it is surprising that his moral force can make his recommendations to disrupt the administrative process while by timidity or cooptation by the administration his power can atrophy (p.1078). As the author explains, the types of interactions the Ombudsman has with departments and their willingness to follow his recommendations are two sides of the basis on what he can build a collaborative dialogue bending bureaucracy. If an ombudsman exists where it is less

¹ The author wants to thank Christine Métayer and Sylvain Bédard for their assistance in gathering, processing and analyzing the data and documentation used in this paper.

² Gammeltoft-Hansen, Hans (1998) «The Ombudsman as a non-traditional tool for citizen participation», *International Ombudsman Yearbook*, p.189-197

³ Larry Hill (1974) «Institutionalization, the Ombudsman, and Bureaucracy». *The American Political Science Review*, vol. 68, p.1075-1085.

needed and it is quite sure that high standards exist in those administration accompanied with an administrative civic culture, it can be postulated that ombudsman couldn't exist in a corrupt bureaucracy. As he concludes:

His accomplishments are not flashy, but in addition to his substantive and psychological public impact, he has affected administration in subtle ways. The ombudsman is not a panacea; it is probable that those who will be the most disappointed with ombudsman experiments are those who expect too much. (p.1085)

As a representative institution, the Ombudsman can be considered at least an additional entry point for citizen access to the administrative system⁴. This is a neglected link between participation and representation in political science since new trends in participation are more focused on direct participation modes.

After a phase of prescriptive and descriptive research, many authors agree we now face the issue of evaluation of the Ombudsman's effectiveness. Even in that sense, a lot of attention was given to the complaint-handling process, but less with the monitoring side of administrative action. According to Hertog⁵, the policy impact is when, following a notification by the Ombudsman, agencies make changes that go beyond the particular case. Compared to administrative courts however, the ombudsman doesn't have coercitive power, so how can he have impact⁶.

So that invites us to turn our focus to implementation instead of that of compliance. It therefore seems to be better for the Ombudsman to «try instead to create a «winner/winner outcome» in which the governmental body concerned can itself take some satisfaction from remedial action and negotiated systemic improvements following the Ombudsman's intervention.⁷» (p.16). But following this lead to focus on the implementation process and to favour a quest for a negotiated impact, we should be well advise as Gregory and Giddings remind us, that this approach is even more difficult to grasp in terms of its effectiveness. If we consider the ombudsman role this way, we must consider the political way of channelling complaints in which the elected representatives are the main, even if informal, actors in Parliament. Even if many representatives overlook these responsibilities, this role lacking the investigation power and being subjected to the power plays of the executive, may not be enough to replace the ombudsman contribution. This is without talking about the loss of confidence in politicians developed by citizens following the unveiling of corruption and abuses.

⁴ Larry B. Hill (1982) «The citizen participation-representation roles of American ombudsman», *Administration & Society*, 13(4), p. 405-433.

⁵ Marc Hertog (1998) «The policy impact of the ombudsman and administrative courts: a heuristic model», *The International Ombudsman Yearbook*, Volume 2, p.63-85.

⁶ Larry Hill (1974), *Op.cit.*

⁷ Roy Gregory, Philip Giddings (eds.) (2000) «The Ombudsman Institution: growth and development», In *Righting Wrongs: The Ombudsman in Six Continents*. International Institute of Administrative Sciences, Vol. 13. Amsterdam, The Netherlands: IOS Press.

In her endeavour to assess ombudsman performance, Barbara Male⁸ proposed a 360-degree assessment methodology with various stakeholders. She studied the perception of access; perception of satisfaction; perceptions of complaints resolution (effectiveness and efficiency); ability to affect change in government; governmental accountability. She advocated the development of a sound methodology in order to go beyond self-reporting and basic demographics and to help officials improve their programs. But at the same time, she acknowledges that «The primary difficulty in proposing one common framework is that no two ombudsman organizations share common goals, practices and measures of performance. Each office exists in its own unique political and environmental context. Stakeholders expectations of the ombudsman role, the needs of the population served, emerging external trends, resource challenges and past performance comprise organizational contexts which impact evaluation» (p.69). In that sense, Male confirms my position that there is no one way to contribute to the assessment of the office performance and I propose here to contribute to the discussion about the institution by analysing its different trends, revealing paradoxes and even dilemmas posed by the idea to evaluate in the first place. Instead I consider it is even time to acknowledge and be aware of the general positive image of the ombudsman as «the fighter for the underdog, for the victim of the uncaring, or even malevolent, governmental bureaucracy⁹» (p.399). So why evaluate anyway? The author insists on 3 reasons why it is still important to take an evaluative stance: first democracy and accountability, second the values the ombudsman carries in his investigations about administration processes that should also apply to him/her; then evaluation may force attention on the activities the ombudsman conduct and stimulate a debate or even a reply, third keep the ombudsman office more sensitive to their objects of investigation and evaluation by being themselves the object of and external verifications. While in the process of interacting with the civil servants in the implementation process, observers such as Hertog has raised the issue that the reflexive control needed of the Ombudsman which allows for the ongoing dialogue that enhance clarity and understanding between parties, adjustments reducing policy tensions between recommendations and existing practices, as well as resistance to change by reducing the threat and allowing custom tailored way to implement changes now necessitates research that document the possible risks of reflexive control, i.e. the «capture» or cooptation of the ombudsman by agencies or departments.

As opposed to the idea of melting through with the administration, I would suggest to question the issue of limit for the expansion of the Ombudsman in the political sphere at the other extremity, and propose a critical stance unveiling the political role the ombudsman plays notably in the administrative reforms and raising its legitimacy status at different points in time and places of intervention.

This paper will then first propose a short look at the figures to give an *ordre de grandeur* of the Québec Ombudsman situation and evolution. Then it will present an interpretive reading, using the Annual Reports content as discourses by which individual ombudsman makes his place and situates his actions and gradually defines his own

⁸ Barbara Male (2000) «Assessing Ombudsman Performance», in International Ombudsman Institute and Linda C. Reif (eds.) *The International Yearbook*, Volume 4.

⁹ Aufrecht and Hertogh (2000) «Evaluating Ombudsman Systems», in *Righting Wrongs, Op.Cit.*

particular approach. Then, with this issue of the difficult balance between the watchdog and the agent of change, a critical analysis will be offered, taking hold on two contrasting position about the role and legitimacy the officers of Parliament play and have and the consequent impacts, intended or unintended, over the institution and the democratic loop the ombudsman is part of.

The case of the evolution of the Public Protector through the annual reports: quantitative data and leadership

As a way to gain understanding about PP situations as an organization and to get some insight about the leadership of the incumbent, as well as to follow up from year to year on the evolution of the institution¹⁰, the annual reports considered as discourses were examined and analysed in details¹¹.

