

EUROPEAN HEART OF HUMAN RIGHTS
On the occasion of the 25th Anniversary of the European Ombudsman Institute
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**HOW THE IDEA OF THE EUROPEAN OMBUDSMAN
INSTITUTE WAS BORN**

As a student and young scholar at Innsbruck University, I had the privilege to closely work with Prof. Hans Klecatsky on issues of human rights, the rule of law and democracy. At the beginning of the 1970s, I had been organizing public lectures in the framework of the “Working Group for Sciences and Politics” (*Arbeitsgemeinschaft für Wissenschaft und Politik*); I invited politicians, philosophers and entrepreneurs to speak on questions of social responsibility in science and public life, and, in general, on the complex relationship between *theory* and *practice*. Professor Klecatsky – who had served as Minister of Justice in the Federal Government of the Republic of Austria (1966-1970) – introduced me to personalities of public life in Innsbruck and Vienna and facilitated many of the organizational arrangements for the discussion of these issues.

At his initiative, I organized the very first international conference of the Working Group for Sciences and Politics, namely a symposium on “The European Mission of the Alpine Region” (*Die europäische Aufgabe der Alpenregion*). The conference was held at the Hofburg (Imperial) Palace in Innsbruck with politicians, diplomats and legal experts from all countries of the Alpine region and the Secretary-General of the Council of Europe, Dr. Lujó Tončić-Sorinj, as keynote speaker. This was the event by which trans-border co-operation within the wider framework of European co-operation was for the first time discussed in a specific regional context. Two years later, again in Innsbruck, we established the “*Euregio Alpina – Study Group for the Alpine Region*” of which Prof. Klecatsky was the Scientific Director. The notion “Euregio” has later been adopted by the European Union as the term describing regional structures across the borders of member states.

Again with the support of Prof. Klecatsky – who already at that time was the paramount constitutional law expert of Austria, a group of students from all continents, including myself, created, in 1972, the *International Progress Organization* (I.P.O.), an international non-governmental organization (initially with seat in Innsbruck) that was – and still is – devoted to the promotion of human rights, the rule of law and inter-cultural understanding as a contribution to global peace. As founding member, Prof. Klecatsky introduced me to the then Secretary-General of the United Nations, Dr. Kurt Waldheim, and greatly facilitated our work, particularly in the domain of human rights.

It was in the context of my longstanding co-operation with Prof. Klecatsky that I was taking part, in the middle of the 1980s, in an informal working group at Innsbruck University, which was devoted to scientific documentation and comparative research of the role of the Ombudsman in the constitutional setup of states at a worldwide level. Under the name of “European Ombudsman Academy” (*Europäische Ombudsman-Akademie*), the group of which I was a founding member, organized lectures, held consultations and initiated research projects such as the one on the role of the “Media Ombudsman” in 1986. The Academy closely co-operated with Professors of the Law Faculty of Innsbruck University and with the Ombudsman Office of Austria whose first Director, Dr. Victor Pickl, in tandem with Prof. Klecatsky, was one of the most active proponents of this international networking among Ombudsman institutions. I vividly remember the many organizing meetings and discussions in Innsbruck and Vienna where we undertook to work out the organizational framework for the Academy and its research program as an initiative of civil society. The Chairman of our group was Dr. Fritz Reichert-Facilides, Professor of Private Law at the University of Innsbruck. Among the founding members were also the Head of the Department of Civil Law at the University of Innsbruck, Prof. Rainer Sprung, Prof. Siegbert Morscher of the Department of Public Law at the same university (who later became member of the Constitutional Court of Austria), and Prof. Gerte Reichelt from the Institute of Civil Law at the University of Vienna. The efforts of Dr. Egon René Oetzbrugger, an influential journalist from Tyrol and one of our founding members, were essential for wider public support of our initiative. In these years, that preceded the establishment of the European Ombudsman Institute as a non-governmental organization (NGO), we repeatedly expressed our concern about

the worldwide lack of efficient mechanisms for the legal protection of citizens, and we committed our working group to make a scientific contribution to the advancement of the systems and mechanisms of legal protection of citizens' rights in all countries, including Austria.

In the course of our many “brainstorming sessions” on how to facilitate an exchange of experience between the Ombudsman offices in different countries, on how to strengthen the institution of Ombudsman particularly in Europe, and on an adequate organizational and institutional framework for all these rather ambitious activities and projects, we finally came to the conclusion that we should go beyond the informal structure of a civil society group and establish our working group as a non-governmental organization according to Austrian law.

Eventually, in the course of 1988, the *European Ombudsman Institute* was created as juridical personality with seat in Innsbruck, Austria. In the initial years, I served as a member of the Executive Board of the Institute and took part in the strategy discussions regarding membership and scope of the Institute's activities. These years – that coincided with the end of the Cold War, which had divided Europe, and separated its peoples and cultures, for almost half a century – were indeed a period of major geopolitical transformation – and democratic revolutions – in Europe. From the very beginning, we had described and defined our initiative in the sense of a general commitment to the international rule of law, and we had understood the term “Europe” in its wider meaning that included the entire Eastern Europe. In hindsight, one can say that the European Ombudsman Institute, established one year before the dramatic events in Eastern Europe (in 1989), has played a pioneering role in these turbulent years and has indeed, from the outset, been committed to overcoming the division of Europe and supporting democratic change on the entire continent. It gives me great pleasure to see that now, a quarter century after these events, Ombudsmen from the entire area of the Council of Europe have joined the Institute.

I fully share the conviction of the mentor of our initiative in the initial years, in fact the *spiritus rector* behind the establishment of our working group as a non-governmental organization, Prof. Hans Klecatsky, that the institution of Ombudsman is of *paradigmatic importance* for the rule of law in every country, and that human rights and individual dignity can only be safeguarded in a context where the constitutional provisions for the separation of powers are complemented by a

transparent and *independent* monitoring of all state organs, including those of the judiciary, by way of an Ombudsman office (that certainly should be more than an office that sporadically collects complaints from “members of the public”). We must never forget that the state is not an end in itself, but is rooted in the sovereign will of its citizens as *free* and *autonomous* human beings. Respect of the popular will is the ultimate source of legitimacy of every political entity. In this sense, the institution of Ombudsman, vested with a legally guaranteed status of independence, is indeed indispensable for democracy and the rule of law, irrespective of socio-cultural and historical differences in the judicial traditions of states. I am fully confident that the European Ombudsman Institute – under geopolitical circumstances that are entirely different from those in the founding years – will continue to highlight these truths, and thus contribute to making democracy and the rule of law sustainable in the wider Europe and beyond.
