

**Tracing public accountability in Serbia: the ombudsman
institutions in search of allies**

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Intended award: PhD

I, Georgios Monogioudis, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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Abstract

This thesis focuses on ombudsman institutions in order to explore public accountability in post-transition Serbia. Despite the revived interest of academics and policy-makers in the acknowledgement and assumption of responsibility by state authorities in new democracies, accountability remains a vague concept as a consequence of the prevalence of normativism and determinism in the relevant literature and a general lack of empirical research.

Public accountability is therefore operationalised in this research project as a process of successive phases in which accounting actors such as ombudsman institutions undertake the role of resolvers of disputes between citizens and state authorities. This thesis examines the involvement of ombudsman institutions in the above process by looking at two interrelated factors that impact upon their effectiveness as accounting actors: institutional design and networking. Based on document analysis of annual reports and interviews with various stakeholders in Serbia my research shows that accounting agencies such as ombudsman institutions compensate for their institutional deficiencies by using resources which they exchange while interacting with other state and social actors. In particular, their non-institutionalised interactions with civil society organisations and the media arguably have the potential to improve the efficiency of triadic dispute resolution through informality.

In short, this thesis looks at the institutional design of eleven ombudsman offices in Serbia at the national, regional and local levels and employs network theory in order to examine the intensity and content of their interactions with state and social accounting actors. By exploring the dynamics of these interactions, this thesis illuminates the context in which state authorities and public officials under scrutiny account for their decisions or actions.

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List of abbreviations

CIDA - Canadian International Development Agency

CoE - Council of Europe

EC - European Commission

ECRI - European Commission against Racism and Intolerance

EU - European Union

IAN - International Aid Network

ICTY – International Criminal Tribunal for the former Yugoslavia

LGBT - Lesbian, Gay, Bisexual, Transgender

MDRI - Mental Disability Rights International

NGO - Non-governmental organisation

OECD - Organisation for Economic Co-operation and Development

OHCHR - Office of the United Nations High Commissioner for Human Rights

OSCE - Organization for Security and Co-operation in Europe

PWDs - Persons with Disabilities

RNS - Radio Novi Sad

RTS - Radio-televizija Srbije

SFRY - Socialist Federal Republic of Yugoslavia

SIDA - Swedish International Development Cooperation Agency

UCL - University College London

UN - United Nations

UNDP - United Nations Development Programme

UNIFEM - United Nations Development Fund for Women

UNMIK - United Nations Interim Administration Mission in Kosovo

UNVFVTU - United Nations Voluntary Fund for Victims of Torture

UNODC - United Nations Office on Drugs and Crime

USAID - United States Agency for International Development

YUCOM - Yugoslav Lawyers Committee for Human Rights

Chapter 1

Responsibility by proxy? Insight into the relationship between ombudsman institutions and public accountability

1.1 Introduction

1.2 Overview of ombudsman institutions

1.2.1 Introduction to ombudsman institutions: mandate, jurisdiction, competences

1.2.2 Interpreting the worldwide proliferation of the ombudsman concept

1.2.3 The case of Serbian ombudsman institutions in the post-transition context

1.3 Overview of public accountability

1.3.1 Conceptualising public accountability in operational terms

1.3.2 Ombudsman institutions and accountability

1.3.3 Approaching horizontal and social accountability from a network perspective

1.4 Ombudsman institutions as accounting actors: the concept of institutional effectiveness

1.5 Identifying gaps in the literature

1.6 Structure of the thesis

1.1. Introduction

Accountability, the acknowledgment and assumption of responsibility for a decision or action, is not a new concept in political theory and constitutional law. However, the increasing usage of the term in public discourse in recent decades indicates a revived interest from political scientists and policy-makers in its actual content and impact on politics. The reasons explaining this trend lie not only in the positive connotations of the concept (Bovens 2006: 5) and its assumed linkage to democratic governance (Rhodes 1997: 49-50; Mulgan 2000: 555; Jayal 2008: 105), but also in the observation that the conduct of free and fair elections in new democracies is an inadequate indicator of accountability (O'Donnell 1998: 113). More precisely, political scientists have long focused on the institutionalised channel of elections through which citizens can periodically hold those in power accountable; however

the uneasy democratisation process in several post-authoritarian states worldwide, as well as the endemic problems of maladministration, corruption and violation of rights in allegedly consolidated democracies, underlines the need for reconsideration of accountability in both theoretical and empirical terms. In short, public accountability faces various challenges in old and new democratic regimes, but the unique post-transition experience of the latter has shifted academic attention from the formation of governments to processes of governing.

This observation is particularly relevant to Serbia, a country with a unique trajectory of regime transformation compared with the majority of post-communist states in Europe. More precisely, instead of gradually transforming into a liberal democracy with a free market economy, in the 1990s Serbia engaged in a series of unsuccessful wars in an attempt to prevent the dissolution of Yugoslavia. The persistence of Milošević's nationalist authoritarian regime resulted in Serbia's democratic transition being delayed until 2000, followed by a decade of political turbulence. Since then, the democratisation of Serbia has gone hand in hand with EU approximation, yet the legacies of the past coexist with the malfunctions of the present. In terms of accountability, Serbia's Europeanisation translates not only into acknowledgment and assumption of responsibility for what happened in the Yugoslav Wars of the 1990s (*Vergangenheitsbewältigung*), but also into the establishment of state mechanisms and the promotion of civic culture as prerequisites for the country's potential future EU membership. Hence, tracing public accountability in Serbia is closely related to post-transition institution building in the context of Europeanisation.

Overall, the increasing number of references to accountability in various debates in public discourse arguably explains the polysemy of a concept that has recently been used interchangeably with transparency, answerability, responsibility, oversight, exposure or punishment (e.g. O'Loughlin 1990; Schedler, Diamond & Plattner eds. 1999; Mulgan 2000; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Sperling 2009). In spite of the conceptual ambiguity that characterises the term, there is wide agreement in the current literature that public accountability is multi-faceted and involves – apart from the classic pairing of citizens and government – a series of state and social actors, ranging from state accounting institutions to civic associations and NGOs or the media (e.g. O'Donnell 1998; Schedler, Diamond & Plattner eds. 1999; Kenney 2003; Mulgan 2003; Dodson & Jackson 2004; Schmitter 2004; Bovens 2006; Peruzzotti & Smulovitz 2006a; Michels & Meijer 2008;

Pegram 2008a). According to the relevant literature, ombudsman institutions¹ in particular are typical examples of state accounting actors.

This thesis examines the impact of ombudsman institutions on potential networks of public accountability in Serbia, a latecomer to transition among East-European states as a consequence of the Yugoslav Wars and the nationalist authoritarianism of the 1990s. Accountability is conceptualised in this research project in operational terms, namely as a process of successive phases (investigation, provision of information and justification, imposition of sanctions), whereas ombudsman institutions are identified as potential accounting actors due to their formally assigned right to monitor state authorities or public officials through investigation processes, to make recommendations and publish reports or eventually impose sanctions, if the decisions or actions of the accountable party violate laws or defy the principles of good governance (e.g. O'Donnell 1998; Schedler, Diamond & Plattner eds. 1999; Mainwaring 2003; Mulgan 2003; Schmitter 2004; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Diamond 2008). From the perspective of triadic dispute resolution (see Shapiro & Stone Sweet 2002), ombudsman institutions undertake the role of dispute resolvers between citizens who complain and state authorities or public officials under scrutiny.

In practice though, empirical research in Latin America has shown that various factors attenuate the involvement of ombudsman institutions in the above process of public accountability, such as lack of financial resources, dependence on the executive or marginalisation within the state apparatus (e.g. Dodson & Jackson 2004; Ugglá 2004; Pegram 2008a/2008b). For this reason, as part of this research project I develop an operative framework of effectiveness indicators that correspond to the aforementioned phases of processual accountability in an attempt to examine the impact of ombudsman institutions on potential networks of accounting actors. These indicators shed light on two factors that arguably affect the performance of ombudsman institutions as accounting actors: institutional design and networking with state and social actors. In short, my research examines the impact of a formal aspect such as institutional design on ombudsman institutions, and argues through

¹ The original name of the institution (“ombudsman”) is increasingly replaced nowadays by the gender neutral “ombudsperson”, or the politically correct “ombudswoman” whenever a female is at the head of office. However, some scholars argue that the original term in Swedish does not exclusively refer to male gender but to a “person” (Vangansuren 2002: 27; Pegram 2008b: 3; Carl 2012: 206). Without ignoring the fact that several ombudsman offices in Serbia are headed by women, in this thesis I use the original name of the institution in singular (“ombudsman”) and plural (“ombudsmen”) for reasons of simplicity and consistency.

empirical evidence for the necessity of networking with other state and social accounting actors as an alternative which compensates for the deficiencies of institutional design.

Overall, this research project derives from my conviction that the role of ombudsman institutions as accounting actors in post-communist states, and particularly in the successor states of former Yugoslavia, has not been yet adequately examined and assessed, as the limited number of relevant studies indicates. The field is arguably underresearched as a consequence of the dominance of deterministic approaches in the existing literature, approaches which foresee a positive correlation between the establishment of ombudsman institutions and the reinforcement of public accountability. The implicit normativism of these approaches derives from the conceptual ambiguity of public accountability and the absence of original empirical research in this field. Apart from being normative and deterministic, the existing literature often analyses only the formal aspect of institutional design, neglecting potentially crucial interactions between ombudsman institutions and other actors. Inspired by O'Donnell's argument that, "effective [...] accountability is not the product of isolated agencies but of networks of agencies [...] committed to such accountability" (1999: 39), this thesis examines the role of Serbian ombudsman institutions as accounting actors by focusing on their institutionalised and non-institutionalised interactions with other accounting actors in the state apparatus and society. In particular, networking with social actors such as civil society organisations and the media increases the degree of informality in triadic dispute resolution, compensating through enriched resources for the intrinsic deficiencies of institutional design that characterise dispute resolvers like ombudsman institutions.

Hence, based on the aforementioned operational conceptualisation of public accountability in this thesis as a process of successive phases (investigation, provision of information and justification, imposition of sanctions) according to which, "A is accountable to B when A is obliged to inform B about A's (past or future) actions and decisions, to justify them, and to suffer punishment of eventual misconduct" (Schedler 1999a: 17), in this thesis I explore the involvement of ombudsman institutions as accounting actors in each individual phase of this process under the lens of institutional design and networking. More precisely, through a combination of qualitative research methods such as in-depth semi-standardised interviews and secondary analysis of annual reports and legislation, I examine the intensity and content of interactions between ombudsman institutions and other state accounting actors (e.g. independent oversight bodies) and social accounting actors (e.g. civil society organisations and the media) in institutionalised and non-institutionalised policy networks of public

accountability. Overall, the aim of this thesis is to provide a better understanding of the role of accounting actors in investigating, exposing and punishing governmental wrongdoing, an understanding which is in turn a prerequisite for examining the implicit assumption of the relevant literature that the systematic exchange of resources on the grounds of a coordinated strategy has the potential to empower networking actors, thereby increasing the chances of accountability on behalf of state authorities and public officials (e.g. O'Donnell 1999; Peruzzotti & Smulovitz eds. 2006; Diamond 2008). The inclusion of one national, one regional and nine local ombudsman offices² in my scope of analysis permits comparisons regarding the factors of institutional design and networking which constitute the aforementioned operative framework.

In conclusion, the introductory chapter of this thesis discusses the relevance of this research project to political science, and in particular to the field of post-communist studies, through a literature review which aims to summarise and evaluate the findings of previously conducted research, identify gaps and provide context for understanding the method and theoretical approach employed in this thesis (Murray 2006: 108-121). Before this, however, I provide an overview of ombudsman institutions by briefly presenting their mandate, jurisdiction and competences, explaining the reasons and patterns behind their proliferation around the world and arguing for the relevance of the Serbian offices in the East-European context. Next, I present various approaches to the conceptualisation of public accountability and look at the involvement of ombudsman institutions from a network analysis angle. Finally, I discuss and operationalise the concept of institutional effectiveness in order to assess ombudsman institutions as accounting actors through indicators which are discussed in more detail in the second chapter of this thesis.

² For reasons of compatibility with the relevant literature, I use the terms “national”, “regional” and “local” in this thesis to distinguish between ombudsman offices at different levels of government.

1.2 Overview of ombudsman institutions

1.2.1 Introduction to ombudsman institutions: mandate, jurisdiction, competences

The term “ombudsman” derives from Swedish³ and refers to a state institution⁴ which receives complaints against state authorities and public officials from aggrieved citizens, investigates the corresponding cases and makes recommendations to remedy the complaints (Frank 1970: 467). Ombudsman institutions differ from courts in that they have limited coercive powers and conceive dispute resolution in terms of arbitration and mediation (e.g. Friedmann 1977; Gadlin 2000; Vangansuren 2002; Ambrož 2005; Christopoulos & Hormovitis eds. 2005; Pegram 2008b; Van Roosbroek & Van de Walle 2008; Pegram 2010); yet in some countries (e.g. Sweden) they have the right to take action against an authority or official in court or before a disciplinary body (Modeen 2000: 317).

Proceedings are initiated when a person or group of people submits a complaint to an ombudsman office by phone, post or email. Complaints refer either to cases of violation of law or maladministration (i.e. unfair policy, rudeness, unreasonableness or inefficiency) on behalf of state authorities (Frank 1970: 478). Complainants are not charged for making complaints. The ombudsman proceeds with investigation, provided that the complaint refers to a branch of public administration under the office’s jurisdiction. Jurisdiction varies from one country to another, but generally covers most sectors of public administration, including ministries and local government authorities. In some cases, ombudsman offices also have the right to monitor private legal entities, as long as the latter have public authority (Kucsko-Stadlmayer 2008a: 22-23). In most countries the ombudsman has no right to investigate courts or other bodies of the judiciary, intelligence agencies, armed forces or the police (Prevezanou 2000: 37-38). However, the jurisdiction of certain East-European ombudsman

³ The name of the first ombudsman office worldwide, the Swedish *justitieombudsmannen*, derives from the Old Norse term *umbob*, literally translated as “commission man” (Oxford English Dictionary, 2011. Ombudsman. <http://www.oed.com/view/Entry/131181?redirectedFrom=ombudsman#eid> [Accessed 01 November 2011]) as well as “agent”, “proxy”, “deputy” or “authorised representative” in modern Swedish (Gregory & Giddings 2000: 2).