A few numbers: a rather stable picture

After an increase since its beginnings until 1988, a look at the figures makes the situation of the province of Quebec relatively steady in terms of its complaints rate, nature and composition. Table 1 show the evolution of expenditures and human resources over the years, as well as a compilation of data about complaints and inquiries. Considering the matter of capacity as an important dimension related to the PP performance, we can see that despite occasional worries voiced by PP about an eventual loss of capacity in the face of peaks relative to demands, the parallel of the data shows an overall stability of both capacity (resources) and case load. Of course this does not take into account preventive and proactive activities and institutional developments and this is one of the many limits and critics we can do to this endeavour to catch value, activity and impact of an institution like the PP with those numbers.

If we still try to describe the phenomenon of the case load a little more, we are aware that this might be very difficult to apprehend without comparisons¹². We can see, however a raise of demands occurring during the second half of the 90's followed by a decrease in the last few years, but it is useful to note that general inquiries mostly account for those figures, as the complaint numbers remain practically constant. While trying to figure out about the decrease of demands in the recent years, we should be aware that the actual fluctuation does not concern the accepted complaints per se, but mainly the general inquiries and the referrals back to complaint handling mechanisms of the D/A concerned. Before we can start interpreting these data in context, we should verify if these are not simply a matter of decision to change the compilation of queries. Can we speculate about a democratic deficit from these figures? Or even about an economic improvement as Champoux-Lesage interprets it¹³? The explanation may also simply be that people know more about the PP and other recourses or have easier access to other sources of information than the PP for their general inquiries.

What is public service and what is not: the jurisdiction battle

¹⁰ See the Public Protector in brief in annex, a short description of the features of the Québec Ombudsman

¹¹ Mainly the Public Protector's introductory comment and the administrative and statistical data sections.

¹² For some comparisons among Canadian ombudsman offices, see Bernt, Wendy and Stephen Owen (2000), "The Ombudsmen in Canada." In *Righting Wrongs: The Ombudsman in Six Continents*. Edited by Roy Gregory, and Philip Giddings. International Institute of Administrative Sciences, Vol. 13. Amsterdam, The Netherlands: IOS Press. 127-41.

¹³ Champoux-Lesage, Annual Report ..., p.

Concerning the expansion of jurisdiction over the public services as a whole requested for a long time by every PP, mean to include health and social services which has just come under jurisdiction of the PP at last in April 2006, education, and municipalities, the numbers of complaints from these sectors over the years show that citizens don't really make the difference of the organization concerned. It is a matter of concern that the definition of a public service included in the PP Act, in reference to service provided by an organisation employing civil servants acting under the *Public Service Act*¹⁴, will become more and more problematic and will lead to an erosion of the jurisdiction of the PP with the growing of «alternative service delivery» like outsourcing and PPP with the advent of NPM¹⁵. Among the rounded number of about 10 000 refused demands each year, there are regularly about 45-50% concerning the private sector, and about 15% public services outside the reach of PP jurisdiction (health and social services, education, municipalities, other agencies).

How bad is public administration?

To get an idea of the amplitude of maladministration from the figures we have, lets see that the PP receives year after year around 25000 demands, of which about 15% are general queries and 85% are considered as intervention demands among which about 30-40% is going through the investigation process. Out of this process, about 30% of the demands investigated appear to be substantiated. In the end, let's say about 8-10% of the overall demands received related to an actual injury (which means around 2000). It is important to recall that compilation methods construct the data we have as well as the categories are not always transparent of what they include and exclude. Moreover, those numbers say nothing about the fact that people know about the existence of the PP and if those who have been injured by the administration have voiced their sense of injustice to the PP, as well as if the investigation method itself is tapping the problem with exactitude. We should not forget the «administrative culture and governmental environment within which the office operates»¹⁶ (p.5). So first of all people should know PP exists (visibility) and find it accessible (accessibility) and credible (credibility in terms of independence and impartiality both to citizens and civil servants) and the wide range of bodies under jurisdiction helps the perception of receptivity to complaints, which is why the successive PP have been so insistent on this issue of inclusiveness.

While looking at Table 2 for the main causes of prejudice reported among those substantiated complaints, it is important to note that delays come repeatedly as one of the main source, as well as inaccessibility. With the aid of the Public Service Act of 2000, requiring from D/A a service statement and result-based management, the monitoring task of the PP may have gained certain objective supports since delays of service and openness of office have been among the first improvement quantified and therefore challenged and improved. In this line of thought, the last PP reduced the number of categories to four: illegal, factual error, unreasonable action, and action not in compliance

¹⁴ L.R.Q., F-3.1.1

¹⁵ Roy Gregory, Philip Giddings (2000), «The Ombudsman and the NPM» In *Righting Wrongs: The Ombudsman in Six Continents*. International Institute of Administrative Sciences, Vol. 13. Amsterdam, The Netherlands: IOS Press.

¹⁶ Roy Gregory, Philip Giddings (eds.) (2000), «The Ombudsman Institution: growth and development», In *Righting Wrongs: The Ombudsman in Six Continents*. *Op. cit.*

with guidelines, rules, service statements, in which latter the question of delays must now fall if we guess well. The proportion of those four categories remained the same for the last two years and indicates that it is only a small part of the injuries that are on the «harder side» of legal and factual misconduct (22%) compared to the «softer side» (78%) of reasonable and conformity to quality of service that can be expected.

It has been argued that statistical data doesn't prove very satisfactory mean to evaluate the Ombudsman¹⁷ and we must consider that various stakeholders have different perspectives and interest and can evaluate ombudsman on a different basis. So evaluation must take into account the political context and it is in this direction now that we will look at the leadership factor and the way it modulated the PP's accomplishment of his mandate.

Leadership factor

The first few Public protectors progressively made their way in getting the existence of the PP known and credible. Each one of them probably lent a mark on the institution and its evolution. For example, the first PP Louis Marceau made it clear he was not to comment on legislative matters, but to monitor the implementation through laws¹⁸. However, in 1976, the arrival of Lucie Patenaude as the second PP, allowed for the first examination of bills such as the *Loi électorale* and the *Loi sur la langue officielle*¹⁹. As well, she initiated the beginning of systemic investigations²⁰, a preoccupation that will be shared by each of her successors. It is the third incumbent, Yves Labonté, who succeeded in amending the Act in order to take into account an enlargement of the mandate of intervention of the PP outside the quasi-judiciary domain²¹ and to include not only the body considered as causing an injury but also the civil servant or the person performing the function²². The new formulation of the law also opens up the preventive initiative of the PP and offers a support for the systemic investigations that were already considered important. Finally, the amendments allow the PP to voice his concerns publicly and to enforce the confidentiality of his interventions.

Even if we can acknowledge that many of the institutional demands made by Daniel Jacoby were already present in the annual reports of his predecessor Labonté, it can hardly be denied that it is Jacoby, by the duration of his tenure as well as by the impact of his personality and his leadership style, that will lend his mark on the PP, for better and for worst, as he terminated his second mandate with three floating years and an important controversy with the charge from Controller General of misuse of public funds and another one from the Verificator General about mismanagement. It is not the purpose of this paper to shed light onto that scandal in which Jacoby felt he was victim of a vendetta from the Bouchard government. However they liked him or not, and it seems that he left nobody indifferent, all would agree that Jacoby took his role at heart and tried to expand the span of action of the PP all along his 12 years.

