International Ombudsman Law Institute

A proposal by
the Parliamentary Ombudsman of Malta

May 2014
This document is intended to gauge whether such a proposal could obtain the required support and participation to encourage the promoters to take further steps to realise the project.
The Statues of the Association of the Mediterranean Ombudsmen lay down as its objectives the encouragement and support of studies and research on the role of the Ombudsman.

The Parliamentary Ombudsman of Malta is launching a proposal for the setting up of an International Ombudsman Law Institute (IOLI) in Malta to provide post graduate courses in Ombudsman Law in the wider context of the fundamental right of the individual to a good public administration.

This document is intended to gauge whether such a proposal could obtain the required support and participation to encourage the promoters to take further steps to realise the project which in their view would greatly contribute to the strengthening of the Ombudsman Institution and democracy in the Mediterranean area.

Members of the AOM are kindly asked to examine this document and give their reaction on whether such a project would be viable and whether they are interested to actively participate in it.

The promoters would be grateful if the AOM accepts to be a patron of this Institute and to extend its cooperation and valuable advice in its setting up.
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International Ombudsman Law Institute, an autonomous and independent seat of advanced learning in legal studies focusing on Ombudsman legislation.
Proposal

The Parliamentary Ombudsman of Malta is proposing the setting up in Malta of an International Ombudsman Law Institute (hereinafter referred to as the IOLI), an autonomous and independent seat of advanced learning in legal and public administration studies focusing on Ombudsman legislation and its relevance in the wider context of good public administration.
A small island state placed in the middle of important trade routes, Malta has experienced the exchange of ideas, goods, religion, governing systems and laws.
Why Malta?

Malta is strategically placed between two continents and has been known as a cultural melting point since time immemorial. A small island state placed in the middle of important trade routes, Malta has experienced the exchange of ideas, goods, religion, governing systems and laws. Today, it has developed a successful economy and is a member within the European Union and the euro zone. Built around the strengths of the Westminster parliamentary system, independent judiciary and good governance, Malta is well placed to act as a regional centre of excellence. With a teaching heritage that dates back to the Knights of St John and a proud home to one of Europe’s oldest universities, Malta provides the ideal location to house this institute. Easily accessible from across the region, Malta prides itself of having a millennial history and a hospitable population.

Language

The course will be conducted in English.
The objective is to contribute towards the development of a public service culture characterised by fairness, dedication, commitment, openness, transparency and accountability.
The aim of the Institute is to create a strong nucleus of graduates hailing mainly from countries from Southern Europe and North Africa, abutting on the Mediterranean littoral specialising in Ombudsman Law and public administration in the context of the fundamental right of the individual to a good public administration.

The objective is to contribute towards the development of a public service culture characterised by fairness, dedication, commitment, openness, transparency and accountability. It is today widely recognised that these values, that the Ombudsman is bound to uphold, lie at the core of this fundamental right. The main purpose of this Institute will therefore be to serve as a regional centre of teaching excellence that will organise post-graduate courses and accredited training programmes to suitably qualified candidates mainly from Ombudsmen’s offices and complaint handling organisations on such topics as conflict management and resolution, investigation, mediation, legal systems and fundamental human rights.
The ultimate objective is to create throughout the years, a growing number of fully qualified legal experts in this specialised area of Ombudsman Law.
Its Aim

The Institute will also carry out research on Ombudsman theory and practice and the principles of good governance.

It will provide candidates with high level facilities for advanced training, study and research in public administrative law with special emphasis on Ombudsman legislation and its relevance for the safeguarding of fundamental human rights and the protection of citizens against maladministration, improper discrimination, injustice and abuse of power by public authorities. The ultimate objective is to create throughout the years, a growing number of fully qualified legal experts in this specialised area of Ombudsman Law and public administration which is today considered to be vital for the protection of the individual when the State fails to observe the basic norms of good administrative behaviour.
Graduating from this Institute, these students would be ideally placed to act as leaders and serve as advisors, in the setting up and maintaining of strong Ombudsman institutions.
Most States aspiring to establish strong democratic institutions require the services of well-trained personnel with specialisation in this field of law. Graduating from this Institute, students would be ideally placed to act as leaders and serve as advisors, in the setting up and maintaining of strong Ombudsman institutions that are independent, that act autonomously without fear or favour and that are therefore an effective buffer between the citizen and State authorities.