⁴ During the second half of the twentieth century, the ombudsman concept grew in popularity not only in the public sector (e.g. universities) but also in the private sector (e.g. newspapers, banks), leading to the establishment of so called “organisational ombudsmen” as a type distinct from parliamentary or legislative ombudsmen (Carl 2012: 208). In this thesis, however, the term “ombudsman” refers exclusively to state institutions.

offices (e.g. Bosnia-Herzegovina, Georgia, Montenegro, Slovakia, Slovenia) extends to partial control of the judiciary through intervention in court proceedings, for instance in cases of “undue delay” and “evident abuse of authority” (Kucsko-Stadlmayer 2008a: 27).

During the investigation process, administrative bodies have a duty of disclosure, meaning that they must provide any relevant information to ombudsman institutions, enabling access to public documents among other things (Kucsko-Stadlmayer 2008a: 40). Apart from the right to investigate and inspect, ombudsman institutions have the authority to make recommendations and publish reports. Recommendations aim at improving existing laws and regulations and altering organisational structures (Van Roosbroek & Van de Walle 2008: 288), while reports can be either annual or special and are meant to inform the parliament and citizens about the activities of the offices and to raise public awareness regarding issues of good governance and human rights (Kucsko-Stadlmayer 2008a: 48-49). Given that ombudsman institutions usually have no authority to impose sanctions, some scholars argue that public exposure of a case of misconduct potentially works as an alternative, indirect sanction (Hansen 1972: 61; Peruzzotti & Smulovitz eds. 2006a: 11). The coercive or enforcement powers of ombudsman institutions are discussed in more detail among other aspects of institutional design in the second and third chapters of this thesis.

1.2.2 Interpreting the worldwide proliferation of the ombudsman concept

A historical overview of the proliferation of the ombudsman concept around the world is crucial for understanding the main arguments for the establishment of these offices as well as the various historical, political and social factors that have contributed to the emergence of different types of ombudsman. The first ombudsman institution was established in Sweden in 1809 as a parliamentary office with the aim of ensuring the implementation of laws and regulations and prosecuting public officials who disregarded their duties. Interestingly, the king himself, his officers and the courts were not excluded from oversight by the office (Stern 2008e: 410-411). For more than a century, the ombudsman institution remained a Swedish peculiarity. In 1920, though, Finland followed Sweden’s example and established the only pre-World War II ombudsman institution (Frank 1970: 469). The reasons for this institutional diffusion can be traced back to the time when Finland was an integral part of the Swedish Empire. More precisely, the Finnish ombudsman was strongly influenced by the Swedish

Chancellor of Justice which was in charge of monitoring the courts and state authorities in Finland throughout the eighteenth century (Stern 2008b: 186). In conclusion, the legal and administrative system shared by Sweden and Finland facilitated transplantation of the ombudsman institution beyond Swedish territory.

After the end of World War II, the ombudsman notion spread gradually across Scandinavia through the establishment of offices in Denmark (1955) and Norway (1962) (Kucsko-Stadlmayer 2008b: 449-454). The initially regional nature of the expansion suggests that the comparable political and administrative background of these states accelerated the process of institutional diffusion, as in the case of Finland. In short, the ombudsman concept remained firmly attached to its Nordic background in the early post-war period. However, in the 1960s the first ombudsman offices were established in countries of the British Commonwealth: New Zealand (1962), Guyana (1966) and finally the United Kingdom⁵ (1967), transplanting the ombudsman notion to states with significantly different legal traditions and administrative structures. What does this gradual dispersion of the institution suggest?

Several approaches in the relevant literature attempt to provide reasons for the growth in popularity of ombudsman institutions outside Scandinavia during the first post-war decades – a challenging task involving the implementation of generic interpretations across a historically and politically diverse range of countries. System theory, for instance, provides the context for such an interpretation (Fuchs 2002). More precisely, the institutional position of ombudsman offices as agents between citizens and the public administration and their potential role as a conveyor belt carrying citizens' demands and interests to the state, is interpreted by some authors as an alternative manner of public representation that fulfils a crucial input-function for democratic political systems (Hopp 1993: 56-58; Würtenberger & Schenke 1999: 105-106). In other words, the increasing popularity of ombudsman institutions in the post-war era is attributed to democratic regimes' need for additional channels of public representation. Yet the approach cannot avoid criticism. Apart from the implicit conviction that ombudsman institutions are inherently beneficial to public representation, the structural functionalist approach does not provide a convincing explanation of why an additional mechanism of representation was needed at a time when other major actors, such as political

⁵ Frank implies that the proliferation of the ombudsman institution across the British Commonwealth is an example of institutional imitation, given that newer offices, such as the Parliamentary and Health Service Ombudsman in the United Kingdom, were strongly influenced by their predecessors (1970: 476). Gregory and Giddings agree with Frank in arguing that the pioneering ombudsman office in New Zealand paved the way for numerous ombudsman schemes elsewhere (2000: 7).

parties and trade unions, were actively involved in the fulfillment of the aforementioned input function in post-war democratic political systems.

Another widely discussed interpretation in the literature ascribes the rapid proliferation of ombudsman offices to the post-war enlargement of the state and public bureaucracy (Frank 1970; Bennett 1997; Stieber 2000; Abraham 2008a, b & c; Van Roosbroek & Van de Walle 2008). Indeed, the reconstruction of Europe after World War II was based to a great extent upon the expanding public sector. The emergence of the welfare state in particular increased the interventionist role of the state in several aspects of public and private life, thereby multiplying the opportunities for maladministration and rights violations (Hansen 1972: 41-52; Makridimitris 1996: 18). As a consequence, some scholars view the post-war expansion of ombudsman institutions as an expression of states' interest in additional mechanisms of control, oversight and accountability, in view of a dynamically growing public bureaucracy. In spite of the indisputable growth in the role of the state in post-war era, several exceptional cases contest the argument that ombudsman institutions grew in popularity as a response to growing bureaucracy. For instance, several West-European ombudsman offices were established long after post-war reconstruction and the emergence of the welfare state – e.g. Austria (1977), the Netherlands (1984), Iceland (1988), Belgium (1995), Luxembourg (2004) (Kucsko-Stadlmayer 2008b: 449-454) – while other developed countries with advanced public bureaucracy, such as Germany⁶ and Italy, chose not to establish national ombudsman institutions but regional offices and petitions committees. Hence, Bennett criticises the argument that democracies introduce instruments of accountability like the ombudsman once the state reaches a certain critical size, as several other factors may contribute to policy decisions of this kind (1997: 215-216). In any case, this approach argues in short that the more complex a bureaucratic apparatus is, the more likely it is that a state would establish such mechanisms of control and accountability.

⁶ Germany, along with Italy, is one of only two large European countries which has not established a national ombudsman institution, for two main reasons: on the one hand, a 1975 constitutional amendment reformed the legal framework for the right to petition and secured a special status for the Bundestag's petitions committee (Hopp 1993: 44), justifying von Beyme's argument that "the Bundestag is the strongest parliament in Europe" (2000: 32). On the other hand, the declared opposition of local elites (e.g. presidents of regional parliaments and local politicians) towards the introduction of a federal ombudsman office is indicative of their unwillingness to surrender the Länder's rights to the Bund (Franke 1999: 56; Mpesila-Makridi 2004: 141-142). In conclusion, the German example clearly shows that factors such as the administrative structure of a country (e.g. federal) or opposing political elites can postpone or even block the establishment of new institutions.

A further interpretation exploring the proliferation of ombudsman institutions derives from the tradition of “diffusion analysis”. According to this approach, processes of transnational communication and learning enable the proliferation of a policy or institution across several countries (Bennett 1997: 214). Diffusion can take place through 1) emulation (i.e. borrowing ideas and adapting policies to new contexts), 2) harmonisation (e.g. EU-conditionality), 3) elite networking, and 4) penetration (i.e. imposition of institutions by international actors) (Stone 2000: 49). All these processes are increasingly important in a globalised world in which states are directly or indirectly interrelated; thus, the aforementioned proliferation of ombudsman institutions across Nordic and Commonwealth states arguably derives from the frequent and dynamic interactions and constructive communication between them. The role of elites shall not be underestimated in this respect. Donald C. Rowat, an ombudsman specialist, argues that

there is no doubt that some of the ombudsmen themselves have been very influential in bringing about the further spread of the institution, particularly Professor Hurwitz of Denmark in the early years, and then Judge Bexelius of Sweden and Sir Guy Powles of New Zealand, through their writing and speech-making foreign tours. All of them have had a great faith in the plan’s efficacy and general applicability (Bennett 1997: 226).

Similarly, Stone analyses emulation as a process of international policy-transfer and argues that institutions are transplanted from one place to another based on the belief of decision-making elites that the import of a policy or institution will be similarly successful (2000: 50). To sum up, the diffusion approach is a convincing interpretation of the proliferation of ombudsmen in an era of intensifying globalisation processes, covering even those exceptional cases where ombudsman offices were literally imposed by the international community, such as Bosnia-Herzegovina (Dayton Peace Agreement 1995) and Kosovo (UNMIK Regulation 2000/38) (Reif 2004: 258). In conclusion, three approaches concerning the post-war proliferation of ombudsman institutions from Scandinavia to Western Europe and then to the rest of the developed world prevail in the relevant literature; the first implies the importance of diversification regarding traditional mechanisms of representation, the second underlines the necessity for new accountability agencies in view of a growing public sector and bureaucracy while the third focuses on international policy transfer as a result of the increasing influence that states have over their neighbours with the passage of time.

Certainly, these interpretations are not mutually exclusive as they may refer to a wide range of countries with their own historical, political and administrative particularities. However,

there is recent evidence that the third approach of diffusion is gaining ground in an increasingly globalised world. The proliferation of ombudsman institutions in the 1970s, which coincided with the first democratic transitions of the so called “third democratisation wave”, reinforces this argument. More precisely, Portugal and Spain were the first formerly authoritarian states to establish ombudsman offices, and did so soon after the change of regime, in 1976 and 1981 respectively. In the following two decades, several countries in Latin America, South-East Asia and Eastern Europe which had long been under authoritarian rule imitated the “Iberian example” and established their own offices (Ugglä 2004: 424). The rapid proliferation of ombudsman institutions in the last quarter of the twentieth century is clearly illustrated in the following table, summarising the expansion of ombudsman institutions across Europe during the last two centuries:

Table 1. Proliferation of ombudsman institutions across Europe

Decade	Countries and year of establishment of national ombudsman offices
1800s	Sweden (1809)
1920s	Finland (1920)
1950s	Denmark (1955)
1960s	Norway (1963), United Kingdom (1967)
1970s	France (1973), Liechtenstein (1976), Portugal (1976), Austria (1977)
1980s	Spain (1981), Netherlands (1982), Ireland (1984), Poland (1987), Iceland (1988)
1990s	EU (1993), Croatia (1994), Belgium (1995), Greece (1995), Hungary (1995), Latvia (1995), Lithuania (1995), Malta (1995), Slovenia (1995), Bosnia-Herzegovina (1996), Andorra (1997), Macedonia (1997), Romania (1997), Ukraine (1997), Moldova (1998), Russia (1998), Estonia (1999)
2000s	Albania (2000), Czech Republic (2000), Kosovo ⁷ (2000), Slovakia (2002), Montenegro (2003), Luxembourg (2004), Bulgaria (2005), Serbia (2007)

Source: Kucsko-Stadlmeyer 2008b: 449-454⁸

⁷ Kosovo and Montenegro were part of the State Union of Serbia and Montenegro at the time the respective ombudsman offices were established.

What is striking about this chronology is the accelerated expansion of the institution across Europe during the last two decades. In addition, of 24 national ombudsman offices established since 1990, the vast majority (19 cases) were in post-communist countries. With the exception of Belarus (the only country in Eastern Europe without an ombudsman office⁹), it is reasonable to argue that the rapid proliferation of the institution in this part of Europe is linked to post-transition institution building. Undoubtedly, several domestic and international factors have an impact on the establishment of new institutions, however the simultaneity of ombudsman expansion suggests that the international mechanisms through which policies or institutions proliferate, such as convergence, socialisation, learning or conditionality (Morlino & Magen 2009: 27), should not be neglected. In other words, the reciprocal influences between East-European countries, in correlation with the implicit pressure of international organisations and EU-conditionality,¹⁰ are arguably factors which explain the increasing popularity of ombudsman institutions in Eastern Europe since 1990. Exceptions to the rule are Bosnia-Herzegovina and Kosovo, where ombudsman offices were literally imposed by the international community as part of post-conflict peace-building projects (Reif 2004: 258). Poland is a different case, as the only East-European country to establish an ombudsman office, the Commissioner for Citizens' Rights Protection, before the change of regime – three years beforehand, in 1987 (Stern 2008c: 342). Interestingly, after 1989 the office was not closed, but adjusted to the new political context in spite of criticism that it is a relic of the communist era (Elcock 1997: 362). In conclusion, the rapid proliferation of ombudsman institutions in Eastern Europe during the last two decades differs significantly from the

⁸ Germany, Italy and Switzerland are excluded from the table as they have no national ombudsman institution; nevertheless all three have established several regional ombudsman offices and petitions committees since the 1970s.

⁹ In spite of a longstanding debate about the introduction of the ombudsman institution in Belarus (Vangansuren 2002: 15), President Lukashenka sees no need to establish a human rights commissioner in the country, arguing that “these issues [of human rights] are concentrated at all levels of the authorities. We guarantee the right to life, to work, to earn money, and to nurture one’s family without any commissioner” Office for a Democratic Belarus – Brussels, 2008. Lukashenko Opposes Ombudsman In Belarus. <http://democraticbelarus.eu/node/4111> [Accessed 05 November 2011]

¹⁰ The EU-declaration from June 1993 (the so called “Copenhagen Criteria”) explicitly prescribes not the establishment of ombudsman institutions for EU-candidates, but rather respect for human rights. However, a fully functioning ombudsman office currently appears to be a prerequisite for EU membership according to the European Council decision (2008/213/EC) on the principles, priorities and conditions contained in the European Partnership with Serbia. Source: Access to European Union Law, 2008. 2008/213/EC: Council Decision of 18 February 2008 on the Principles, Priorities and Conditions Contained in the European Partnership with Serbia Including Kosovo as Defined by United Nations Security Council Resolution 1244 of 10 June 1999 and Repealing Decision 2006/56/EC

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:080:0046:01:EN:HTML> [Accessed 06 November 2011] Irrespective of the obvious correlation between the establishment of ombudsman institutions and Europeanisation, the first international organisations to be actively engaged in the promotion of ombudsman institutions in Eastern Europe were the OSCE and the CoE, as the example of Serbia indicates (Stern 2008d: 372).

equivalent post-war expansion across the Nordic and Commonwealth countries, due to the decisive role that processes such as liberalisation, democratisation and post-transition institution building play after regime change.