The honeymoon

¹⁷ Aufrecht and Hertogh (2000), «Evaluating Ombudsman Systems», in *Righting Wrongs, Op.Cit.*

¹⁸ Annual Report 1969, p.38.

¹⁹ Annual Report, 1976, p.17.

²⁰ Annual Report, 1982-83, p.13.

²¹ Annual Report, 1987, p.8.

²² *Idem*

Right from the start, in his first annual report, Jacoby poses himself in favour of an amiable resolution of conflicts between administration and citizens. He supports this perspective by taking into account the additional denial of justice that can be caused by the unacceptable delays and the tremendous efforts that must be deployed by the citizens in order to have their rights respected by the court of justice. At the same time, he deplores this kind of costly judiciary relationship between citizens and the State, with the perverted effects that civil servants feel there is a net underneath them to catch their mistakes and relax their attention to secure for a first right decision.

What has been labelled «ombudsmediator» defines and colours his definition of his role as a neutral arbiter that can help both parties to reach a win/win agreement in favour of justice and equity. Preventive action and systemic approach is already identified as a developmental issue for the PP, which means to work on a corrective basis upon rules, policies and laws generating the repetition of injustices and prejudices to citizens. Jacoby made considerable efforts to have the PP known and understood by both citizens and civil servants with the promise of a better encounter.

In his 88-89 report, the PP comes back with the idea of the administrative rules, which civil servants apply with too much rigidity. The matter then comes to how and when to make exceptions to the rules in order to support equity, and when to acknowledge that it is simply necessary to altogether revise the rules that are flawed as identified with his category of system problems.

In recommending that every D/A develops its own complaint handling mechanism, the PP does not fear to lose his *raison d'être* since he envisions his role as helping settling down these offices and verifying their efficacy, as well as identifying the sources of complaints and the way to remedy.

After the honeymoon, when one looks at the whole reign of Jacoby, we can see three thematic emerge which we can relate to the role and function of the PP and the role of the citizen as a participant in the political process.

Citizen-client

In 90-91, while the Budget and administration commission was in the process of examining the *Public Civil Act*, the PP took the opportunity to make recommendations: turning citizens into clients with the proper service spirit of adjusting administrative process to clients' needs. Recommending that every D/A having external clients have a complaint-handling mechanism and that satisfaction polls be conducted on a regular basis to know the more objectively what clients think about their services. Jacoby goes as far as borrowing the public sector vocabulary of «after-sale services» and «merchandise exchange»...

In 90-91, accepted complaints increased by 16% and information requests by 13%. The question to ask was whether it is because the PP was better known or due to an increased of dissatisfaction? It seems to be the latter, Jacoby noticed, if we acknowledge the generalised raise of complaints in the entire complaints handling processes system (administrative courts, revision offices). The reason for that raise of discontent, he explains, is due to the difficult economic context and the insufficiency of indemnities and allocations. According to him, interventionist state creates expectations and citizens, better educated to their rights, tend to feel more conscious of their power to change things and their legitimacy to express dissatisfactions. Also, the culture of «consumers» is

pervading society and the public services, with the income tax perceived as the price paid for those services.

«Enfin, les citoyens sont devenus, par la force des choses, des consommateurs de services gouvernementaux et la culture développée en matière de protection du consommateur dans le secteur privé a imperceptiblement coloré le comportement du citoyen dans ses rapports avec l'administration. On est plus exigeants parce qu'on paie chèrement pour les services gouvernementaux par le biais des taxes et des impôts! Le contribuable en veut pour son argent, ce qui signifie qu'il s'attend à ce que les décisions qui le concernent soient justes. Il veut également que ses affaires soient traitées avec célérité; il revendique plus d'informations et d'explications»²³

However, since only 1/3 of accepted complaints reveal maladministration, that means that in the other 2/3 the administration was right. Often, poor understanding of the administrative decision and process is the reason resulting in complaints. Who is responsible for this information? According to him, the citizen should verify with the D/A on one side, the D/A who should explain better its decision on the other. But it may also be interesting to question further the slipping towards this very culture of consumption Jacoby describes which makes citizen confound public services with common merchandise or service they can buy and return upon dissatisfaction.

I have proposed somewhere else²⁴ that part of the cynicism against public services is engendered by the paradoxical effect of treating citizens as clients and consumers in the private sector manner. While not denying that public organizations can be improved and that bureaucratic management can sometimes have perverse effects, we believe that the efforts made to improve public administration may be compromised by the very discourses that are supposed to bring about the desired changes. Although the objective of the discourses of public administration reform is to reassure citizens and to increase their confidence in their government, they may have exactly the opposite effect. Indeed, these discourses may instead increase citizens' expectations of public services and, by changing the very nature of these expectations they may create confusion over the true meaning of such services. By paradoxically creating the conditions that contribute to dissatisfaction, these discourses ultimately intensify the pervasive cynicism that they were intended to lessen. So the question that remains is how is the PP, despite his good will at placing the client at the center of the public service, contributing at this phenomenon of transforming the culture of the public service into a consumer's culture? What is his role actually in educating the population to the values, realities and specificities of the public service in order to cultivate expectations that are turned towards the common good and collective interests?

From the quality of service to democratic values

In the same spirit as the citizen-client, the Treasury adopted in 91 a policy pertaining to the quality of service to citizens in the public administration. The keys were: Place the citizens-client first, make sure he/she has access to the information in a format he can understand, reduce delays to the minimum, reduce duplication and simplify forms

²³ Jacoby, «Le citoyen-client», PC, rapport annuel 90-91, p. 23

²⁴ I. Fortier (2003) From skepticism to cynicism: Paradoxes of administrative reforms, *Choices*, IRPP, 9(6) p.3-19.

to fill, revise hours and facilities, reception of clients with due respect and celerity. With that, increase the personnel's room for manoeuvre, give them the resources needed to resolve problems, increase their sensibility to do well on the first shot, give personnel formation needed to implement this new focus. While this all has mainly to do with the attitude in the way citizens are served by the administration, and not so much to do about the justice of decisions and fairness of process, it is interesting to witness of the PP naturally followed this current and operated a subtle movement towards the quality of management perspective. This could be seen as an enlargement of the PP mandate to cover the way clients are treated and their satisfaction on that point.

In 92/93 the public administration was plunged in a major budgetary downsizing movement in the pursuit of deficit zero that raised the alert for the people struggling with a lack of resources. The PP strongly criticized the parametric aspect of budgetary and resources cuts, recommending for a more detailed analysis in proceeding with these cuts in order to protect vulnerable citizens first and foremost.

Denouncing the gap between legitimate expectations of citizens and governmental actions and constrains, the PP «do not rise himself at the level of critic about political choices. He draws attention of leaders on foreseeable consequences of certain decisions irrespective of democratic expectations. It is in that sense that the PP is designated by the National Assembly as a government watchdog. He contributes to transparency of the State and to insure citizens their rights are respected.²⁵» Sometimes this role is a source of misunderstanding and even perceived as disturbing, even on the part of parliamentarians. In 94-95 Jacoby introduced with great pride his *Social Contract*²⁶ which is aimed at guiding the civil servants.

