

[PRESIDENTIAL DECREE NO. 1607, December 10, 1978]

REVISING PRESIDENTIAL DECREE NO. 1487 CREATING THE OFFICE OF THE OMBUDSMAN, TO BE KNOWN AS TANODBAYAN.

To give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency in the government service, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me under the Constitution, hereby order and decree as follows:

SECTION 1. *Short Title.* – This Decree may be cited as the Tanodbayan Decree.

SEC. 2. *Establishment of Office.* – An independent office of the Ombudsman, to be called the Tanodbayan, is hereby established. The Tanodbayan shall have two Deputies for Luzon, one for the Visayas and one for Mindanao.

SEC. 3. *Appointment.* – The President shall appoint the Tanodbayan and his Deputies.

SEC. 4. *Qualification.* – The Tanodbayan and his Deputies shall not member of the bar, well equipped to analyze problems of law, administration, and public policy, and shall not have been actively involved in partisan affairs.

SEC. 5. *Disqualification.* – The Tanodbayan and his Deputies shall not, during their tenure in office, engage in the practice of any profession or in the management of any business, or be financially interested directly or indirectly in any contract with or in any franchise or privilege and granted instrumentality thereof including government-owned or controlled corporations.

SEC. 6. – *Term of Office.* – (a) The Tanodbayan and his Deputies shall serve for a term of seven years without reappointment unless removed by the President upon his determination that the Tanodbayan or any of his Deputies has become incapacitated or has been guilty of neglect of duty, or misconduct.

(b) If the Office of the tanodbayan become vacant for any cause, the Senior Deputy Tanodbayan shall serve as Acting Tanodbayan until the Tanodbayan shall have been appointed for a full term.

SEC. 7. *Salary.* – Unless otherwise provided law, the Tanodbayan and each Deputy Tanodbayan shall receive an annual salary of sixty thousand pesos and fifty thousand pesos, respectively, which shall not be diminished during their continuance in office.

SEC. 8. *Organization of Office.* – (a) The Tanodbayan may select, appoint, and compensate in accordance with the appropriation, such assistants and employees for the national and local offices thereof as he may deem necessary to discharge his responsibilities under this Decree;

(b) The Tanodbayan shall designate one of his Deputies to be the Senior Deputy Tanodbayan, with authority to act in his stead when he himself is disabled or protractedly absent;

(c) The Tanodbayan may delegate to other members of his staff any of his authority or duties under this Decree recommendations to administrative agencies or reports to the President or the National Assembly.

SEC. 9. Definitions. – As used in this Decree, the term

(a) “Administrative agency” means any department or other governmental unit including any government-owned or controlled corporation, any official, or any employee acting or purporting to act by reason of connection with the government but it does not include (1) any court or judge, or appurtenant judicial staff; (2) the members, committee or staffs of the National Assembly except members thereof performing executive functions; (3) the President or his personal staff; and (4) the members of the Constitutional Commissions and their personal staffs.

(b) “Administrative act” refers to any action including decisions, omissions, recommendations, practices, or procedures of an administrative agency.

(c) “Failure of justice” refers to the defeat of a particular right, or the failure or reparation for a particular wrong, from the lack or inadequacy of a legal remedy for the enforcement of the one or the redress of the other.

SEC. 10. Powers. – The Tanodbayan shall have the following powers:

- a. He may investigate, on complaint by any person or his own motion or initiative, any administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;
- b. He shall prescribe the methods by which complaints are to be made, received, and acted upon; he may determine the scope and manner of investigations to be made; and, subject to the requirements of this Decree, he may determine the form, frequency, and distribution of his conclusions and recommendations;
- c. He may request and shall be given by each administrative agency the assistance and information he deems necessary to the discharge of his responsibilities; he may examine the records and documents of all administrative agencies; and he may enter and inspect premises within any administrative agency’s control, provided, however, that where the President in writing certifies that such information, examination or inspection might prejudice the national interest, the Tanodbayan shall desist. All information so obtained shall be confidential, unless the President, in the interest of public service, decides otherwise;
- d. He may issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence the Tanodbayan deems relevant to a matter under his inquiry;
- e. He may undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act; if he believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies.

SEC. 11. *Matters Appropriate for Investigation.* – (a) In selecting matters for his attention, the Tanodbayan should address himself particularly to an administrative act that might be

1. contrary to law or regulation;
2. unreasonable, unfair, oppressive, or inconsistent with the general course of an administrative agency's functioning;
3. mistaken in law arbitrary in ascertainties of facts;
4. improper in motivation or based on irrelevant considerations;
5. unclear or inadequately explained when reasons should have been revealed;
6. inefficiently performed; or
7. otherwise objectionable;

(b) The Tanodbayan may concern himself also with strengthening procedures and practices which lessen the risk of occurrence of any objectionable administrative acts.

SEC. 12. *Action on Complaints.* – (a) The Tanodbayan may receive a complaint from any source concerning an administrative act. At no expense to the complainant, he shall conduct a suitable investigation into the things complained of unless he believes that

1. the complainant has available to him another remedy or channel of complaint which he could reasonably be expected to use;
2. the grievance pertains to a matter outside the Tanodbayan's power;
3. the complainant's interest is insufficiently related to the subject matter;
4. the complaint is trivial, frivolous, vexatious, or not made in good faith;
5. other complaints are more worthy of attention;
6. the Tanodbayan's resources are insufficient for adequate investigation; or
7. the complaint has been too long delayed to justify present examination of its merits.

(b) After completing his consideration of a complaint, whether or not it has been investigated, the Tanodbayan shall suitably inform the complainant and, when appropriate, the administrative agency or agencies involved.

(c) A letter to the Tanodbayan from a person in a place of detention or in a hospital or other institution under the control of an administrative agency shall be immediately forwarded, unopened, to the Tanodbayan.

SEC. 13. *Consultation with Agency.* – Before announcing a conclusion or recommendation that criticizes an administrative agency or any person, the Tanodbayan shall consult with that agency or person.