1.2.3 The case of Serbian ombudsman institutions in the post-transition context

The explicit emphasis on human rights of the first East-European ombudsman office, the Polish Commissioner for Citizens' Rights Protection, is a typical characteristic of ombudsman institutions in formerly authoritarian states which exemplify a new type, the hybrid human rights ombudsman. Indeed, the names of several other offices around the world clearly indicate their specialisation in the field of human rights protection¹¹ (e.g. Russia's High Commissioner for Human Rights, Hungary's Parliamentary Commissioner for Human Rights in Hungary, the Procurator for the Defense of Human Rights in El Salvador and the People's Defenders in Spain, Argentina, Columbia and Peru) (Reif 2004: 10). In other words, ombudsman institutions in formerly authoritarian states are often conceived in relation to the protection of human rights, while the combat of maladministration and corruption has been historically associated with the primary type of classical ombudsman¹² in older democracies (Gregory & Giddings 2000: 4). As a consequence, the relationship between ombudsman institutions and human rights protection is a widely discussed topic in the literature on post-transition states (Elcock 1997; Gregory & Giddings eds. 2000; Vangansuren 2002; Dodson & Jackson 2004; Reif 2004; Ugglá 2004; Vezjak 2007; Abraham 2008a, b & c; Pegram 2008a & b, 2010). Ugglá, for instance, argues in his study on Latin America that

these regimes have generally been characterised by a lack of accountability and responsiveness on the one hand, and the pervasiveness of graft and state abuse of citizens' rights on the other (2004: 424).

¹¹ Makridimitris criticises the naming of ombudsman offices in a manner which expresses a conflict between the state and citizens (e.g. "Defender of Citizens") by arguing that they undermine reconciliation between the two sides (1996: 74). A neutral exception to this rule is the case of the French "Médiateur de la République" (Gregory & Giddings 2000: 4).

¹² The term "classical ombudsman" refers to parliamentary offices with "soft powers" of investigation, recommendation and reporting, based on the example of the Danish institution (Kuesko-Stadlmayer 2008a: 44, 63; Carl 2012: 207). Paradoxically, the pioneer Swedish ombudsman is arguably excluded from this category due to its wide competence to initiate penal proceedings in the courts (Stern 2008e: 410-411).

As well as the legacies of authoritarian regimes, uneasy transitions to democracy, sometimes through military conflicts, have had a detrimental effect on human rights in several countries, such as former Yugoslavia, El Salvador and East Timor (Reif 2004: 253-287). In any case, the increasing popularity of hybrid ombudsman institutions in formerly authoritarian states indicates that democracy, human rights and government accountability are often considered to be a “package” by a considerable number of political elites and policy-makers.

Overall, the aforementioned proliferation of ombudsman offices since the 1970s has had a decisive impact upon the very nature of the institution as a consequence of the political, social and cultural particularities that emerged before and after transition in Latin America, Eastern Europe and elsewhere. For instance, the Latin America-experts Dodson and Jackson examined the interactions between ombudsman offices and other state accounting actors in El Salvador and Guatemala and concluded that pervasive corruption and politicisation of the judiciary have a detrimental effect upon public accountability in these countries (2004: 1). Similarly, Ugglá criticises the weak official respect for the rule of law and human rights in Latin America and pinpoints the challenges posed by formal and informal institutions which jeopardise attempts at institutional reform (2004: 424-426). Finally, in his research on Peru, Pegram underlines the systematic manipulation of the media by the executive in the 1990s which silenced critical voices and hindered the development of independent institutions (2008a: 64-65). In short, from an institutionalist perspective these examples from Latin America show that factors ranging from the legacies of the past to formal and informal institutions and finally to the decisions of individual actors impact upon the form and content of ombudsman offices in the context of post-transition institution building.

The findings of these studies of Latin America are also partly valid in the case of post-communist countries. More precisely, the legacies of the past are often intertwined with post-transition malfunctions, while in many cases old regime elites compete with new actors for the distribution of power and resources (Elster, Offe & Preuss 1998). However, the simultaneous political, social and financial transformation of post-communist states has greatly challenged attempts at post-transition institution building. Structural problems such as the weak rule of law, the deficient state of public accountability or frequent abuses of citizens’ rights by state authorities have often been exacerbated by widespread corruption and organised crime in devastated economies (Christopoulos 2005: 19) and ultimately complemented by weak civil society, manipulation of the media and a politically

disenchanted populace. These factors obviously create an adverse environment for establishing and promoting accounting mechanisms such as ombudsman institutions.

Yet a crucial feature of East-European regimes in transition is the influential role and involvement of external actors in these post-communist states. Most typically, the EU associates post-transition liberalisation and democratisation with Europeanisation. Overall, democracy scholars agree on the argument that democratisation is driven not only by internal but also by external factors (e.g. Pridham 2001; Pevehouse 2002; Dimitrova & Pridham 2004; McFaul 2004; Diamond 2008; Fink-Hafner & Hafner-Fink 2009). Morlino and Magen systematise various approaches and identify four distinct methods of external influence that draw on different theoretical traditions: democratic control, conditionality, socialisation and example¹³ (2009: 29-39). This typology attempts to conceptualise and interpret external influence on domestic change.

Even though elements of the above methods can coexist in individual cases, the recent EU enlargements in Central and Eastern Europe and the Balkans have been largely associated with democratisation by conditionality, a method that has been thoroughly designed and actively implemented by the EU in recent decades (Wichmann 2007: 27-30). Europeanisation is understood in this context from a rational choice perspective as the adaptation of domestic preferences, policies and practices to the EU system of governance, motivated by the ultimate goal of EU membership (Bache 2010: 3; Keil 2013: 344). In other words, it is an incentive-based agreement between the EU and potential candidates that demands compliance of the latter with EU rules as a prerequisite for them becoming member-states of the former (Epstein & Sedelmeier 2008: 796). Overall, the more credible the prospect of membership is, the more likely it is that the potential candidate will make efforts to adjust to EU demands (Bauer, Knill & Pitschel 2007: 410).

The above conceptualisation argues that rational calculation is the driving force that explains why states choose to Europeanise. Morlino and Magen explain that “all strategies of conditionality [...] follow an actor-based, rational bargaining logic of influence, emphasising

¹³ Democratic control as a method of external influence concerns the direct intervention of powerful state actors, regional organisations or global fora within a country in the name of democracy promotion, whereas conditionality refers to the gradual transformation of a state according to the directions of an external actor based on the latter's promise of respective rewards. On the other hand, socialisation describes the internationalisation of democratic norms, policies and institutions through the establishment and intensification of linkages between international fora and state actors, while the method of democratic example or demonstration conceptualises the transfer of new rules, institutions and policy choices through emulation of a successful external model (ibid.).

a utilitarian calculation where domestic decision constituencies are affected by the costs and benefits of compliance” (2009: 33). However, Serbia has long been perceived as an exception to this rule, as domestic elites were often sceptical and reluctant to respond to relevant European incentives and pressures, if not directly opposed to them (Subotić 2010: 597). In spite of the EU’s declared will to include Serbia in future enlargements as a central pillar of democracy, stability and security in the Western Balkans (Stahl 2013: 454), there is a series of reasons which explain this *Sonderfall* [exceptional case].

Serbia’s longstanding exclusion from European institutions is arguably associated with Serbia’s state-building objectives in the 1990s, as well as the actors that dominated public discourse before and after Serbia’s regime change in 2000. More precisely, the tumultuous 1990s were characterised by an atmosphere of increasing nationalist authoritarianism under Milošević that was expressed, among other ways, through personalised power, nationalist populism as public rhetoric, a polarised party system with strong right and left extremist potential, as well as fragmented, marginalised and suppressed voices of opposition. This exceptional political and social setting was complemented by Serbia’s unfinished state-building project. After an ultimately unsuccessful attempt to prevent Slovenia and Croatia declaring independence, Serbia intervened militarily in Croatia and Bosnia with the aim of protecting the Serbian population and enclosing them in a future Greater Serbian state. The process of Yugoslav dissolution was finally completed with the 1999 NATO bombing after Milošević had tried to uphold Serbian sovereignty over Kosovo through police and military repression (Zakošek 2008; Ramet 2011).

However, Serbia’s involvement in the Yugoslav Wars and the question of Kosovo’s sovereignty are not just another chapter in the series of traumatic events and controversial conflicts belonging to the turbulent history of the Balkans, but are core issues that still shape Serbia’s Europe trajectory today. More precisely, apart from the so-called Copenhagen criteria (e.g. democratic institutions, rule of law, respect for human rights, a functioning market economy) which candidate states are expected to meet in order to eventually become EU members, Serbia is additionally requested to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague by prosecuting persons responsible for serious violations of international humanitarian law in the Yugoslav Wars as well as contributing to a viable solution regarding Kosovo’s declaration of independence in 2008 (Radeljić 2013: 248-249). Both issues have turned into prerequisites for EU membership as they are correlated with good neighbourly relations for the purpose of EU integration. In spite

of longstanding reluctance to cooperate with the ICTY, Serbia eventually delivered results by extraditing war crimes suspects Radovan Karadžić and Ratko Mladić to The Hague in 2008 and 2011 respectively, whereas consecutive governments have failed so far to Europeanise the Kosovo issue, demonstrating the limitations of EU conditionality in areas which are politically and symbolically sensitive for potential candidates (Obradović-Wochnik & Wochnik 2012: 1160, 1176).

In particular, the Kosovo issue arguably reveals the complex pattern of Europeanisation in Serbia. Since the regime change in 2000, political elites have been dispersed across three distinct groups of actors that express varying perceptions of Europeanisation: the euro resisters, the instrumental promoters and the euro enthusiasts (Subotić 2010: 599). As a consequence of this polarised political setting, not only have Serbian elites disagreed on the EU agenda but they have also systematically manipulated controversial issues like Kosovo's declaration of independence in order to expand their influence over a politically-disenchanted but nationalist-prone populace (Keil 2013: 350; Stahl 2013: 464). Indeed, Serbia's reluctance to Europeanise goes hand in hand with widespread past denial regarding the country's guilt for what happened in the Yugoslav wars, as well as a populist national narrative of victimisation that distinguishes only between innocent "selves" and guilty "others" (Brusis 2009: 325; Subotić 2010: 608).

Observing the intensification of diplomatic relations and dialogue between Kosovo and Serbia in recent years, it is reasonable to question whether increasing interaction and communication indicate the gradual "normalisation" of Serbia through Europeanisation, as the EU has played a decisive role in the rapprochement of the two states. Since Boris Tadić's Democratic Party assumed power in the 2007 and 2008 parliamentary elections, a qualitative shift in Serbian politics has arguably taken place in terms of confronting the past and negotiating the future (Bastian 2010; Obradović-Wochnik & Wochnik 2012). Nevertheless, the reluctance to acknowledge the new status quo in Kosovo indicates not only the persistent delegitimisation of the European idea and the West in general in the eyes of certain political elites and of a significant part of the Serbian people (Subotić 2010: 597) but also a discursive denial of Kosovo's independence as a reverse condition of Jacoby's so called "Potemkin harmonisation". In other words, Serbian governments acknowledge in practice the new reality in Kosovo as a way of approaching Europe while simultaneously denying it in public discourse (Kostovicova 2014: 82-83). This strategy aims to satisfy both European officials and the Serbian public while avoiding politically risky decision making. Thus the complexity

of Kosovo's independence in the context of Europeanisation arguably indicates, among other things, a reluctance to embrace public accountability in contemporary Serbia.

Regarding ombudsman institutions, Serbia is arguably a special case within the group of post-transition countries in Europe, as from being a latecomer to the ombudsman concept, it turned into an enthusiast within less than a decade. More precisely, Serbia was the last country in Europe to establish a national ombudsman office (in 2007) in spite of a public debate on this dating back to the 1960s, as Jovičić's 1969 monograph¹⁴ indicates (Milkov 2000: 373). However, a variety of factors postponed the establishment of a Serbian ombudsman for nearly four decades. Milkov and Milosavljević argue that political decision-makers in communist Yugoslavia were sceptical due to their aversion to institutions of "bourgeois democracy", while the establishment of an ombudsman-like institution with the 1974 SFRY Constitution – the Social Attorney of Self-Management (*Savezni Društveni Pravobranilac Samoupravljanja*),¹⁵ was social self-management democracy's answer to the worldwide expansion of the ombudsman concept (Milkov 2000: 373; Milosavljević 2001: 10-11). The dissolution of communist Yugoslavia, Serbia's long involvement in the Yugoslav Wars and the political and cultural dominance of Milošević's regime in the 1990s posed new obstacles to the establishment of a Serbian ombudsman, yet even after the change of regime in 2000 it took seven years for the relevant law to be put into action and for political elites to reach an agreement on the appointment of the first ombudsman (Stern 2008d: 373).

In spite of this adverse historical and political background, Serbia welcomed ombudsman institutions and established several offices at the national, regional and local levels¹⁶ within a decade of Milošević's fall from power. There are various reasons for Serbia's transformation from a latecomer into an ombudsman enthusiast: on the one hand, old supporters of the institution among liberal academics and the political elites found themselves in an uncertain but increasingly open setting in which conditions were for the first time favourable for the

¹⁴ Jovičić, M., 1969. Ombudsman: čuvar zakonitosti i prava građana. Belgrade: Institut za uporedno pravo.

¹⁵ The Constitution of the Socialist Federal Republic of Yugoslavia, 1974. Chapter VI, Article 374. Belgrade: Dopolisna delavska univerza.