In the long and intense introduction to his 95-96 annual reports we can start to feel the facing of a broadening adversity for Jacoby. Taking hold of the Supreme Court of Canada 1984 in favour of the BC Ombudsman, the PP situates himself in the «paradigm of repair laws» (paradigme des lois réparatrices²⁷). The PP presents cases where D/A have contested the PP investigative powers or have attempted to constrain the process. In his long philosophical discourse, the PP denounces all sources of injustices and exclusions, with a tendency toward generalisations and borrowing many examples from sectors not under his jurisdiction. He speaks as the defender of a wide range of causes and against a wide array of governmental and administrative initiatives. Debating values and democratic ideals, he seems to bring his role to encompass the whole and to monologue on behalf of society and away from the idea of debate.

It sounds paradoxical in a certain way to hear his appeals for greater risk-taking, the right to make mistakes and adjustment to the needs and expectations of clients for the street level bureaucrat. At the same time, he proposes and supports the use of an ethical test²⁸ that only refers to law, equity, prejudice and moral comfort.

Policy implementation

According to Jacoby, transparency of the State refers to : the capacity of citizens to understand administrative actions; to be consulted about policy orientations and to ask

²⁵ Jacoby, PP, Annual Report 1995-96, p. 17.

²⁶ <http://www.protecteurducitoyen.qc.ca/en/publications/guides/pacte.asp> first proposed in the 24th annual report 1993-1994.

²⁷ Jacoby, PP, Annual Report 1995-96, p.19.

²⁸ P.28.

for accountable agents to respond to questions²⁹. From a democratic perspective, Jacoby raised his concerns on the matter of administration lacking legitimacy while implementing law and regulation through the crafting of guidelines, procedures and rules. Arguing that the real deciders about public policies are civil servants, notably those administrators who decide of administrative procedures without consulting frontline bureaucrats and clients, and leaving very few latitudes for adjustment on a case by case basis. While some have too much discretionary power without being accountable, others are mere executants. It is at this point that Jacoby seems to oppose and despise management actors of D/A.

Being himself a manager however, he complains he has been subject to cuts that force him to reduce his personnel and his activities. Figuring as a difficult year, an important raise of complaints occurred in 96-97, mainly inquiries and refused demands, but it is also worth of notice that an important rate of refused rectification for complaints considered justified (16% while it is usually under 5%). It is as though there had been a growing resistance inside the administration to his persuasive power.

We can say that the voicing of his position reaches some kind of a climax in the 97-98 reports as Jacoby, in a 29 pages detailed comment and a patronizing tone, puts side by side his visions of the role of the ombudsman, the new law on administrative justice, which is in turn related to the Social Contract. In this comment his seems to be answering anticipated questions, probably already voiced at him as critics of his approach.

The Quebec Ombudsman is part of the government's arsenal of conflict resolution mechanisms. Traditionnally, he offers administrative recourse on a case-by-case basis to provide specific solutions to problems experienced by the public. However, many of the problems recur year after year from one organization to another, and are often identical or at least similar in nature : lack of information, difficulty in obtaining government services, unfounded decisions, violation of basic rights, unfair decisions, negligence, abuse of power. So the question arises: Must the ombudsman act solely as a disciplinarian, resolving individual cases? Or must he also become an agent of change by proposing lasting changes after identifying the underlying causes of dysfunction? In my opinion, the ombudsman's impact will always be limited if he only solves problems on an individual basis.³⁰

Talking about the implementation process, Jacoby refers to the *hidden face* of the law. He comments on the fact that civil servants have a lot of manoeuvrability in the interpretation and application of the law through the crafting of norms, procedures and directives.

This vital step in the implementation of laws created a void in the democratic process. In fact, the population, elected representatives and government ministers have great difficulty exercising direct control over the establishment of these rules. It is the very openness of the civil service that is at issue here.

I therefore concluded that the bureaucratic process was winning out over the democratic process. I had to get at the *hidden face* of the law. I believed that a Social Contract could eventually achieve this by providing government officials

²⁹ Annual Report 1992-93, p. 19

³⁰ Jacoby, PP, Annual Report 1997-98, p. 15.

with a framework for drafting and applying administrative procedures and standards.³¹

In this statement, Jacoby apparently accords no legitimacy to the public service, which is per se the institution of law administration and implementation. Instead, he proposes his conception of a one best way. The matter of too much bureaucracy, bad bureaucracy or either lack of discretion or too much arbitrariness has always been a major issue of PA and essentially harnessed by the reforms which are mainly based on bureaucracy bashing. There is a source of confusion here because the situation is not clear since the PP claims that excessive hierachization deprives front line bureaucrats of their say in the functioning—and dysfunctioning—of programs.

How can civil servants take initiative if they are not allowed to make mistakes? Faced with unexpected problems, civil servants are often powerless to act for want of policy guidelines. And existing guidelines allow no room to maneuver. (...) As a result, citizens may loose basic rights, often without even realizing it, due to a bureaucracy which provides no room for imagination. The civil service's right to make mistakes needs to be recognized: it can only lead to improvement, if only officials would dare.³²

What then if every civil servant followed the Social Contract, made of the 7 rules of openness, the 7 of accessibility, the 7 of legal and reasonable behaviour, the 5 of natural justice, the 4 of planning, the 5 of expectations, the 8 of human dignity and the 13 for a more responsible government... That is, the 56 rules necessary to defreeze initiative and imagination. The *Act respecting administrative justice*³³ is apparently more succinct, besides the main concern about information given to citizens and help given to him in support for his knowing what may concern him and to document well his own position, the section 4.1 makes it rather clear, ironically I would say, what is prescribed: «that procedures are conducted in accordance with legislative and administrative norms or standards and with other applicable rules of law, according to simple and flexible rules devoid of formalism, with respect, prudence and promptness, in accordance with the norms and standards of ethic and discipline governing its agents and with the requirements of good faith.³⁴»

From policy making process to good management and governance

This breaking of confidence towards public administration's role in the policy implementation process culminate in the 29th annual report 98-99, the PP now turns his attention to the lawmaking process and comes back to the role of parlementarians into the democratic loop.

Before giving examples of foul-ups and offering a few suggestions for rectifying them, for the benefit of both MNAs and of the government, I will briefly outline the complementary nature of the role played by elected members and of the functions carried out by agencies which are exclusively and directly under the jurisdiction of the National Assembly. I will also summarize the procedures for adopting the legislation which serves as the basis for major reforms and discuss the relative

³¹ Jacoby, 28th Annual Report 1997-98, p.16.