The services of these graduates should prove to be indispensable to countries, especially developing ones, that need to strengthen the appropriate infrastructure to ensure a strong and efficient Ombudsman service that would adequately perform its function as defender of citizens’ rights. With administrative transparency, accountability, zero tolerance for corruption and respect for human rights featuring high on the national agenda of several countries as a pre-requisite for economic development and growth, the role of the Ombudsman institution in the promotion of good administrative practice has gained a deeper focus.
Patronage will however endow the Institute with invaluable moral, technical and advisory support, that will help it attain the required status and standing to ensure recognition of the degree the institute bestows.
Patronage

The Institute will be seeking the patronage, among others of the Government of Malta, the University of Malta and the Association of Mediterranean Ombudsmen.

Patronage will not in itself involve the patrons in any commitment, financial or otherwise. Any such commitment needs to result from ad hoc agreements between the Institute and the patron. Patronage will however endow the Institute with invaluable moral, technical and advisory support, that will help it attain the required status and standing to ensure recognition of the degrees the Institute bestows.
Candidates will be expected to undergo their studies in the research degree programme with a high level of independence.
Research Degree Programmes

*The course leading to a degree of Magister Juris (M.Jur.)*

**Duration of study**

IOLI will offer a research degree programme leading to the award of the degree of Magister Juris (M.Jur.) or an equivalent M.A. in comparative Ombudsman legislation and public administrative law and eventually, to a degree of Doctor of Philosophy (Ph.D.) in the same field of law. Candidates will be expected to undergo their studies in the research degree programme with a high level of independence. Thus the programme can to some extent be undertaken from abroad. Candidates will be assigned individual academic supervisors drawn from a list of internationally recognised experts.

Studies for the Magister Juris degree are to extend over a period of one academic year after enrolment in the programme. Candidates for the degree must engage in resident research at the Institute for a time to be determined in each case prior to enrolment and must attend such courses as may be required by the Institute following consultation with the candidate’s supervisor. The candidate would be required to submit his/her dissertation by not later than the end of the second calendar month following the end of the academic year.

**Award of degree**

The award of the Magister Juris or equivalent degree is conditional upon successful examination of a dissertation of around fifty thousand words (50,000) containing original contributions to knowledge in a subject within the syllabus of the Institute.
During the study period the candidates shall engage in resident research at the Institute for a time or times to be determined in each case prior to enrolment.
Research Degree Programmes

The course leading to Doctor of Philosophy (Ph.D.)

Duration of study

When the Institute is well established, it is projected to provide studies for a Ph.D. degree that should extend over a period of not less than two and not more than four academic years after enrolment as a candidate for that degree. During that period the candidate shall engage in resident research at the Institute for a time or times to be determined in each case prior to enrolment. Students are required to register with the Institute at the beginning of each academic year throughout the programme.

Award of degree

The Ph.D. degree shall be awarded upon the successful examination of a thesis of around eighty thousand words (80,000) containing original and significant contributions to knowledge in a subject within the syllabus of the Institute.
Relevant areas of study would include:

- Ombudsman legislation - historical development of institutions comparative study of various models under different constitutional and legal regimes, constitutional recognition and comparative study of existing legislation setting up Ombudsman institutions
- Fundamental human rights with special reference to the right of good administration
- The jurisdiction of the Ombudsman and how he relates to other organs of the State eg Parliament, the Judiciary, the Executive and other Constitutional Authorities
- The functions, powers and method of investigation of complaints - effectiveness of recommendations- comparative study of same
- The set up of the public administration in various States
- State’s duty to care
- The public administration
- Codes of good administrative behaviour
- Public finance
- Good governance - transparency and accountability, control of corruption
- Public policy
- Better regulation and the Ombudsman's input for improved administrative procedures and practices
- Management
- Corporate social responsibility
- Administrative law
- Essentials for an efficient office management in Ombudsman institutions
The viability of the project would depend on whether the initiative manages to attract an adequate number of students to justify the commitment.
The rules and regulations governing the management of the Institute, the conduct of courses and the qualifications required by candidates to be eligible to follow them, shall be laid down in the Statute.

Viability of the Project

The viability of the project would depend on whether the initiative manages to attract an adequate number of students to justify the commitment. The core activity of the Institute will be the basic course leading to the Magister Juris degree or equivalent that would be of one year full time study from October to June and that it will be repeated every year.

It is considered that an initial intake of between twenty and thirty students would be adequate to make the course viable.
This exercise would be motivated and guided by the essential elements of democracy and the basic rules of good governance.
Intake

The Institute is expressly meant to provide for an intake of students from various countries with different socio-economic, cultural, religious and political orientation and also that have different legal systems and have attained varying levels of democratic development. The aim is to attain a high degree of cross fertilisation of ideas amongst students coming from widely different and sometimes contrasting backgrounds, within the context of an ongoing north-south dialogue.