¹⁶ Apart from the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, several local offices were established in the 2000s in the municipalities of Bačka Topola, Bečej, the city of Belgrade, Grocka, Kragujevac, Kraljevo, Niš, Rakovica, Šabac, Smederevska Palanka, Subotica, Vračar, Voždovac and Zrenjanin. However, at the time of my fieldwork in Serbia (October 2010 - June 2011) some of these offices (e.g. Grocka and Rakovica) had ceased to exist after a few years of operation, as local councils had not renewed their mandate.

establishment of ombudsman offices as part of post-transition institution building.¹⁷ On the other hand, the active engagement of international organisations¹⁸ such as the OSCE, the CoE and the EU in the promotion of the ombudsman concept (Stern 2008d: 372), in correlation with the reciprocal influences between neighbouring countries as a consequence of regional networking (e.g. the “Eunomia Project”¹⁹) have had a decisive impact upon the establishment and operation of ombudsman institutions in Serbia. Nevertheless, communist legacies and post-communist challenges still define the political and social context in contemporary Serbia, ranging from the weak rule of law and deficient public accountability to corruption and maladministration. The frequent abuse of human rights as a consequence of these structural shortcomings led to the establishment of the Serbian ombudsman in 2007 (from now on, the national Protector of Citizens – “Zaštitnik građana”), as a hybrid or human rights ombudsman²⁰ – the typical model in post-authoritarian states. In conclusion, the belated establishment and proliferation of ombudsman institutions in Serbia is largely explained by the country’s unique post-communist trajectory. However, a series of internal and external actors, in particular academic elites and international organisations respectively, had a decisive impact upon the acceleration of this process in the decade following Milošević’s fall from power. The involvement in this process of international organisations in particular confirms Sperling’s argument that in an ever globalising world, transnational actions alter accountability relationships – “within states, between states and transnational institutions, and between those institutions and the people they affect” (2009: 3). In any case, the demand for accountability regarding both Serbia’s war past and its post-transition present would be arguably weaker had it not been for institution building in the context of Europeanisation.

¹⁷ The proliferation of ombudsman offices at a local level is based upon Article 126 of the Local Government Act 9/2002 which allows municipalities to establish a local Civil Protector (Ombudsman) (Dimitrijević 2005: 29).

¹⁸ The support of international organisations concerns not only ombudsman institutions but also other independent oversight bodies in the field of human rights protection. For example, in December 2011 the OSCE Mission to Serbia nominated the national Protector of Citizens, Saša Janković, the Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Šabić, and the Commissioner for Protection of Equality, Nevena Petrušić, as “People of the Year” for “protecting and advancing human rights, equality, government accountability and civic participation in the country”. OSCE, 2011. OSCE Mission announces 2011 “People of the Year” awards. <http://www.osce.org/serbia/86240> [Accessed 06 December 2012]

¹⁹ The so called “Eunomia Project” was launched in 2001 by the Greek government and the CoE General Directorate of Human Rights with the aim of supporting mediation institutions in South-East Europe through networking. In the following eight years, ombudsman offices across the region participated in various activities (e.g. seminars, bilateral visits) with the aim of building capacities and improving operations through the exchange of insights into shared problems and challenges. Synigoros tou Politi (Greek Ombudsman), 2011. http://www.synigoros.gr/eunomia/en_theprogramme.htm [Accessed 31 October 2011]

²⁰ The four deputies of the national ombudsman in Serbia are explicitly appointed for the protection of the rights of national minorities, children, persons with disabilities and persons deprived of liberties. Zaštitnik građana, 2011. Oblasti rada. <http://www.ombudsman.rs/index.php/lang-en/oblasti-rada> [Accessed 10 November 2011]

1.3 Overview of public accountability

1.3.1. Conceptualising public accountability in operational terms

The concept of accountability has rather a long history in English law, dating back to the thirteenth century (Seidman 2005: 393). However, the frequent usage of the term in academic and public discourse indicates the currently increasing interest in accountability. Bovens argues that “accountability is one of those golden concepts that no one can be against [...] because it conveys an image of transparency and trustworthiness” (2006: 5), while Jayal concludes that “it is brandished as the complete and final solution to all governance problems” (2008: 105), ranging from corruption to clientelism and capture. This loose usage of accountability in public discourse as well as the academic polyphony regarding its actual content has reduced the conceptual precision of the term (Mulgan 2000: 555). Hence, accountability is nowadays understood as a synonym of several – mostly positive – concepts, such as transparency, responsiveness, answerability, responsibility, oversight, monitoring, control, exposure or punishment (O’Loughlin 1990; Schedler, Diamond & Plattner eds. 1999; Mulgan 2000; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Sperling 2009). Bovens criticises the transformation of accountability into an icon, arguing that, “the concept has become less useful for analytical purposes, and today resembles a garbage can filled with good intentions, loosely defined concepts, and vague images of good governance” (2006: 7). In conclusion, the gradual idealisation of accountability by a considerable number of academics and policy-makers is arguably one reason for the widespread normativism and determinism of the literature on ombudsman institutions.

Even though elements of accountability can be traced in any social relationship between two or more actors, the aforementioned idealisation primarily concerns public accountability, the focal point of this thesis. Two factors determine its public nature; on the one hand, account is in principle open to the general public, meaning that the latter shall be informed about an actor’s conduct and the final judgement. On the other hand, public accountability is not necessarily restricted to public organisations but can extend to private bodies that deal with matters of public interest. In other words, the above term concerns accountability “in and

about the public domain” (ibid.: 11-12) in contrast to accountability in non-governmental (e.g. commercial or non-profit) sectors, which have no equivalent to freedom of information laws or to legislative scrutiny and its attendant publicity (Mulgan 2003: 148).

Democracy scholars like O’Donnell (1999; 2006) and Schmitter (2004) argue that the concept of public accountability cannot be disassociated from its democratic, republican and liberal origins. In particular, O’Donnell identifies three theoretical traditions, which in modern democracies are intertwined, and explores their impact on horizontal accountability, a subtype of public accountability that is analysed in more detail below in this chapter. In short, the democratic tradition is based upon the principle of rule by the people, the republican tradition stresses subjection of the state to the law and to devoted service to the public interest, while liberalism dictates the protection of citizens’ rights from the state (Kenney 2003: 68-70). Applying this to public accountability in democratic states, citizens can protect their rights by holding state authorities and public officials accountable for their decisions or actions, while the latter are obliged by law to respond and suffer punishment in case of eventual misconduct.

A prerequisite for the harmonious coexistence of these three traditions is rule of law. In other words, “all citizens are equally entitled to participate in the formation of collective decisions under the existing institutional framework, a democratic statement to which is added the republican injunction that no one, including those who govern, should be above the law, and the liberal caution that certain freedoms and guarantees should not be infringed” (O’Donnell 1999: 32-33). This is apparently an idealistic conceptualisation of liberal democracies rather than an empirical delineation of actual states; however, it greatly resembles the way democracy promotion has been conceived by governments, international organisations and a part of the academic community in recent decades (e.g. Bunce 2000; McFaul 2004; Chandler 2006; Mansfield & Pevehouse 2006; Presnall 2009; Fink-Hafner & Hafner-Fink 2009; Møller & Skaaning 2010). This thesis makes no exception to this observation, as post-transition institution building in post-communist states has been largely defined by such principles in the context of Europeanisation. Hence, the establishment and proliferation of Serbian ombudsman institutions as accounting actors cannot be disassociated from their liberal democratic background.

Without underestimating the fruitful argumentation of existing theoretical approaches, in this thesis I conceptualise public accountability in operational terms in order to examine

empirically the role of ombudsman institutions as accounting actors. More precisely, considering that the main weaknesses of the relevant literature are normativism and determinism as well as the scarcity of theory-driven and evidence-based research, I argue for the necessity of a processual conceptualisation of accountability which sheds light on the behaviour of both accounting and accountable parties in individual phases. In addition, I employ network theory with the aim of assessing empirically the involvement of ombudsman institutions in processes of public accountability in Serbia through exploring their interactions with other state and social accounting actors. Thus, based on this research project I argue that narrowing down accountability through operationalisation does not impoverish the concept but rather adopts a definition which allows for measurability, a crucial dimension for reconsidering public accountability in theoretical terms.

One existing approach which complies with the above rationale is Schedler's influential conceptualisation of accountability in the edited volume "The self-restraining state: power and accountability in new democracies". The author explains that, "A is accountable to B when A is obliged to inform B about A's (past or future) actions and decisions, to justify them, and to suffer punishment of eventual misconduct" (1999a: 17). When applying this definition to public administration, accountability is conceived as a process in which state authorities or public officials under scrutiny are legally obliged to provide information about and justify their decisions or actions to authorised bodies. These accounting bodies can impose sanctions on the accountable party if the latter fails to conform to their decisions or recommendations. This processual understanding of public accountability is embedded in various approaches in the relevant literature (e.g. Mulgan 2000: 555-556; Peruzzotti & Smulovitz eds. 2006a: 5; Sperling 2009: 8) and echoes the democratic, republican and liberal traditions discussed above.

Schedler explains that his conceptualisation of accountability consists of two pillars: answerability and enforcement (1999a: 14-17). On the one hand, the accountable party is obliged by law to respond to the accounting party by providing any relevant and justified information, while on the other hand, the accounting party assesses the response according to set rules or principles and inflicts punishment if necessary. In short, Schedler's definition of accountability combines elements from various conceptualisations which I mentioned briefly at the beginning of this section, referring to a monitoring or control procedure in which the accountable party is legally obliged to account for her/his decisions or actions in a transparent and responsible way to the accounting party and accept punishment in cases where wrongs

are not righted. Another definition which builds upon Schedler's conceptualisation is that of Bovens, according to whom accountability refers to, "a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences" (2006: 9). In other words, the definition delineates a process of successive phases – investigation, provision of information and justification, imposition of sanctions – which corresponds to the answerability-enforcement pattern.

Recognising the multifaceted character of public accountability nowadays, Schedler argues that the absence of one of the above phases does not necessarily undermine the processual conceptualisation as a whole (1999a: 17). For example, according to the relevant literature, ombudsman institutions meet the criteria of accounting actors in spite of their non-existent coercive and limited enforcement powers (Bovens 2006: 11); this is because public exposure of governmental wrongdoing can arguably act as an indirect, informal type of sanction. In short, public accountability can be realised even when the aforementioned answerability-enforcement model is implemented in a looser, less formalised way. On the contrary, scholars like Mainwaring disagree with Schedler in arguing that accountability should be delimited to institutionalised relations of oversight and sanction, otherwise the precision of the definition attenuates as a consequence of conceptual stretching (2003: 7). For this reason, public accountability is delimited to two types only; the former ("electoral accountability") concerns the obligation of those in power to be held accountable by citizens through the regular conduct of elections, while the latter ("intrastate accountability") describes the institutionalised control of the executive by designated public administration accounting agencies ²¹ (Mainwaring 2003: 20). In conclusion, the above debate indicates the absence of an academic consensus regarding the conceptual limits of public accountability.

This research project examines the role of ombudsman institutions in Serbia as accounting actors based on their legal authority to investigate cases of maladministration and violations of rights in the public sector and to request justification for a decision or action from the state authorities or public officials under scrutiny. As I explain in more detail in the third chapter of this thesis, the national, regional and local ombudsman offices in Serbia formally have no direct coercive or enforcement powers. Hence, Bovens's reference to "consequences" in the

²¹ Mainwaring's intrastate accountability, the oversight of public administration and the executive by state agencies, is commonly confused in the literature with checks and balances (Mulgan 2000: 556). However, the latter concern reciprocal control among the three branches of government (executive, legislative, judicial) (Kenney 2003: 60).

aforementioned definition of accountability fits this research project's case study, as one of my main arguments is that the Serbian ombudsman institutions compensate for their non-existent coercive and enforcement powers by interacting with social accounting actors such as civil society organisations and the media. In other words, the threat of public exposure and social mobilisation that derives from informal networking with social actors turns into an indirect power to enforce ombudsman institutions' recommendations. As a consequence, this thesis agrees with Keohane's approach that public accountability can be realised not only through institutionalised channels, as Mainwaring suggests, but also through non-institutionalised channels (Sperling 2009: 11). Finally, Schedler's processual conceptualisation of accountability corresponds to the aims of this research project for two reasons: on the one hand, it avoids concurring with the implicitly normative approaches of New Public Management which conceive of accountability as either an instrument for enhancing the effectiveness and efficiency of governance or as a goal (Bovens 2006: 7), while on the other hand, it enables the empirical examination of ombudsman institutions as accounting actors by looking at their involvement in each individual phase of public accountability.

To sum up, public accountability is conceptualised in this thesis as a process of successive phases (investigation, provision of information and justification, imposition of sanctions) which correspond to the "answerability-enforcement" model. More precisely, my research examines the role of Serbian ombudsman institutions as accounting actors by exploring their involvement in each of the aforementioned phases of accountability through two main factors which I analyse thoroughly in the main body of this thesis: institutional design and networking. Using the example of the lack of enforcement powers, I argue for the complementarity between these two factors by empirically examining the extent to which accounting actors such as ombudsman institutions compensate for their institutional deficiencies with resources exchanged with other interacting partners. However, empirical evidence shows that not only networking but also informality enrich the resources and reinforce the capacities of ombudsman offices as accounting actors. Hence, my analysis looks at both institutionalised and non-institutionalised networks of accounting actors in the state apparatus and society with the aim of providing a non-formalistic interpretation of the dynamics behind processes of public accountability.

1.3.2 Ombudsman institutions and accountability

In contrast to the academic polyphony regarding the actual content of the concept, there is wide agreement among scholars and policy-makers that public accountability is multifaceted and involves various actors. The two main types of public accountability which dominate the relevant literature concern on the one hand periodic control of the executive by citizens through elections and on the other hand oversight among public sector institutions. These two types correspond to Mainwaring's "electoral" and "intrastate" accountability respectively, as well as to O'Donnell's "vertical electoral" and "horizontal" accountability. Ombudsman institutions are typically associated with the latter, as they conduct investigations and provide oversight within the state apparatus (O'Donnell 1999; Schedler, Diamond & Plattner eds. 1999; Mainwaring 2003; Mulgan 2000 & 2003; Schmitter 2004; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Jayal 2008; Michels & Meijer 2008).

O'Donnell's influential definition of horizontal accountability refers to

the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful (1999: 38).

Apart from ombudsman institutions, the definition applies to other state agencies with similar competences, such as audit offices, public prosecutors, anti-corruption commissions and various independent oversight bodies, due to their legal authority to monitor or supervise other bodies or departments in the public sector, request justification and potentially impose sanctions, if a decision or action defies the law, violates rights or undermines the principles of good governance.