³² 1997-98, p.17

³³ 1996, L.Q., c. 54

³⁴ 1997-98, p.24

powerlessness of MNAs, given the tools currently available to them, to intervene during the various phases involved in designing and organizing the implementation of legislative initiatives.³⁵

Jacoby turns himself to the ideal of good management (good governance) and takes a hold on *The Canadian Comprehensive Auditing Foundation* now leading to 17 guidelines for designing and implementing policies and programs. Then, in the end, he mainly recommend that «MNAs, assisted by specialists, could, with time, map out orientations and guidelines to govern the design and implementation of government programs for the benefits of their constituents.³⁶»

It is actually interesting to note how the PP is going against the current in proposing a priori control over the administration while he was a proponent of initiative and imagination on the part of civil servants, if not the right to be wrong and make mistakes.

In his last Annual Report 1999-2000, Jacoby makes a move backwards, bringing «important distinctions» about the public servants not to be fully, and the only responsible for mistakes and incapacities that occur when under pressure due to cutbacks and in the pursuit of the reorganizations under financial goals. Announcing the Public Administration Act, the PP wonders if the result-based management that is explicit in it will be another managerial fad, at least he asks that the cult of standard-based result be replace by the «cult of the citizen—result»³⁷ while it may be the idea of a «cult» in the first place that should be avoided. With its tools like declaration of services to citizens, strategic plan tabled with the NA, annual expenditure plan and management report, the *Public Administration Act* targets the accountability of administrators before the NA. In taking credit about the spirit of the reform, Jacoby recalls how he insisted on the three E of managerial imperatives: Effectiveness as the citizen imperative, efficiency as the managerial one and economy as the budgetary³⁸. The focus on the spirit and the objectives of a law pertains to the efficiency imperative, and in the public service it must prevail over the two other Es. But the main constrain about this new accountability mechanism, is that it will become hardly manageable for the Public Administration Commission of the NA to proceed to the hearing of something like over 150 D/A in accordance to their obligation to report, let alone the role the PP wanted the NA plays in framing policy implementation of how many laws and regulation?

Restoring the relationship between the PP and the civil servants

After the scandal that drew a line over the partisan gambling responsible for the three floating years of Jacoby after the end of his second mandate, the new PP, Monique Champoux-Lesage felt she had to clear the damage done to the reputation of the PP. Responding to those who doubt she may lack the distance needed to criticize ex-colleagues and even worst, herself being accustomed to the way it goes in the public administration, indulge on their mistakes³⁹, she explains that her capacity to understand

³⁵ 29th Annual Report 1998-99, p. 9.

³⁶ 29th Annual Report, p.32

³⁷ Annual Report, 1999-2000, p.19

³⁸ Annual Report, 1999-2000, p.20

³⁹ Gagnon, Lysanne, *La Presse*, Forum, jeudi 11 janvier 2001, p. A13

the willingness of her fellow colleagues civil servants to reduce injustice and the fact that she was one of them will help her convince them to implement her recommendations⁴⁰. Another version gives her the respect from the leading class of the departments and agencies and the conciliatory character needed for the function⁴¹.

Nevertheless, right from the start, she decided to initiate an administrative reform in all point conformed to the *Public Service Act* and to follow the AG recommendations. She developed a strategic plan for the PP and wrote a Service statement. In her first Annual Report 2000-2001, her personal comment is short and goes strict to the point, sending the message of a (re)centering on core issues and appropriation of the mandate and the end of a certain flamboyant and papal style.

She takes care to restore the role of the civil servants pertaining to implementation of policies and programs in the democratic administration: «Government choices are carried out, implemented by public service staff—specialists who translate the decisions of the elected into programs, who write the laws and the regulations that must account for political commitments⁴².» Committed to ensure that prevention is the best avenue to be pursued, she acknowledges that any implementation has its difficulties of implementation and that the PP has a role in safeguarding that citizens are not caught in the middle of a trial and error field and unforeseen effects. While taking a proactive stance, she doesn't further offer guidance for better administrative practices to governmental D/A but as part of her efforts to promote D/A taking charge of their own administration processes, have produced a survey and accompanying guide devoted specifically to the ethos and techniques of complaint handling.

She has chosen as one of her priority to develop the monitoring of billing process and all the modernization transformations. As mentioned in her 2003-2004 report, she highlights the fact that : «excessive use of the notion of emergency in order to bypass the requirements of the Regulations Act with regards to the prepublication of regulation and its consequences of having to hear citizens' comments. The government can also invoke the same notion of urgency to avoid BAPE evaluation projects.⁴³» Other means such as reducing the time span for the parliamentary commission to take place, hence reducing the time to prepare a well documented intervention.

In 2003, before the Christmas break, no less than eight bills were adopted during debates that lasted less than 20 hours. I am aware that the game of the parliamentary institutions is such that the opposition will «use all means at their disposal in accordance to rules of procedures to delay the adoption of a bill» and that «in this context, the government sometimes resorts to the notion of suspension of the rules of procedure to adopt one or several bill»⁴⁴ »

⁴⁰ *La Presse*, Québec, samedi 13 janvier 2001, p. A9

⁴¹ Leduc, Gilbert, «La bonne personne pour ce poste, conviennent ceux qui l'ont côtoyée», *Le Soleil*, jeudi 21 décembre 2000, p. A13

⁴² 31st Annual Report 2000-2001, p. 12

⁴³ Annual Report 2003-2004, p. 11

⁴⁴ Referring to and translated for the PP report from: *La procédure parlementaire au québec*, 2e édition, National Assembly, 2003, p.351.

Worried about the disregard for regulation of 2001 for limits to this speeding procedures, she also foresees the changes to come and hope the democratic process will be protected.

During the past few months, the government announced important policy changes aiming at modernizing the State. The administrative structure as well as existing programs and their management will apparently undergo major changes. Most citizens' concern regarding this upheaval, which are still vague at present, is tangible. The respect for democracy and the concern for social stability require, now more than ever, that the government be transparent in his actions.⁴⁵

The modernization of the State will also be put into her radar screen. As authors have already noted about the NPM and alternative service delivery approaches, the right to complain has become a basic feature of democracy that should be preserved in the process of transformation⁴⁶.

Discussion: The problem with the Public Protector defining himself as agent of change

The tension between bureaucracy and flexibility of administration is not a new one. In the present reform discourses, bureaucratic behaviour of public servants, which focuses on following predetermined rules and procedures, is seen to contribute to the heaviness and rigidity of the system. By blaming the administration and turning citizens' dissatisfaction into a problem of bad management, the political system actors and their allies distance themselves from the administrative system and divert citizens' dissatisfaction away from themselves. Moreover, the discourse of empowerment and accountability of public servants supports this trend by diluting or masking ministerial responsibility, which nevertheless prevails in our parliamentary system. Since ministers have the power to reprimand and even to replace managers⁴⁷, they can, paradoxically, avoid responsibility for certain actions and at the same time pretend to have things in hand by showing that the administrative machine is well under their control.

[O]n the one hand we see policy-makers using administrative reform to displace accountability for public policy; on the other hand we see the very same policy-makers trying to increase their control over bureaucracy. Whilst this appears to be two inconsistent developments, they may in fact reflect a general desire among elected politicians to increase their influence over bureaucracy while at the same time avoiding responsibility for the bureaucracy's actions⁴⁸.