An exercise that would be motivated and guided by the essential elements of democracy and the basic rules of good governance. Students researching these values, during a course in close personal contact with other students having different convictions and brought up under different constitutional regimes and trained under different legal orders, stand to be greatly enriched when furthering their studies.

The pursuit of the basic principles that underpin the fundamental right to good administration to which citizens are entitled, irrespective of the level of democratic development that a country has achieved, should be the common goal of all governments. Students successfully completing the course will undoubtedly be a great asset to their country of origin.
Teaching at IOLI will be undertaken by the resident faculty consisting of a director and staff, complimented by a number of visiting fellows who would lecture on the latest developments in their area of expertise.
Resident Faculty

Teaching at IOLI will be undertaken by the resident faculty consisting of a director and staff, complimented by a number of visiting fellows who would lecture on the latest developments in their area of expertise.

Agreements could be concluded with Mediterranean Universities located in the Member States of the AOM so that they could provide lecturers who can lecture on Mediterranean Ombudsman legislation, comparative legislation on fundamental human rights, structures and powers of the national public administration as well as the relationship of the national ombudsman with their respective national institutions (eg. Parliament, Government, Public Administration, Courts, Constitutional Authorities and others).
The initial target is to enrol one student from each AOM member country.
Expenditure

The intention is to host in Malta students mainly from the Mediterranean region and elsewhere. The students will be expected to meet the following expenses:

a) travel to and from their country of origin;
b) tuition and examination fees payable to this institution;
c) lodging expenses; and
d) sustenance expenses.

The initial target is to enrol one student from each AOM member country.

Other expenditure

Other expenditure will have to cover:

a) remuneration to local lecturers;
b) expenses for examinations; and
c) administrative expenses.

Provision has also to be made to provide lodging facilities to students throughout the course.
It is proposed to realise the project in collaboration with a strategic partner/s.
Source of revenue

It is proposed to realise the project in collaboration with a strategic partner/s. This could be a country that has a direct interest in promoting and strengthening the Ombudsman institution in developing countries as an effective instrument to ensure a good public administration in the observance of fundamental human rights. Financial backing could also be sought from international institutions and agencies that have these objectives within their remit. In this respect the patronage of the AOM, the Government of Malta and the University of Malta could prove to be very effective and fruitful.

Broadly speaking it is proposed that the capital expenditure required to set up the Institute, including the provision of suitable premises and adequate teaching facilities would be provided for by the Government of Malta and/or the strategic partner/s. The Institute should then provide for recurrent expenditure through its own resources to cover administrative expenses and to encourage and promote the participation of students in the courses.
Crucial to the success of the project is the setting up of scholarship schemes intended to facilitate the enrolment of suitably qualified candidates as students in the course.
Scholarship and Funding

Crucial to the success of the project is the setting up of scholarship schemes intended to facilitate the enrolment of suitably qualified candidates as students in the course. The expenses incurred by students would have to be quantified so that the amount of money needed for the scholarship can be established.

Scholarships would fund the expenses of some approved students in whole or in part, preference being given to deserving candidates coming from developing countries. AOM members will be expected to encourage their respective governments to sponsor in whole or in part at least one student from their country. Efforts will be made to establish a scholarship fund to be administered by the governing board that will seek to attract funding from various sources interested in the objectives of the project.

The promoters understand that funding is the major hurdle for the realisation of such a project. It is essential that basic concerns in this respect need to be fully addressed before the project is launched. It is their belief that the AOM should play a key role in the setting up of an Institute with the specific aim of training experts in Ombudsman legislation in the Mediterranean region and elsewhere. The promoters deem it proper to request from members of the AOM an expression of interest in the project and their commitment that they would attempt to convince their respective governments to underwrite one scholarship for a suitable candidate from their country to attend the course.
This project will help promote a culture of transparency and accountability in the public administration, and respect for the principles governing good governance, of combatting corruption and strengthening safeguards against violations of fundamental human rights.
Conclusion

The Parliamentary Ombudsman of Malta strongly believes that such a project would be of great benefit to the Mediterranean region. It will help promote a culture of transparency and accountability in the public administration, and respect for the principles governing good governance, of combatting corruption and strengthening safeguards against violations of fundamental human rights.

The project can only be fruitfully realised through cooperation and collaboration among a number of key players having a mission in this field. The AOM has a vital role to play in bringing such a project to fruition. Your reaction will be greatly appreciated and your comments and suggestions carefully studied. The realisation of such a project depends on your active support.