Before explaining in technical terms the involvement of ombudsman institutions in processes of public accountability, it is useful for the understanding of this research project to discuss a couple of major interpretations of the relationship between accounting actors and citizens. The ideal type of horizontal accountability is the outcome of interactions between three separate parties: citizen-complainants, accounting agencies and accountable actors. The majority of national ombudsman institutions in Europe are authorised to initiate proceedings *ex officio*, meaning that by law they have the right to examine cases of misconduct in the public sector without prior motivation by citizens or by order of another state agency. In other

words, ombudsman institutions can often initiate investigation proceedings when a case is brought to their attention by the media or other parties. However, they are most commonly delegated to become involved in investigating misconduct cases in the public sector following the submission of complaints by citizens (Kucsko-Stadlmayer 2008a: 21).

Jurists often associate the relationship of delegation between citizens and accounting actors with the right to petition. Constitutional law generally perceives petitions as a means of criticising the decisions or actions of state authorities and public officials through social mobilisation and public exposure, however their limited capability to demand answerability or impose sanctions explains why state agencies such as ombudsman institutions are delegated to get involved and act on behalf of citizens. Overall, jurists praise the right to petition for various reasons: Graf Vitzthum argues that citizens gain access to the anonymous and bureaucratic state (1985: 27) while Holtfort pinpoints civic engagement with politics by ascribing an element of direct democracy to the right to petition (1999: 73-74). Similarly, other scholars suggest that petitioners can reinforce the rule of law through systematic control of public administration (Würtenberger & Schenke 1999: 99-101), and can restore justice and humanise the bureaucratic apparatus (Elsner 2001: 201). Obviously, these approaches cannot avoid the normative and deterministic fallacies of constitutional law. Nevertheless, the right to petition derives from the idea of a dialogue between citizens and the state that has the potential to reinforce responsiveness and responsibility through oversight of the public sector. This dialogue between accounting citizens and the accountable authorities echoes the aforementioned theoretical origins of liberal democratic states and arguably justifies the conceptual proximity between the right to petition and public accountability.

In contrast to the normativism and determinism of the above approach, Shapiro and Stone Sweet's model of triadic dispute resolution provides an alternative interpretation of the relationship between citizen-complainants, accounting actors and accountable parties through a principal-agent analysis. In short, the concept of triadic dispute resolution refers to the formation of a triad, or a tripartite structure, consisting of two disputants and a dispute resolver. Stone Sweet distinguishes between consensual and compulsory triadic dispute resolution: the former refers to triads constituted by the voluntary consent of disputants while the latter to cases of dispute resolution in which processes are initiated by one disputant against the will of the other. The dispute resolver is delegated to intervene independently in the conflict without either of the disputants being favoured, hence Stone Sweet perceives this entity as "the guarantor of reciprocity" (2002: 57, 62). Applied to this research project,

ombudsman institutions undertake the role of dispute resolvers between citizen-complainants and the authorities. Dispute resolution is compulsory, i.e. against the will of the state authorities or public officials under scrutiny, however the main difference with judicial proceedings is that ombudsman institutions usually have no authority to impose sanctions after a decision is made. In conclusion, this thesis embraces triadic dispute resolution as an approach to the relationship between citizen-complainants, accounting actors and accountable parties for avoiding the normative and deterministic biases of constitutional law and acknowledging the strategic or utility-maximising behaviour of the participating actors.

In strictly technical terms, the role of ombudsman institutions as accounting actors depends, according to the aforementioned answerability-enforcement pattern, on the width of competences provided to each individual office. Kucsko-Stadlmayer's extensive study of European ombudsman institutions classifies their competences into three categories: investigation, recommendation and reporting (2008a: 39). More precisely, ombudsman institutions are delegated by statutes to investigate cases of misconduct in the public sector, while the state authorities or public officials under scrutiny have a duty of disclosure, meaning that they must provide any relevant information about the case being examined, and justify their decisions or actions within a certain time limit. In addition, ombudsman institutions are empowered to interrogate public servants and have free access to premises (*ibid.*: 40-41). Their investigation competences and the provision of information and justification of actions by the interrogated authorities or officials correspond to the answerability phase of accountability processes.

Regarding the enforcement phase, ombudsman institutions usually have no authority to impose sanctions but can only make non-binding recommendations. However, they are often authorised to activate other control bodies, such as the courts, and submit reports to superior authorities or the highest responsible agency (*ibid.*: 42, 46-47). The degree of compliance of public administration with the recommendations and reports of ombudsman institutions is widely perceived as an indication of their effectiveness as accounting actors. However, it is also argued in the literature that public exposure and denunciation of cases of misconduct may act as enforcement power or as an informal type of sanction (e.g. Hansen 1972; Schedler, Diamond & Plattner eds. 1999; Peruzzotti & Smulovitz eds. 2006a; Kucsko-Stadlmayer ed. 2008). Hence, the interaction between ombudsman institutions on the one hand and social actors such as civil society organisations and the media on the other arguably has the potential to indirectly enrich the investigative competences and enforcement powers

of the former, as I explain in detail below using the example of so called “social accountability”.

1.3.3 Approaching horizontal and social accountability from a network perspective

Among the numerous typologies of public accountability in the relevant literature, O’Donnell’s distinction between so called “vertical” and “horizontal” accountability has had a decisive impact upon several liberal democratic scholars in the field (e.g. Dodson & Jackson 2004; Schmitter 2004; Ugglå 2004; Peruzzotti & Smulovitz eds. 2006a; Pegram 2008a & b; Sperling 2009). According to this spatial – and for some others hierarchical – metaphor of power, the former definition refers to an unequal relationship between the accounting and the accountable party while the latter refers to a relationship between equals (Schedler 1999a: 23). Thus, the periodic judgment of citizens over their representatives through elections corresponds to a vertical relationship of accountability while the control of a state authority or public official by a state accounting institution reflects a horizontal relationship. From the perspective of triadic dispute resolution, the unequal relationship between citizen-complainants and the state authorities or public officials under scrutiny transforms into an equal relationship due to the legal authority of the dispute resolvers to control the latter. Hence, the involvement of ombudsman institutions in conflicts between citizens and the state is a typical example of horizontal accountability.

In spite of being particularly popular in the relevant literature, O’Donnell’s approach has not escaped criticism. Mainwaring argues that his physical metaphor is problematic as it conflates two different issues: horizontality conveys an image of independence while verticality an image of hierarchy (2003: 18-20). In addition, some institutions such as ombudsman offices or other independent oversight bodies are hierarchically unequal with the authorities they hold accountable, hence Bovens proposes a third, intermediate, type of accountability which he calls “diagonal” (2006: 21). Schedler recognises the “paradox of horizontal accountability”, namely the fact that accounting actors are often hierarchically inferior to the authorities they hold accountable, yet he implicitly defends O’Donnell, arguing that horizontality refers to a relation of preset or formal independence of the former from the latter, “in all decisions that concern its field of competence” (1999a: 24). In conclusion, the

diversity of approaches on the exact content of these terms indicates the conceptual ambiguity of public accountability.

On the other hand, there is wide agreement among scholars that horizontal accountability refers mostly to institutionalised relations within the state. Nevertheless, it is increasingly argued that social actors such as civil society organisations and the media can impact both directly and indirectly upon institutionalised relations (e.g. O'Donnell 1998; Schedler 1999a; Peruzzotti & Smulovitz eds. 2006a). This “social” type of accountability is conceptualised by Peruzzotti and Smulovitz as

a non-electoral yet vertical mechanism of control of political authorities that rests on the actions of an array of citizens' associations and movements and the media. The actions of these groups monitor public officials, expose governmental wrongdoing, and can activate the operation of horizontal agencies. Social accountability employs both institutional and non-institutional tools. The activation of legal actions or claims before oversight agencies is an example of an institutionally channeled action; social mobilisations and media exposes are examples of non-institutional ones (2006a: 10).

In other words, social accountability is, according to O'Donnell's typology, a subtype of vertical accountability as it concerns a non-institutionalised alternative to the periodic judgment of the executive through elections. Scholars such as Mainwaring criticise informality and lack of institutionalisation to the extent of doubting whether it is actually a separate type of public accountability (2003: 8), while Schmitter uses the term “oblique” to describe accountability that depends not on legal norms but on the oblique capacity of accounting actors to “enhance citizen awareness and collective action in order to back up their actions” (Schmitter 1999: 62). In any case, the verticality of Peruzzotti and Smulovitz's above concept corresponds to an unequal relation of power, and according to O'Donnell symbolises a voice moving “upward” from society towards government (2006: 341).

As I explained earlier in this chapter, the distinguishing features of public accountability are two: on the one hand it takes place in public, or at least citizens are informed about an actor's conduct and the final judgement, while on the other hand it concerns both state bodies and private entities that deal with matters of public interest (Bovens 2006: 11-12). Thus, both horizontal and social accountability, which dominate the main body of this thesis, are arguably subtypes of public accountability according to this conceptualisation. Regarding O'Donnell's approach to the three theoretical traditions that shape public accountability in

modern polyarchies, the concept of social accountability echoes the democratic principle of rule by the people, as the direct or indirect involvement of citizens in processes of public accountability through civil society organisations and the media reduces the discrepancy between state and society. This approach reinforces the argument of complementarity between state and social accounting actors that I discuss in detail below.

The concept of social accountability suggests that public accountability is nowadays multifaceted and combines formal and informal dimensions. Even in non-fully consolidated democracies like the Latin American countries that Peruzzotti and Smulovitz examine, civil society and the media arguably have the potential to play a significant role as accounting actors by exposing governmental wrongdoing. In other words, scholars who embrace this approach imply that public pressure, i.e. the increase of reputation costs through media exposure and social mobilisation, may initiate the answerability phase of accountability by forcing the authorities or officials under scrutiny to respond and justify their conduct in public. However, the exertion of public pressure does not guarantee that the accountable party will account for her/his decisions or actions (“answerability phase”) or that a recommendation that rights wrongs will be implemented (“enforcement phase”). Hence, an important aspect of social accountability is the activation of “horizontal” state agencies, such as ombudsman institutions, audit offices or the courts, that are legally authorised to control and – in some cases – punish the authorities or officials under scrutiny. In other words, Peruzzotti and Smulovitz argue that

public exposure of issues and wrongdoing not only generates symbolic costs [...] but also forces political institutions to address these cases and raises the actual costs of illegal or improper political behavior (2006a: 11).

As a consequence, it is crucial for social accountability to be examined complementarily with horizontal accountability.

The interaction between these two types can be arguably reciprocal. As O’Donnell notes,

on the one hand, the existence of continuous and well articulated social accountability demands can stimulate some horizontal accountability agencies. On the other hand, the existence of effective horizontal accountability agencies can induce the chain of social accountability (2006: 339).

Hence, many scholars in the literature stress the importance of interdependence between the various types of public accountability (e.g. O'Donnell 1998; Mainwaring 2003; Peruzzotti & Smulovitz eds. 2006a; Michels & Meijer 2008; Sperling 2009). More precisely, Sperling argues that the necessity for effective “horizontal” accounting actors stems from the intrinsic weaknesses of vertical accountability to constrain rulers’ abuse of power (2009: 10), while Michels and Meijer ascribe the increasing interest of academics and policy-makers in horizontal accountability to the process of horizontalisation of governance that is gradually replacing the Weberian conception of governance as vertical bureaucracies (2008: 166; see also Savoie 2004). Last but not least, Peruzzotti and Smulovitz conclude that, “Latin American horizontal accountability fails because vertical accountability fails” (2006a: 8), reinforcing the argument that vertical – either electoral or social – and horizontal accountability can be interactive or even overlapping.

The aforementioned approaches suggest that, regardless of the effectiveness of vertical accountability mechanisms, democratic states are also in need of agencies of horizontal accountability; however, the latter are not meant to replace vertical accounting mechanisms but to enrich them in an informal division of labour (Bovens 2006: 11). Some scholars therefore argue that the effectiveness of accountability mechanisms depends largely on the frequency, intensity and content of interactions between various state and social accounting actors (O'Donnell 1999: 45; Peruzzotti & Smulovitz 2003: 327). In other words, the effectiveness of accounting actors increases, as long as they do not act in isolation but in networks of cooperation (O'Donnell 1999: 39). Similarly, Larry Diamond believes that, “transparency in government can be achieved when the agencies of horizontal accountability interlock and overlap in a systemic fashion” (2008: 303).

Thus, networks of cooperation arguably have the potential to improve the performance of civil society organisations and the media as accounting actors, especially when effective horizontal agencies are involved in the process of exposing, denouncing and correcting governmental wrongdoing.²² The following hypothetical scenario is an example of this argument: an ombudsman office handles a complaint of electoral fraud brought to its attention by a civil society organisation or the media. An electoral commission then investigates the case and the judiciary presses for criminal penalties. In conclusion, the above argumentation underlines the interdependence between the various accounting actors, hence

²² Peruzzotti and Smulovitz argue that the effectiveness of social accounting actors depends largely on the implementation and interaction of the following three strategies: judicialisation (i.e. the activation of horizontal agencies), social mobilisation and mediatisation (2006a: 25).

this thesis embraces the idea of assessing the role of ombudsman institutions as accounting actors from a network perspective, i.e. by looking at their interactions with other state and social actors.

The aforementioned interdependence and complementarity between actors and mechanisms of horizontal and social accountability has been conceptualised by a series of democracy scholars based on the Latin American example. However this conceptualisation principally depicts an ideal condition rather than the actual state of public accountability in Latin America. The implicit normativism and determinism of the above body of literature is partly expressed by the fact that networks of accounting actors are largely conceived as an independent variable. In other words, most scholars emphasise the potential impact of networks on public accountability, while simultaneously underestimating the role of individual actors in those networks. This thesis acknowledges the necessity of conceiving networks of accounting actors as both an independent and dependent variable in order to explore the impact of both structures and individual actors on public accountability. Particularly in post-transition institution building in the context of Europeanisation, as with the establishment and proliferation of ombudsman institutions in Serbia, it is crucial to look at potential accountability networks without ignoring the reinforcing or undermining role of individual actors in post-transition democratisation. However, the under-researched role of these actors is a prerequisite for understanding the impact of networks on public accountability, hence in this thesis networks are primarily perceived as a dependent variable.

The concept of networks is not new in social sciences, however it has become increasingly popular among political scientists in recent decades, as academic attention has shifted from the notion of government to that of governance (e.g. Scharpf 1978; Marin & Mayntz 1991). While the former is generally associated with hierarchical command and control, the latter is widely perceived as a more cooperative and interactive form of steering (Dassen 2010: 26). This transition from hierarchies to networks is closely related to Rhodes's "hollowing out of the state" thesis, which "asserts the unitary nation state as losing functions upwards (to supranational bodies such as the European Union), downwards (to strong regions) and sideways to devolved agencies (agencification)" (Ferlie, Fitzgerald et al. 2011: 308). In other words, centrifugal processes of globalisation, decentralisation and economic liberalisation multiply the actors that participate in governance, by transforming the rigid, old structure of states and the way power is distributed and exercised.