Paradoxically, the reform discourses nevertheless claim to strengthen simultaneously the power of the system's three poles: "consumers," administrators (through decentralization and delegation of authority), and politicians (owing to the

⁴⁵ annual Report 2003-2004, p. 12

⁴⁶ Roy Gregory, Philip Giddings (2000), «The Ombudsman and the NPM» In *Righting Wrongs: The Ombudsman in Six Continents*. International Institute of Administrative Sciences, Vol. 13. Amsterdam, The Netherlands: IOS Press.

⁴⁷ Leduc (1999, p. Z2).

⁴⁸ Pierre (1995, p. 3), quoted in Pollitt and Bouckaert (2000, p. 134).

control of politics over administration through accountability)⁴⁹. There are acute tensions between these three groups of actors and increasing pressure on those who are responsible for the successes and failures of the day-to-day operations in governmental services, the very area which ministers seem to want to abandon by placing themselves above the technocratic and bureaucratic reality⁵⁰. What is the place of an institution like the Ombudsman in such a power play? As a watchdog of government and as a representant of citizens in cases of injustice and injury there is no doubt about the fact that they should restlessly and outloud if necessary monitor, investigate and rectify maladministration. But where should he situate himself in front of the reform discourse and the transformation of administration which dilute the institutional accountability of the elected and therefore the democratic loop between citizens and the State.

The legitimacy of managerialist guidance from Officers of Parliaments

As for now, the issue about watchdogs like the Verificator General or the Ombudsman has been primarily about the independence they need to fulfill their mandate out of interference. From the perspective of Thomas⁵¹ (2003) we should now and also try to help balance «these offices' independence from both the executive and the Parliament with an appropriate measure of accountability for their performance⁵²» (p. 287). He proposes then an analysis of these offices' place «within the existing constitutional framework of ministerial responsibility and administrative accountability» (p.288). As he goes on: «Limited attention has been paid to ensuring that these distinctive institutions have a clear and consistent approach to their mandate, structures, relationships to the political and the administrative executive, and their relationships with the parliament»⁵³. (p.288) By the same token, since the role of these entities can only be fully understood and interpreted in context, how to keep them accountable for their own performance?

According to his view, it seems that the Parliament has lost both its power in the policy process and the public respect. He suggests that we emphasize and develop more the accountability function of the Parliament, where it could make a real contribution, rather than always insisting on its law-making role. In doing so we must nonetheless acknowledge that the primary loyalty of parliamentarians is to their party and that the scrutiny function has the facto revolved to the opposition parties.

The «politics of accountability» as the author states it is that to perform this monitoring function, Parliament needs information. But if a lack of information is a bad thing, too much of it creates an overload. That is why members tend to specialize, rely on party colleagues and filters, and focus more on the «fire alarm» than on prevention which is more difficult and less politically visible. The job of Commissioners, by being

⁴⁹ In Quebec, the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies* was adopted in 1993 and amended in 1995. At the federal level, accountability has been implemented since 1986.

⁵⁰ Pollitt and Bouckaert (2000, p. 137).

⁵¹ Thomas, (2003) Past, Present and Future of Officers of Parliament

⁵² Like Jacoby in 2000 with the critics from AG about bad administration of his office, Thomas article starts by referring to a scandal about Canada' privacy commissioner Radwanski who complained of being victim of smear campaign because of his critical judgements against Chretien's government as he was forced to dismissal in response to allegations of bad and extravagant spending, misleading and bad administration.

⁵³ Thomas () *Op.Cit.*

responsible to expose mistakes and misconduct, often flashes in the opposition radar screen and reinforces the ‘fire alarm’ approach to parliamentary scrutiny. However, many arguments support the development of those officers of Parliament despite the fact that ministers knew in advance they would be critical of their D/A:

[First] there was a growing concern about the achievement of accountability for the wide-ranging activity of government. Secondly, there was a fear that the discretion being granted to ministers and public servants might be misused. There was a perceived need to supplement the principles of ministerial responsibility as a basis for accountability. Thirdly, there was a desire to ensure more neutral, handling of citizen complaints away from the glare of partisan controversy and media publicity» (p. 293).

In the end, agencies like the PP give a minister very precious arguments to control its administration if his view go in the same desired direction. But how can those «watchdogs» be watched in return against their own possible abuse of authority and misuse of public resources? While every text identify structural features necessary to assure the independence of the Officer, one should not oversee the leadership factor, since the independence gives these agencies a «legitimacy and measure of protection from ministerial or central agency control that is not available to regular departments of government» (p. 298).

Author concludes that statutes should include requirements for periodic reviews and specify that the Parliament should be involved in the review process, so that the link with Parliament is reinforced and the responsibility of the Parliament to monitor is taken more seriously. This could also prevent the drifting of mandate and also allow for new circumstances like contracting-out and private partnerships.

«Currently, too much emphasis is placed on Parliament’s role of debating and passing bills and too little on the examination of what happened with past legislation in terms of its implementation and impact on society. (...) [B]y shifting more of its efforts into the scrutiny of the executive performance and the transmission of public concerns to the cabinet and the bureaucracy, Parliament could develop a more meaningful role within the policy process. (...) Parliament would become better informed about the nature of government operations and this would, in turn, allow parliamentarians to make more intelligent contributions to debates on bills, most of which arise out of the experience of applying existing statutes.» (p.306).

Even, they could get to comment bills earlier in the policy process with greater impact. In terms of institutional culture change, this means to get away from the idea that to discover and discuss problems is a benefit, not a threat for government and does not represent disloyalty from members and officers of parliament.

«The recommendation that Parliament strengthen its scrutiny function will also insure that citizens’ concern about the fairness of administrative processes will be brought before Parliament on a more regular basis. The role of MPs as ‘ombudsman’ on behalf of its constituents is an important one. It should not be

taken over completely by either ‘professionals’ in a ‘parliamentary bureaucracy’ or by ‘customer-oriented’ public service» (p.311).

On the other side, a very interesting parallel can be drawn with research⁵⁴ about the turn to comprehensive audits by the Auditor General (AG) in recent years, also asking who controls the controller? Martin set the stage by contrasting two different perspectives held at present on the AG: on one side Sutherland’s claim that the enlargement of the mandate of AG to include Value-for-money audit «has transformed the office into a tireless advocate of managerialism by putting into play its own private sector oriented reform project.» (p.122). On the other side, Roberts argue that on the contrary the AG is a leader in emphasizing that entrepreneurial approach promoted by NPM would weaken Parliamentary control and increase misconduct. So when focusing on financial audit, the AG control the compliance to rules and procedures, but when conducting VOR audit it promotes less bureaucracy, results over processes and risk-taking management philosophy. This is what the author calls the Janus-faced Office.