This thesis particularly focuses on policy networks; however, social network analysis, in which policy network theory is rooted, clarifies some common concepts and variables through sociometric visualisation (Dassen 2010: 15, 49). More precisely, a network consists of a set of objects (variously called nodes, positions or actors) and a set of relations between these objects (variously called edges, ties or links) (Knoke 1990: 8). Graphically, the objects are often depicted as points and the relations between them as lines (Scott 2000: 64). The linkages between the constituent objects of a network may be singular or multiple and correspond to various dimensions of frequency, intensity, duration, content etc. (Knoke 1990: 8). Generally, it is widely argued in the literature that the relationships between the objects in a network are based on the exchange of resources which range from information and legitimacy to political support and implementation resources (Smith 1994: 63; Marsh 1998: 9; Gormley & Balla 2004: 115; Compston 2009: 8). Despite the fact that exchange relations are often unequal (*ibid.*: 14), they reinforce interdependence between the objects that constitute a network. The social forces that drive actors to participate in networks vary from learning and social exchange to ideology and rational calculation (Knoke 1990: 21), but in any case cooperation is a prerequisite for the maximisation of their preferences. In general, networks can produce a positive-sum outcome in which all benefit, but success depends largely on cooperation and consensus-building (Marsh 1998: 9).

Based on the aforementioned clarification of network concepts, policy networks are conceptualised in this thesis as

sets of relatively stable relationships which are of non-hierarchical and interdependent nature linking a variety of actors who share common interests with regard to a policy and who exchange resources to pursue these shared interests acknowledging that cooperation is the best way to achieve common goals (Börzel 1998: 254).

Similarly to the main body of literature on networks, this approach looks at individuals and their actions as the primary level of analysis (Dassen 2010: 91). However, a central debate of ontological nature in the field concerns the relative importance of structures and agents in affecting policy outcomes (Marsh 1998: 10). A definite answer is not possible as it is widely believed that both exogenous constraints and endogenous drivers affect networks (Henry 2011: 362). Hence, Daugbjerg and Marsh argue for a dialectical relationship between structures and agents by claiming that “the actions of agents change structures which, in turn, form the context within which agents act”, given that policy networks constrain and facilitate

the actions of agents (1998: 70). From a methodological perspective, this argument relates to the debate over whether networks are perceived as an independent or dependent variable, as discussed above.

In any case, the concept of policy networks is particularly relevant to this thesis, as my research focuses on the interactions between state and social actors, which for various reasons share an interest in exposing and then correcting governmental wrongdoing. Thus networks are perceived as structures of interest intermediation, in which state and social actors with various motivations, but a shared interest in maximising their preferences and the benefit from interaction, undertake the role of the accounting party in processes of public accountability (e.g. Rhodes 1997; Kriesi, Adam & Jochum 2006; Blanco, Lowndes & Pratchett 2011). This thesis acknowledges the necessity of examining in the first place the decisions and actions of individual accounting actors through their interactions with one another, hence networks are primarily perceived as a dependent variable.

To sum up, the aim of this thesis is to assess the role of ombudsman institutions as accounting actors in Serbia by examining and evaluating the intensity and content of their interactions with other agencies and actors of horizontal and social accountability. Based on the above definition of policy networks, I assume in this thesis that individual accounting actors have a self-interest in participating in institutionalised and non-institutionalised networks of public accountability with the aim of exchanging resources and profit from this interaction, an argument illustrated by the example of ombudsman institutions, which arguably seek to cooperate with state agencies with coercive powers, such as the courts, in order to enforce their recommendations. In this case, the legal authority of courts to make binding decisions is the tradable resource between the two actors. Conversely, state accounting agencies such as public prosecutors or anti-corruption commissions might choose to be in regular contact with ombudsman institutions in order to obtain information on cases of misconduct in the public sector which were initially handled by the latter. Similarly, the media can access this information for publicity reasons. In conclusion, this research project examines the dynamics among state and social accounting actors with the aim of illuminating the context in which state authorities and public officials account for their decisions or actions.

1.4 Ombudsman institutions as accounting actors: the concept of institutional effectiveness

The debate on the effectiveness of ombudsmen is as old as the institution itself. However, the recent proliferation of the ombudsman concept, and the subsequent multiplication of such offices around the world, increasingly necessitates a regular and systematic assessment of their effectiveness. The main question which must be answered is whether ombudsman institutions fulfil their functions and achieve their goals according to the theoretical framework delineated in the relevant literature. Yet the question of effectiveness is not only a matter of academic interest. The case of the first Croatian ombudsman, who as Milkov explains, “remained completely unknown to the public [...], was absent from the media and did not make a single address in the Croatian assembly, nor any public statement” (2000: 376), in spite of the fact that the annual budget of the office amounted to one million German marks, indicates that a series of actors, ranging from governments to policy-makers and international donors, may have good reasons for testing the effectiveness of ombudsman institutions.

Indeed, there are various, arguably overlapping and conflicting, motivations which explain the demand for effectiveness assessment (Aufrecht & Hertogh 2000: 390). For example, several actors, such as governments, international organisations, policy-makers, legislators or scholars, which are actively involved in the promotion of ombudsman institutions, have a political interest in the assessment of these offices, particularly in countries like Serbia where the establishment of ombudsman institutions is closely associated with post-transition institution building and transnational processes such as Europeanisation. In other words, supporters of the institution seek a chance to prove the necessity of these offices. On the other hand, in many countries there are certain political parties or competing public sector agencies which take a critical stance towards ombudsman institutions. They therefore perceive assessment as an opportunity to expose the institutions’ malfunctions or weaknesses. Apart from the politicised debate between supporters and critics of ombudsman institutions, national or international donors which financially assist some of these offices²³ have a vested

²³ Ombudsman institutions are generally funded by the state (Kuckso-Stadlmayer 2008a: 16), but are often supported financially by international organisations or foreign national governments. The source of funding is generally linked to the issue of independence, hence Uggla’s research discusses the financial dependence of several Latin American ombudsman offices on international donors (2004: 435-436).

interest in assessing the impact of their – sometimes significant – investments.²⁴ Thus, the frequent involvement of various national and international actors in the establishment and promotion of ombudsman institutions explains the variety of interests in assessing their effectiveness.

The rapid proliferation of ombudsman offices in Serbia in the context of post-transition institution building and Europeanisation exemplifies the aforementioned need to assess not only the way these institutions work but also the results they yield. As I explain thoroughly in the third chapter of this thesis, a series of actors, spanning from academics to local elites and international organisations, were directly or indirectly involved in the establishment and promotion of ombudsman institutions in Serbia soon after Milošević's fall from power. Their involvement is closely associated with the conviction that ombudsman institutions can have a reinforcing effect on Serbia's transformation into a liberal democracy with a free market economy. Thus the politicised argument for the promotion of ombudsman institutions indicates that an assessment of their effectiveness is not just a neutral technical issue of institution building, but is a potential source of conflict between national political elites regarding the country's post-transition trajectory.

In spite of the above attention paid by various actors to the evaluation of ombudsman institutions, there is no unanimity in the relevant literature regarding the actual content of effectiveness as a term. Aufrecht and Hertogh argue that, “basically we want to know if the office actually accomplishes what is legally authorised to do” (2000: 390), while Gregory and Giddings believe that “effectiveness means to deliver results” (2000: 6). A more systematic approach is that of Gormley and Balla who look at performance, a term often used interchangeably with effectiveness, in three different ways: as outputs, outcomes, or the effects of agency outputs on social outcomes (2004: 14). Applied to ombudsman institutions, outputs correspond to the number of investigations conducted, outcomes to amendments to laws or reforms initiated by reports from ombudsman offices, while the third option concerns the degree of compliance by public administration with the ombudsman's recommendations or the number of citizens who regained their trust in government following the involvement of ombudsman offices. These conceptualisations of performance embody a popular viewpoint among institutionalist scholars and policy-makers according to which effectiveness explains cause and effect correlations.

²⁴ For instance, in 2011 the EU spent €784,590 on the so called “Twinning Project” between the Serbian, Dutch and Greek ombudsmen (Janković 2012: 181-182).

However, the overemphasis on results as indicators of institutional effectiveness arouses criticism for various reasons. First of all, outcomes are not always measurable. For example, just because a law is amended following the ombudsman's publication of a report does not mean that this was not at least partly due to the influence of other actors such as political parties, parliamentary committees or think tanks which are involved to a greater or lesser extent in policy-making. In addition, some scholars doubt the actual usefulness of measuring outputs and outcomes, arguing that they merely quantify the activities of ombudsman institutions; as a consequence, indicators such as the number of complaints received or investigations conducted arguably say little about the actual role of these offices as accounting actors (Aufrecht & Hertogh 2000: 396-397). Finally, social outcomes that have been widely associated with the effectiveness of ombudsman institutions, such as civic trust or compliance by public administration with offices' recommendations, are problematic in practice for two reasons: firstly, empirical studies have shown a weak correlation between satisfaction with ombudsman institutions and trust in government (Van Roosbroek & Van de Walle 2008: 296). Based on Inglehart's research on trust, Ambrož argues in a similar fashion that

[...] democratic institutions do not necessarily produce interpersonal trust. A society's political institutions are only one among many factors involved in the emergence of a culture of trust or distrust (2005: 148).

In other words, the conviction that institutions like the ombudsman have by nature a positive impact on civic trust reproduce the normative and deterministic biases that characterise a significant part of the relevant literature. Secondly, the occasional compliance of public administration with the ombudsman's recommendations does not guarantee any continuation in the future. Ugglä notes:

Is it rectification of an individual decision, a promise to act differently in the future, or a change in the general policy? Non-compliance can stem from the lack of sufficient funds, from the refusal to accept the ombudsman's jurisdiction over a particular area or from lack of political will in general (2004: 441).

In conclusion, the overall tendency of the existing literature to approach the concept of institutional effectiveness quantitatively, as well as the overemphasis on results, disassociates assessment from theory and fails to explain the dynamics from which the capacity of institutions to deliver results derive.

Thus, in this project effectiveness²⁵ is conceptualised in correlation with the main research question of this thesis, examination of the role of ombudsman institutions as accounting actors. In other words, effectiveness is defined as the capacity of ombudsman institutions to hold state authorities and public officials accountable for their decisions or actions. Based on this understanding of institutional effectiveness, quantitative data such as the number of complaints submitted and investigations conducted or the degree of compliance of public administration with the ombudsman's recommendations arguably say little about the actual impact of ombudsman offices on potential networks of public accountability in Serbia. On the contrary, this data is a useful indicator in the assessment of institutional design, hence it is discussed thoroughly in appendix D of this thesis. As a consequence, this research project embraces a qualitative approach to institutional effectiveness with the aim of understanding the motivations of state authorities and public officials for accounting to authorised agencies for their decisions or actions.

To sum up, in this thesis the concept of institutional effectiveness is understood in correlation with the operational conceptualisation of public accountability as a process of successive phases in which ombudsman institutions get involved as legally authorised accounting actors. This thesis looks mainly at the state and social accounting actors and the interactions between them. However, the concept of effectiveness links the accounting to the accountable parties. In practice, effectiveness is operationalised in this thesis through the development of a framework of indicators. These indicators correspond to two main factors, institutional design and networking, which arguably impact upon the capability of ombudsman institutions to hold authorities and officials accountable for their decisions or actions. The operative framework of effectiveness indicators is discussed in detail in the second chapter of this thesis in correlation with network theory and qualitative research methods.

²⁵ This thesis acknowledges the lack of theoretical depth of a concept such “effectiveness” which has been largely popularised by policy-makers. However, the term is deliberately used in this thesis for reasons of operationalisation and compatibility with an institutionalist body of relevant literature on the performance of these offices.

1.5 Identifying gaps in the literature

Despite the fact that the oldest Serbian ombudsman office celebrated recently ten years in operation,²⁶ the scarcity of relevant articles in the literature indicates that ombudsman institutions are still generally absent from studies of post-transition Serbia. The purpose of this literature review is therefore twofold: on the one hand, I summarise and evaluate books and journal articles which are relevant to this thesis with the aim of delineating the weaknesses and limitations of research which has been conducted and identifying gaps in the existing literature. On the other hand, I briefly discuss the main aspects of this project with the intention of justifying the relevance of my research and the authenticity of its contribution to the field of post-communist studies.

To begin with, the most striking feature of the literature is the general lack of empirical research on ombudsman institutions in Serbia. Few scholars have published relevant articles since the change of regime in 2000, and the vast majority of what has been published is in Serbian. The absence of these offices from the literature is partly explained by the short time the institution has existed in the country; more precisely, in 2007 the national Protector of Citizens was established in Serbia as the last European national ombudsman (Kucsko-Stadlmayer 2008b: 449-454). As a consequence, many of the existing articles in English and Serbian are out of date, as they were published before the national ombudsman office was established (see for example: Milkov 2000; Milosavljević 2001; Radojević 2002; 2003; 2004a & b; Dimitrijević 2005). The fact that these articles were published before the actual proliferation of ombudsman offices in the country explains, then, the absence of empirical research from the literature.

The most productive author of this period, the law scholar Miodrag Radojević, published numerous articles between 2003 and 2006 in the academic journals *Srpska politička misao* and *Politička revija*, at a time when the first ombudsman offices had already been established at regional and local levels and there was a widening public debate regarding the establishment of a national ombudsman (e.g. 2002; 2003; 2004a & b; 2005a & b; 2006a). These articles introduced the ombudsman concept to the public and drew conclusions based on the longstanding experience of such institutions in Northern and Western Europe, while

²⁶ The oldest ombudsman office in the Republic of Serbia is the local Ombudsman of Bačka Topola in Vojvodina which started operating on 01.04.2003. <http://www.btopola.org.rs/> [Accessed 20 October 2011]

also providing constructive analysis and critique of the legal framework in Serbia (e.g. the Act on Local Self Government and the Ombudsman Law). Nevertheless, Radojević's articles are characterised by some weaknesses typical of the relevant literature such as normativism and determinism, as they overemphasise the positive aspects of the institution and foresee a subsequent impact on post-transition Serbia. This conviction that ombudsman institutions are inherently beneficial to new democracies is partly associated with the limited amount of empirical research conducted.²⁷ Similarly, determinism arguably stems from a path-dependent body of literature on democratisation which uncritically favoured international democracy promotion while simultaneously underestimating the threat of authoritarian backlash in unconsolidated new democracies (e.g. Collier & Levitsky 1997; Pridham 2001; Rose & Shin 2001; Knack 2004; Chandler 2006; Burnell 2008). In short, these articles argue that the establishment and proliferation of ombudsman institutions across the country is necessary for democratisation in Serbia as they expose corruption, combat maladministration and protect human rights. Radojević's article "The ombudsman as an innovative institution in the legal system of the Republic of Serbia" (2002) is indicative of the author's expectations regarding the democratising and liberalising potential of ombudsman institutions. Similarly, Vangansuren's comparative presentation of ombudsman institutions in the post-communist world (2002) prescribes their reinforcing impact on democratisation without empirically justifying his claims.

Normativism and determinism are typical characteristics of the ombudsman literature due to the legal background of the majority of scholars working on this topic in Serbia and abroad²⁸ as well as the general absence of empirical research assessing the actual performance of these institutions in practice. Back in 1980, the sociologist Brenda Danet argued that, "after an initial period of prescription during which everyone one told one another how nice it would be to introduce an ombudsman system, followed by a time of description [...], it was time to make a serious commitment to evaluation." However Aufrecht and Hertogh comment that the attention of academics and policy-makers is still focused on prescription and description (2000: 389). In other words, the limited evaluation of these offices in practice is attributed to the academic dominance of the intrinsically normative legal science and the longstanding

²⁷ This critique does not apply to Radojević's recent articles (2009; 2010a & b), which empirically assess crucial aspects of the performance of ombudsman offices, other independent oversight bodies and regulatory agencies in Serbia.

²⁸ For instance, all those interviewed for this project who have conducted research or published work on ombudsman institutions in Serbia have a legal background and/or are academics in law faculties across the country (e.g. Belgrade, Novi Sad, Kragujevac).

neglect of ombudsman institutions by political scientists, which created space for scholars of legal and administrative studies. As a consequence, a significant part of the existing literature reproduces normative and deterministic fallacies, as the aforementioned body of literature indicates.

Apart from foreseeing positive effects of ombudsman institutions on polities, policies and politics, legally-embedded literature is overly descriptive due to an emphasis on legislation and institutional design which is delineated by legal acts. In other words, numerous articles focus solely on discussing various dimensions of institutional design without examining its impact on the actual performance of ombudsman institutions. As a consequence, researchers fail to take variation between offices into account. This is the case with two widely known articles in the English-language literature: Milkov's comparison between ombudsman offices in the countries of former Yugoslavia (Gregory & Giddings eds. 2000) and Stern's overview of Serbian ombudsman institutions (Kucsko-Stadlmayer ed. 2008). More precisely, Dragan Milkov, a law academic and pioneer in the promotion of the ombudsman concept in Serbia, compares offices in the successor states of former Yugoslavia²⁹ by extensively discussing aspects of their institutional design, such as legal guarantees of independence, extent of competences, accessibility and width of investigative and coercive powers (2000: 373-387). However, he omits to explain in practical terms what this actually means for post-transition democracies in the region. Similarly, Stern's article reviews legislation and presents the institutional design of ombudsman offices in Serbia without making any assumptions about the impact that the legal framework has upon the offices' performance and their interactions with other actors (2008d: 371-385). In conclusion, the overly descriptive character of the relevant literature derives from its emphasis on legislation and the formalistic aspect of institutional design as well as an absence of theory-driven and empirically tested research.

Atheoreticality is most obvious in the policy-oriented body of literature focusing on institutional effectiveness. Overall, the increasing number of studies of the efficiency and effectiveness of ombudsman institutions during recent decades (Aufrecht & Hertogh 2000: 393-396) attests to the strong interest of scholars in evaluation of their performance. However, the main drawback of this body of literature is the absence of theoretical systematisation. In other words, studies delineate various factors that impact upon the

²⁹ When Milkov's article was published, national ombudsman offices had been established in only four successor states of former Yugoslavia: Croatia (1994), Slovenia (1995), Bosnia-Herzegovina (1996) and Macedonia (1997) (Milkov 2000: 373-387).

performance of ombudsman institutions, however they are often de-linked from a cohesive theoretical argument, giving the impression that crucial dimensions are discussed in a haphazard way. Thus, aspects like jurisdiction (e.g. Gwyn 1982; Gottehrer & Hostina 2000), accessibility (e.g. Friedmann 1977; Ugglá 2004; Ambrož 2005), human and financial resources (e.g. O'Donnell 1998; Vangansuren 2002), public dissemination of work (e.g. Gadlin 2000), independence from the executive (e.g. Schedler 1999a; Dodson & Jackson 2004; Diamond 2008; Kucsko-Stadlmayer ed. 2008) or participation in networks (e.g. O'Donnell 1999; Peruzzotti & Smulovitz eds. 2006) have been widely discussed in the literature, but rarely test research hypotheses deriving from a theoretically-justified argument.

For example, one of the most comprehensive lists of effectiveness indicators was created by the OHCHR in an attempt to assess the effectiveness of national human rights institutions, including ombudsman offices.³⁰ In short, the following factors have been identified as potentially influencing the performance of national human rights institutions: 1) democratic governance in the state, 2) independence of institutions from government, 3) jurisdiction of institutions, 4) extent and adequacy of powers, 5) accessibility of offices to members of the public, 6) level of cooperation with other bodies, 7) operational efficiency (level of financial and human resources), 8) accountability and transparency of institutions, 9) personal character and expertise of the persons appointed to head the institutions, 10) behaviour of government in not politicising the institutions and having a receptive attitude towards their activities, and finally, 11) credibility of each office in the eyes of the populace (Reif 2004: 396-397). This list is the outcome of empirical research conducted in several countries around the world and summarises the majority of effectiveness factors discussed in the ombudsman literature. Interestingly, the list combines political factors that impact upon the effectiveness of human rights institutions (e.g. democratic governance) with aspects of institutional design (e.g. jurisdiction, resources) and interactions with other political and social actors (e.g. level of cooperation with other bodies, accountability and transparency of the institutions). However, these factors are not interrelated with each other due to the lack of a coherent theoretical argument binding them together. In other words, the OHCHR's list fails to theoretically justify the relevance of the above factors to performance evaluation of human rights institutions.

³⁰ OHCHR, 2005. Assessing the Effectiveness of National Human Rights Institutions. <http://www.ohchr.org/Documents/Publications/NHRlen.pdf> [Accessed 20 November 2011]

Theory is not always absent from policy-oriented literature, yet sometimes it may not be explicitly articulated. For example, Christopoulos and Hormovitis' edited volume on ombudsman institutions in South-East Europe (2005) is a comparative study which delineates the experience of various offices in the region during their first years of operation. Motivated by the so called "Eunomia Project", which aims to reinforce institution building through networking, the study illuminates crucial aspects of the operation of these offices by statistically overviewing their annual activities, discussing shared problems and challenges and examining the degree of cooperation with international organisations and local institutions. In spite of being imbued with the idea of networking, as the second part of the edited volume on the introspection of the Greek ombudsman indicates, the study does not explicitly discuss the theoretical relevance of networking to the examination of ombudsman institutions in South-East Europe, possibly as the authors are attempting to write a useful handbook for policy-makers. However, the absence of clear argumentation along these lines prevents the edited volume from making an original theoretical contribution to the relevant literature.

To sum up, the small amount of work published on Serbian ombudsman offices indicates the lack of attention paid to their role in post-transition institution building. Overall, the ombudsman literature is normative and deterministic, in that it overemphasises the intrinsically good aspects of the offices and their liberalising and democratising effect on political regimes. Normativism and determinism arguably derive from a path-dependent body of literature on democratisation and the prevalence of legal scholars in the field, as well as the absence of empirical research. The latter is closely associated with a general emphasis on legislation and the formalistic aspect of institutional design which has as a consequence the production of overly descriptive work. Atheoreticality is also a common weakness of policy-oriented literature looking at the effectiveness of ombudsman institutions. In other words, crucial dimensions of their performance are examined without being correlated with a coherent theoretical argumentation or concrete research hypotheses. Hence, the existing literature on Serbian ombudsman institutions fails to justify overall its relevance to post-communist studies.

Considering the aforementioned weaknesses and limitations, this thesis claims to make an original contribution to the existing literature by exploring the impact of ombudsman institutions on networks of public accountability in Serbia through the conduct of theory-driven and empirically-tested research. Inspired by the argument that public accountability

has a greater chance of being accomplished when it is based upon a range of networking state and social actors (e.g. O'Donnell 1998; Schedler, Diamond & Plattner eds. 1999; Reif 2004; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Diamond 2008; Pegram 2008a &b), I employ network theory and conduct in-depth semi-standardised interviews with various state and social stakeholders (e.g. accounting state institutions, international organisations, civil society organisations, the media) in order to illuminate through the examination of the frequency, intensity and content of their interactions the context in which state authorities and public officials account for their decisions or actions.

More precisely, the idea of institution building through networking, embedded in the aforementioned "Eunomia Project", was the initial inspiring force behind this research project, but it was a series of articles on ombudsman institutions in Latin America that had a decisive impact upon the selection of the theoretical approach and methods of this thesis. For instance, Dodson and Jackson's article on ombudsman institutions in El Salvador and Guatemala (2004) is based on O'Donnell's conceptualisation of so called "horizontal accountability" and looks at their role in comparison to the judiciary, the hierarchically most important actor of intrastate accountability (e.g. O'Donnell 1998; Schedler, Diamond & Plattner eds. 1999; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Gilligan 2010). The authors conclude that the limited role of ombudsman institutions as accounting actors derives from their isolation within the political system (Dodson & Jackson 2004: 20-23), implying that networking with other state and social actors arguably has the potential to reinforce public accountability through the exchange of resources.

In addition to examining institutionalised horizontal accountability, Peruzzotti and Smulovitz's edited volume on social accountability in Latin America (2006a) underlines the importance of networking between various actors in the state apparatus and society due to the impact that a combination of strategies, such as mediatisation, social mobilisation and judicialisation, may have on state authorities. The non-institutionalised character of social accountability increases the degree of informality in networks of accounting actors, arguably compensating for the deficiencies deriving from rigid institutional design and standardised networking. Similarly, Pegram's study of the Peruvian human rights ombudsman (2008b) has been particularly influential for this research project by approaching public accountability in operational terms through a series of indicators. His idea of combining factors which impact upon the effectiveness of ombudsman institutions as accounting actors is behind the

development of the operative framework of this research project, consisting of indicators that derive from the complementary factors of institutional design and networking.

Therefore, in contrast to the normativism, determinism and atheoreticality of the existing literature, this thesis examines the impact of ombudsman institutions on potential networks of public accountability in Serbia by conducting theory-embedded, empirical research. More precisely, public accountability is operationalised as a process of successive phases in which ombudsman institutions act as accounting actors. Their involvement is examined according to a series of indicators that correspond to the factors of institutional design and networking. As a consequence, network theory is employed through in-depth semi-standardised interviews with state and social stakeholders with the aim of assessing their operation in practice and exploring the dynamics among accounting actors. By looking at both institutionalised and non-institutionalised interactions of accounting actors, this thesis enriches the model of triadic dispute resolution by adding a dimension of informality to institutionalised state delegation. From a rational choice perspective, actors and their decisions are crucial for understanding the reasoning behind the potential formation of networks, thus illuminating the context in which state authorities and public officials under scrutiny may account for their decisions or actions. Even though networks as structures also have the potential to impact upon public accountability, the necessity of assessing in first place the impact of individual accounting actors on policy networks supports the decision to conceive the latter as a dependent variable in this thesis. In any case, the main distinction between the Serbian case and the Latin American examples discussed above is the influential, exogenous factor of Europeanisation that inevitably affects individual accounting actors in Serbia, including ombudsman offices, in the context of post-transition institution building.

1.6 Structure of the thesis

In conclusion, this thesis explores public accountability in post-transition Serbia by looking at ombudsman institutions as accounting actors. Using Shapiro and Stone Sweet's model of triadic dispute resolution, this research project focuses on the underexplored role of institutionalised and non-institutionalised dispute resolvers with the aim of drawing theory-driven and empirically-tested conclusions regarding the motivations of state authorities and

public officials for accounting for their decisions or actions. Public accountability is therefore operationalised in this thesis as a process of successive phases (investigation, provision of information and judgement, imposition of sanctions) in which ombudsman institutions are authorised to get involved as state accounting agencies. In order to empirically examine this involvement, my research looks at two arguably complementary factors, institutional design and networking, which affect the effectiveness of ombudsman institutions as accounting actors. Both factors and their interdependence are thoroughly analysed in the main body of this thesis.

Before presenting, analysing and discussing the findings of my empirical research, the second chapter of this thesis outlines the theoretical and methodological framework of this study by justifying the relevance of network theory to the research hypotheses and by elucidating the means by which theory is employed with the aid of selected methods. More precisely, the main method used in this research project is in-depth, semi-standardised interviews with relevant stakeholders, i.e. employees of ombudsman offices and other state accounting institutions, representatives of international organisations, academics, NGO activists and journalists, combined with document analysis of ombudsman offices' annual reports and a review of legislation. In addition, this chapter overviews my fieldwork in Serbia and discusses a series of factors that facilitated or impeded data collection, before concluding with a brief summary of the project's limitations.

The main body of this thesis consists of three interrelated chapters. Each looks at various dimensions of the aforementioned factors which impact upon the effectiveness of ombudsman institutions as accounting actors. Chapter 3 examines five aspects of the institutional design of ombudsman offices in Serbia – 1) jurisdiction, 2) investigative, coercive and enforcement powers, 3) physical and procedural accessibility, 4) human and financial resources, and 5) public dissemination of work – based on the relevant legislation and the annual reports of eleven ombudsman offices at the national, regional and local levels as well as in-depth interviews with a series of state and social stakeholders. By discussing the strengths and weaknesses of ombudsman institutions, this chapter draws two main conclusions: on the one hand, the overemphasis of some scholars on the formalistic aspect of institutional design reproduces the normative and deterministic fallacies of the relevant literature, while on the other hand the findings of my empirical research in Serbia indicate that accounting actors such as ombudsman institutions acknowledge their deficiencies

deriving from institutional design and attempt to compensate for them by networking with other state and social accounting actors.