Even if we can acknowledge with the author that even expertise and the power it confers to public servants may challenge the authority of elected officials like in what Weber called a dilemma, civil servants have a certain «democratic legitimacy to the extent that they are under the formal legal command of elected politicians on which the public exercises a degree of control through the electoral process» (p.134), which is not the case for AG who is an independent officer of Parliament. So AG draws its legitimacy mainly from professionalism. Since comprehensive auditing and management consultancy is not a professional field with its self-regulation capacity, which were the main arguments in defence of the credibility of the primary function of the AG on financial auditing then there is reason to ask «‘who controls the controller’? Or, more precisely, who controls the AG in its consultant role as an advocate of managerialist reforms in governments?» (p.137).

Despite all the best intentions to support improvement of public management, the AG tries to counterbalance horror stories by the promotion of best practices. Pretending to be avoiding it, he actually plays a political role since

«For now, managerialism largely remains more a political ideology than an administrative science—something that cannot yet be tested or measured objectively with agreed-upon social scientific techniques and methods. Accordingly, when the AG promotes managerialist principles in government, it is advocating a set of ideas that are *political* in nature because they are the objects of active contestation not only in the academic sphere but also in the broader social sphere. Managerialism is the object of intense political debate between government managers and public-sector unions. And, furthermore, managerialist ideas are political because, when translated into policy, they often change accountability relationships and affects the balance of political power between the executive, the bureaucracy and the legislature» (p.132-133).

⁵⁴ St-Martin (2004) «Managerialist advocate or ‘control freak’? The Janus-faced Office of the Auditor General», *Canadian Public Administration*, 47(2) p. 121-140.

As St-Martin notices with the AG, we have found that Jacoby's annual reports have become «more broadly philosophical» to use Kernaghan and Siegel's expression⁵⁵ and more engaged in the political terrain than ever before by promoting certain ideas and values pertaining to the managerialist trend that is not the object of consensus in the society at present. I would add that it is precisely in the role of expert and with the credibility they historically got from the auditing neutrality and objectivity that this slip in the political arena of advocacy is particularly at the same time subtle and vicious. Over the years, while reading annual reports and various comments and documents written by Jacoby, one can feel the emergence of an expression of invincibility which can be interpreted to have culminated with the problematic behaviour at the source of accusations of mismanagement and bad use of public funds.

Conclusion

In conclusion, I would like to come back to the idea of policy implementation as an important field where the PP and citizens can together increase their participation with the public servants and the executive powers. Hertog⁵⁶ proposes a conceptual model to contrast two styles of control (repressive and reflexive) over the administrative action. The reflexive mode, more typical of Ombudsman, refers to ongoing and proactive dialogue (instead of ex ante and reactive) based on multilateral communication (instead of unilateral) and horizontal relationship (instead of hierarchical), which result in decisions aiming at facilitating change instead of coercive nature of rules to apply and its corollary sanctions. This is reflected in the fact that the Ombudsman often consults D/A to find out the practical implications of recommendations and tailor adjusted alternatives when needed. The model takes hold on the policy studies that propose a conciliatory model of policy making instead of a coercitive one :

«Over the last two decades, many studies have successfully argues that contrary to the state centred «rational-central-rule approach» in which government initiates policies, determines policy goals and chooses the instruments for attaining those goals, at present the rules are often both made and enforced through conferring and bargaining between the regulator and the regulated. (...) In theoretical as well as empirical studies, it is argue that in the long run this way of enforcing regulations can be more effective than conventional ways that rely on sanctioning and deterrence.» (p. 68)

After all, it may be in this very crafting and negociation between the regulator and the regulated, the civil servants and the citizens, that the representative role of the ombudsman can actually increase citizens' participation in which complaining may be and important retroactive part, but not the only.

⁵⁵1999; *Public Administration in Canada 4th edition*

⁵⁶ Marc Hertog (1998) «The policy impact of the ombudsman and administrative courts: a heuristic model», *The International Ombudsman Yearbook*, Volume 2, p.63-85.

The Public Protector in brief

The Québec Ombudsman's name is the Public Protector (hereafter PP). Since 1967 the PP is set by the chapter 32 *Public Protector Act* in the R.S.Q. The Public Protector «is responsible for protecting citizen's right by intervening with departments and agencies of the Government of Québec, including [since April 1, 2006⁵⁷] those in the health and social services network, to correct any prejudicial situations affecting citizens individually or as a group.

The incumbent The Prime Minister appoints the Ombudsman, with the approval of 2/3 of the members of the National Assembly, the same ratio being needed for dismissal, for a term of five years with the possibility of reappointment. The PP has to take oath and engages himself to devote his time exclusively to his functions. The government shall fix his salary and cannot reduce it. The Public Protector's mandate does not coincide with election of the members of the National Assembly. There are three kind of benefits attached with the functions of PP: pensions associated with the number of years in functions, pension to the surviving spouse, and immunity about any kind of legal procedures against him.

He produces once a year to the chief executive officer of a public body a summary report stating the number of interventions, the period, the nature and outcome of each intervention. The PP also produces an annual report to the National Assembly where he explains some cases and tells his recommendations to change some situations. The Ombudsman can also make a public comment when he judges necessary.

The office The Controller General fixes the annual financial statement of the Public Protector and the Auditor General of Quebec does the control independently. The government appoints and fixes the salaries of up to two Deputy Public Protectors upon the recommendations of the PP which is responsible to define their duties in order to assist him. The PP appoints the rest of his staff, defines their duties, but their number and their salary are determined by the government. One of the two Deputy PP acts as the PP while he's out or temporarily unable to act until the PP able to resumes his functions.

Jurisdiction and powers He has jurisdiction over departments or agencies whose staff is appointed under the *Public service Act*, or any other body explicitly placed under his jurisdiction by special legislation: 1) Every person, except the chief electoral officer, designated by the National Assembly to hold an office accountable to it, where the law provides that the person's staff is appointed in accordance with the Public Service Act; 2) The staff of the Secretariat of the Conseil du Trésor; 3) The Public curator; 4) The autorité des marches financiers.

Under the *Public Protector Act*, the Ombudsman has the power to intervene, at the request of any person or group, when it appears to him that a person or a group of person has suffered prejudice as the result of an act or omission of a public body. He can also intervene on his own initiative. The PP and his staff, for the purposes of an investigation, have the powers and immunity of commissioners appointed under the *Act respecting public inquiry commissions*. No legal proceedings shall lie against the PP, the Deputy PP and the public servants and employees by reason of official acts done in good faith in the performance of their duties. He has no coercive power, but can make recommendations upon public bodies. The PP can make comments on draft bills and regulations and appear before parliamentary commissions by bringing his memorandums.

Complaining process The PP receives citizens' complaints orally and/or written. After an examination of the complaint where he must first assure he has jurisdiction over the body to investigate, and that the complainants have exhaust their administrative and judicial remedies of the public body in question, the PP can still decline to investigate if 1) more than one year have passed since the complaint; 2) the person who requires the intervention refuses to give the appropriate documentation; 3) the complaint is frivolous, vexatious or made in bad faith; 4) An intervention is not expedient in view of circumstances.

In every case, the investigations of the Ombudsman are conducted in private. The complainant is assured the PP will intervene confidentially, that he will be notified why his request for intervention is either refused or accepted, when it is terminated and the results explained.

⁵⁷The 33 employees of the former Health and Social Services Ombudsman are joining the Public Protector's office following amendments to the *Act respecting Health Services and Social Services*.
<https://www.protecteurducitoyen.qc.ca/en/publications/communique/060406.asp>

| Table 1 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|----------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| expenses | 2 756 308 | 3 060 300 | 4 319 300 | 5 064 525 | 5 261 825 | 5 534 883 | 5 285 103 | 4 879 922 | 4 993 781 | 5 123 136 | 5 531 295 | 5 604 347 | 6 451 653 | 6 786 117 | 7 212 166 | 7 743 580 | 7 933 948 | 8 773 745 |
| personnel | 59 | 84 | 84 | 88 | 90 | 90 | 88 | 81 | 81 | 82 | 81 | 82 | 84 | 84 | 85 | 94 | 94 | 94 |
| Total Requests | 22 389 | 21 970 | 21 703 | 23 516 | 25 393 | 25 857 | ? | 27 737 | 25 986 | 27 976 | 27 834 | 24 362 | 26 222 | 24 275 | 25 249 | 21 763 | 20 158 | 18 171 |
| Information | 5 274 | 3 255 | 2 485 | 2 798 | 4 306 | 3 906 | ? | 4 189 | 4 790 | 5 340 | 5 355 | 4 693 | 4 284 | 3 308 | 4 022 | 3 750* | 783 | 640 |
| | -23% | -15% | -11% | -12% | -17% | -15% | | -15% | -18% | -19% | -19% | -19% | -16% | -13% | -16% | -17% | -0,03% | -0,04% |
| Intervention s | 17 110 | 18 715 | 19 218 | 20 718 | 21 087 | 21 951 | ? | 22 246 | 21 196 | 22 636 | 22 659 | 19 669 | 21 938 | 20 015 | 21 123 | 18 110 | 19 596 | 18 092 |
| | -77% | -85% | -89% | -88% | -83% | -85% | | -85% | -82% | -81% | -81% | -81% | -84% | -87% | -84% | -83% | -99,07% | -99,06% |
| Intervention s | 17 110 | 18 715 | 19 218 | 20 718 | 21 087 | 21 951 | ? | 22 246 | 21 196 | 22 636 | 22 659 | 19 669 | 21 938 | 20 015 | 21 123 | 18 110 | 19 596 | 18 092 |
| Completed | 6 429 | 6 925 | 8 228 | 9 582 | 8 657 | 9 343 | ? | 10 029 | 7 546 | 7 906 | 8 751 | 7 543 | 7 516 | 6 281 | 5 980 | 5 316 | 6 112 | 5 546 |
| | -38% | -37% | -43% | -46% | -41% | -42% | | -45% | -37% | -35% | -39% | -38% | -34% | -31% | -28% | -29% | -31% | -31% |
| Rejected | 10 681 | 11 790 | 10 990 | 11 136 | 12 430 | 10 489 | ? | 10 019 | 10 622 | 11 675 | 10 318 | 8 620 | 10 425 | 11 980 | 12 331 | | 2 675 | 2 702 |
| | -62% | -63% | -57% | -54% | -59% | -48% | | -45% | -50% | -52% | -46% | -44% | -48% | -60% | -58% | | -14% | -15% |
| Referrals | | | | | | 2 119 | | 2 198 | 1 565 | 1 406 | 1 510 | 1 714 | 2 339 | 1 623 | 1 618 | 1 348 | | |
| | | | | | | -10% | ? | -10% | -7% | -6% | -7% | -9% | -11% | -8% | -8% | -7% | | |
| suspend | | | | | | | | | 1 463 | 1 649 | 2 080 | 1 792 | 1 658 | 1 314 | 1 194 | | 1 293 | 1 362 |
| | | | | | | | | | -6% | -7% | -8% | -9% | -7% | -6% | -6% | | -7% | -7% |
| Ineligible | | | | | | | | | | | | | | | | 11 446 | 9 516 | 8 482 |
| | | | | | | | | | | | | | | | | -63% | -48% | -47% |
| Completed | 6 429 | 6 925 | 8 228 | 9 582 | 8 657 | 9 343 | | 10 029 | 7 546 | 7 906 | 8 751 | 7 543 | 7 516 | 6 281 | 5 980 | 5 316 | 6 112 | 5 546 |
| unjustified | | | | | | | | | 4 912 | 5 547 | 5 991 | 5 330 | 5 309 | 4 502 | 4 200 | 3 881 | 4 367 | 3 980 |
| | | | | | | | | | -65% | -70% | -68% | -71% | -71% | -72% | -70% | -73% | -71% | -72% |
| justified | | | | | | | | | 2 634 | 2 359 | 2 580 | 2 213 | 2 207 | 1 779 | 1 780 | 1 435 | 1 745 | 1 566 |
| | | | | | | | ? | ? | -35% | -30% | -32% | -29% | -29% | -28% | -30% | -27% | -29% | -28% |
| rectified | 1471 | 1161 | 1 302 | 1 303 | 1738 | | ? | 2750 | 2 535 | 1 958 | 2 355 | 2 045 | 2 062 | 1 622 | 1 718 | 1 321 | 1 511 | 1 236 |
| | | | | | | | | | -96% | -83% | -91% | -92% | -93% | -91% | -96% | -92% | -87% | -79% |

| Table 2 : Main causes of substantiated complaints (4 most frequent causes each year) | | | | | | | | | | | | | | | | | | |
|--|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|--------|-------|--------|
| | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| Delays | 40% | 38% | 24% | 26% | 22% | 22% | 27% | 21% | 21% | 16% | 24% | 28% | 26% | 29% | 25% | 25% | x | x |
| Simple neglect | 16% | 15% | 14% | 16% | 15% | 15% | x | | x | x | x | x | x | x | | 19% | x | x |
| Factual error | 14% | 15% | 12% | 12% | 12% | 12% | | | | | | | | | | | 4,7% | 4,5% |
| System problem | 9% | 12% | 12% | 13% | x | | x | | x | x | x | x | x | x | | x | x | x |
| not in accordance | | | | | 12% | 12% | | | | | | | | | | | x | x |
| Illegal act | x | x | x | x | x | | x | | x | x | x | x | x | x | | x | 16,8% | 16,9% |
| Services not available | x | x | x | x | | | 24% | 25% | 25% | 23% | 18% | x | x | 12% | 26% | x | x | x |
| Non conformity | | | | | x | | x | | x | x | x | 11% | 12% | x | | 10,20% | 36% | 43,20% |
| Neglect or inaction | x | x | x | x | x | | | | | | | | | | 11% | | x | x |
| Unreasonable or unfair actions | | | | | 12% | 12% | 11% | 14% | 14% | 24% | 16% | 14% | 13% | 12% | 11% | 18,70% | 42,5% | 35,4% |
| Others | | | | | | | 12% | 12% | 10% | 10% | | 15% | | 12% | | | x | x |