Based on the proposition that institutional design and networking are interdependent, the following two chapters explore the role of ombudsman institutions as accounting actors from a network perspective.³¹ Chapter 4 focuses on the interactions between accounting actors in the public sector which correspond to O'Donnell's definition of "horizontal accountability". More precisely, this thesis looks at the interactions between ombudsman offices at different levels of government, independent oversight bodies like the Commissioner for Information of Public Importance and Personal Data Protection and the Commissioner for Equality as well as a special judicial institution, the Constitutional Court. Despite systematic communication and cooperation between some of the above actors, my research concludes that networks of accounting actors in the public sector have a rather limited impact on public accountability as a consequence of institutionalisation. In other words, actors with comparable competences and resources fail to enrich their capacities through networking.

Hence, chapter 5 looks at Peruzzotti and Smulovitz's "social accountability", which describes the transformation of social actors such as civil society organisations and the media into accounting actors and their interactions with ombudsman institutions. According to the theory, these actors have the potential to increase the accountability of the state authorities and public officials under scrutiny by using – often simultaneously – three strategies: mediatisation, social mobilisation and judicialisation. Regarding the relationship between civil society organisations and ombudsman institutions in Serbia, my research shows that both sides acknowledge the benefits of networking, in spite of the fact that civil society is relatively uncertain about cooperating with the state due to the conflicting relationship of the 1990s. Regarding the media, there is a general tendency among various state and social actors to overemphasise publicity as an effective means of exerting pressure on state authorities. However, "name and shame" tactics arguably have limited impact on public accountability in countries like Serbia due to the widespread cynicism and indifference of Serbian society towards cases of corruption, mismanagement and violations of rights. In any case, my research in Serbia shows that social accountability matters for two reasons: on the one hand, state accounting agencies such as ombudsman institutions attempt to capitalise their

³¹ Schedler identifies four sources of institutional reform that potentially contribute to the emergence of public accountability: governments (reform from above), civil society (reform from below), state accounting agencies (reform from within), and international actors (reform from the outside) (1999b: 338). Based on this spatial distinction, this thesis looks at public accountability "from within" (chapter 4) and "from below" (chapter 5).

relationship with social actors by reinforcing their reputation as bodies independent of the executive while on the other hand, the informality that characterises relations of social accountability potentially improves the efficiency of formal triadic dispute resolution through networking.

The final chapter of this thesis synthesises the main findings of this research project, discusses its policy implications and makes recommendations for future research. Overall, this thesis concludes that networking between state and social actors has the potential to create the conditions for state authorities and public officials to account for their decisions or actions. However, various factors, ranging from prevalent rivalries, distrust and fragmentation among networking partners to citizens being disenchanted as a consequence of post-transition fatigue, may hinder this idealised network of accounting actors in practice. Thus, this thesis concludes that the consolidation of an atmosphere of public accountability in newly-established democracies presupposes among other things the active involvement of both an accounting state and social actors and citizens.

Chapter 2

Theoretical background and methodology

2.1 Introduction

2.2 Assessing the role of ombudsman institutions as accounting actors according to indicators

2.2.1 Institutional design

2.2.2 Networks of accounting actors

2.3 Linking network theory to research hypotheses and methods

2.4 Cases, methods and sources of data

2.5 Fieldwork overview

2.6 Limitations of the research project

2.7 Conclusions

2.1 Introduction

Prior to presenting and analysing the research findings of my fieldwork in Serbia, this chapter has a twofold aim: on the one hand, it argues for the appropriateness of the selected research design by justifying the relevance of network theory to this project's research hypotheses. On the other hand, it provides a thorough overview of the methods and sources used to test these hypotheses in practice. In other words, this chapter on methods aims to link the theoretical background and the arguments outlined in the previous introductory chapter with the empirical research conducted in Serbia which is discussed in the main body of this thesis.

The chapter consists of five interrelated parts. The first presents an operative framework of indicators through which I examine the role of ombudsman institutions as accounting actors. The indicators correspond to institutional design and networking, two complementary factors which arguably impact upon the effectiveness of ombudsman institutions. Hence, this chapter analyses each individual indicator as a prerequisite for justifying the relevance of the theoretical approach and research methods selected for this project. The second part discusses the main concepts of policy network analysis (e.g. actors, resources, trust) and applies this

approach to ombudsman institutions in order to explore their role as accounting actors through networking. Network theory also justifies the selection of methods, namely in-depth, semi-standardised interviews and document analysis. Interviews are chosen in this research project as an appropriate method for examining ombudsman institutions as accounting actors from a network perspective by looking at their interactions with various state and social stakeholders. Hence, the second part of this chapter also discusses sampling, i.e. the selection process for interviewees from which the formulation of questionnaires derives.

The theoretical discussion on methods is followed by a thorough fieldwork overview which explains how the aforementioned research design is applied in practice. As well as summarising information about various technical aspects of this research project, such as number of interviewees and degree of responsiveness, the fieldwork also contains a step by step description of the methods and sources used in data collection and processing that can be used as indicators of the conformity of this research to standards of reliability and validity. Finally, this chapter briefly discusses the limitations of this research project in terms of design, methods and findings with the aim of making recommendations for future research after the presentation and analysis of the research findings in the main body of this thesis.

2.2 Assessing the role of ombudsman institutions as accounting actors according to indicators

In the introductory chapter of this thesis, I suggested that the concept of effectiveness is theoretically ambiguous yet empirically crucial for understanding whether an institution accomplishes the goals for which it was established. Effectiveness is linked to the main research question of this thesis, the impact of ombudsman institutions on potential networks of accounting actors in Serbia; hence effectiveness is conceptualised as the capability of these offices to hold state authorities and public officials accountable for their decisions or actions through networks of public accountability. Taking the operationalisation of public accountability as a process of three subsequent and interrelated phases (investigation, answerability and enforcement) I develop below an operative framework of indicators through which I examine the role of ombudsman institutions as accounting actors. The

indicators derive from two distinct but complementary factors that potentially impact upon the effectiveness of institutions in general: institutional design and networking.

Table 2. Operative framework of indicators

Effectiveness factors	Indicators
1. Institutional design	1.1 Width of jurisdiction
	1.2 Extent and adequacy of powers
	1.3 Accessibility
	1.4 Operational efficiency (financial and human resources)
	1.5 Public dissemination of work
2. Networks of accounting actors	2.1 Interactions with state accounting institutions
	2.2 Interactions with social actors

According to this operative framework, institutional design consists of five interrelated dimensions: 1) width of jurisdiction, 2) extent and adequacy of powers, 3) accessibility, 4) operational efficiency (financial and human resources) and 5) public dissemination of work. These indicators are rather formalised as they are largely defined by legislation. The first two dimensions (width of jurisdiction and extent and adequacy of powers) are arguably crucial for the initial stages of accountability as it is expected that ombudsman offices with wide jurisdiction and extensive powers are capable of thoroughly investigating a case of misconduct in the public sector, obtaining relevant information and demanding justification from the state authorities or public officials under scrutiny. However, conducting investigations largely depends on the next two indicators, accessibility of the office and adequate human and financial resources. More precisely, considering that ombudsman institutions usually initiate investigation proceedings following the submission of complaints, it is important that citizens can access the office easily and without any charge otherwise the number of complaints submitted is limited, leading automatically to a reduction in the

number of potential investigations. Furthermore, ombudsman offices need professionalised staff and sufficient funding for the conduct of investigations because limited human and financial resources reduce the number and deteriorate the quality of investigations. The last indicator of institutional design, public dissemination of work, corresponds to the last stage of the accountability process, the enforcement phase. Given that ombudsman institutions usually have limited enforcement powers, they can exert pressure by threatening to inflict indirect punishment, such as public exposure through annual or special reports. In other words, state authorities and public officials are increasingly expected to account for their decisions or actions if the denunciation of wrongdoings through the ombudsman's public dissemination of work is perceived as a threat.

The second factor of the operative framework concerns networks of accounting actors, which are the potential interlocutors of ombudsman institutions in the state apparatus and society. The implicit reference to state and social "allies" can be traced to O'Donnell's influential argument that, "effective [...] accountability is not the product of isolated agencies but of networks of agencies [...] committed to such accountability" (1999: 39). In other words, the closer communication and cooperation between ombudsman institutions and other state agencies and social actors is, the more likely it is that public officials and state authorities under scrutiny will account for their decisions or actions, fearing either public exposure by social actors (e.g. media) or possible imposition of sanctions by state agencies with coercive powers (e.g. courts). In the following pages, I discuss in detail each individual indicator that forms part of the above operative framework with the aim of illuminating the complementarity among them and justifying the relevance of network theory and methods (interviews and document analysis) to this research project.

2.2.1 Institutional design

Jurisdiction is the first aspect of institutional design which arguably impacts upon the effectiveness of ombudsman institutions as accounting actors and depends on the mandate provided to each office by legislation. Although width of jurisdiction varies from case to case, it usually covers the executive and most sectors of public administration, including ministries and local government authorities, since ombudsman institutions are usually authorised to complement parliamentary scrutiny over the executive and the conduct of

judicial control over public administration (Pegram 2008a: 53). However, in most European countries ombudsman institutions have no investigation rights over courts and other bodies of the judiciary, intelligence agencies, the armed forces or the police (Prevezanou 2000: 37-38). However, the jurisdiction of certain East-European offices (e.g. Slovenia, Bosnia-Herzegovina, Montenegro, Georgia, Slovakia) extends to partial control of the judiciary through intervention in court proceedings – for instance in cases of “undue delay” and “evident abuse of authority” (Kucsko-Stadlmayer 2008a: 27). Overall, wide jurisdiction covering a large number of state bodies and various types of grievances is often perceived to be positively correlated with institutional effectiveness in the ombudsman literature (Gwyn 1982: 186; Gottehrer & Hostina 2000: 408). This assumption is based on the idea that narrow jurisdiction over a single sector of public administration or type of misconduct attenuates the capability of ombudsman institutions to play a central role as accounting actors.

Similarly, Pegram argues that

a broad and non-restrictive mandate, combined with an all-encompassing jurisdiction, offers important counterweights to the ombudsman’s lack of sanctioning power (2008a: 53).

In fact, the inability of most ombudsman offices to enforce their judgments and impose sanctions has been widely discussed in the literature as a disadvantage of the ombudsman institution (e.g. Hansen 1972; Schedler, Diamond & Plattner eds. 1999; Mainwaring 2003; Bovens 2006; Peruzzotti & Smulovitz eds. 2006; Kucsko-Stadlmayer ed. 2008). In other words, these limited enforcement powers reinforce the argument that ombudsman institutions have “a big mouth but very short hands” (Elcock 1997: 376), hence effectiveness depends not only on width of jurisdiction but also on the extent and adequacy of powers. In other words, effective ombudsman offices must have – apart from the capacity to impose sanctions – extensive powers of investigation and inspection, such as access to records and premises (Gottehrer & Hostina 2000: 409). However, investigations must be short and simple otherwise the number of cases examined might be reduced. Last but not least, according to the ombudsman literature, a crucial power of these offices is the authority to initiate proceedings *ex officio*. This refers to the ability to investigate a case of misconduct brought to the ombudsman’s attention by the media or other parties, without prior submission of a complaint (Kucsko-Stadlmayer 2008a: 21).

The third indicator of institutional design concerns the degree of accessibility of the ombudsman's offices. The process of submitting a complaint is usually straightforward, as any person or group of people can contact the staff of an office directly via phone, post or email without any additional charge. Convenient and inexpensive accessibility is praised by several scholars as one of the major advantages of ombudsman institutions, especially in comparison to other control mechanisms, such as the courts (Friedmann 1977: 497; Uggla 2004: 425; Ambrož 2005: 148). However, it is important that the complainant reaches the office without the intervention of a third party (Gottehrer & Hostina 2000: 407). In the United Kingdom, for example, complaints are initially submitted to a member of the House of Commons, who decides whether they will be forwarded to the British equivalent of an ombudsman, the Parliamentary Commissioner for Administration. This distinguishing feature of the British ombudsman, the so called "MP-filter", has been criticised for reducing the effectiveness of the office by posing a significant obstacle to communication with citizens (Gwyn 1982: 183-186). Yet, direct access to ombudsman offices is not a panacea. According to the conclusions of the 2002 European Ombudsmen Conference, four crucial conditions are necessary for the submission of a complaint, which are:

the awareness of one's own rights and the rights of others, the existence of complaint procedures, the absence of fear regarding potential negative consequences of complaining, and the confidence that the system is capable of correcting violations (Vangansuren 2002: 24).

As a consequence, there is no automatic link in practice between easy access to an ombudsman office and improvement or intensification of communication with citizens. In any case, in the ombudsman literature effectiveness is correlated with accessibility in terms of proximity to citizens and subsequent increase in workload.

According to the relevant literature, another crucial prerequisite for effectiveness is the operational efficiency of offices, as expressed by the adequacy of financial and human resources. O'Donnell acknowledges the importance of professionalised and well-funded state accounting agencies (1998: 123) as the availability of resources is generally perceived as a prerequisite for the accomplishment of any office's goals (Gottehrer & Hostina 2000: 405). In short, an understaffed and poorly funded ombudsman office is expected to have limited organisational capacity (for instance in terms of conducting investigations or publishing reports) and therefore decreased effectiveness (Vangansuren 2002: 39). In addition, adequate

financial resources are generally perceived as a means of securing the autonomy and independence of institutions from the executive. Diamond argues that, “officials of accountability agencies must be appointed, funded, and supervised in ways that cannot be subverted or suborned” (2008: 309), implying that sufficient funding deters institutions from being exposed to particularistic interests. For instance, research on several ombudsman offices in Latin America (e.g. Guatemala, El Salvador, Honduras) shows that funding is frequently used by the executive as a means of restraining or punishing an institution, leading in turn to the increasing dependence of ombudsman offices on international donors (Uggla 2004: 435). Thus, bearing in mind that a fundamental prerequisite of effective ombudsman institutions as accounting actors is their independence from the authorities they hold accountable, it becomes clear why financial independence is arguably correlated with institutional effectiveness.

Last but not least, the ability of ombudsman institutions to bring their work before the public is widely perceived as a means of increasing their effectiveness. Some scholars place particular emphasis on institutionalised ways of public dissemination of work, such as frequent publication of special and annual reports (Pegram 2008b: 20), yet the regular presentation of their activities online or through the media is often more important in practice (Kucsko-Stadlmayer 2008a: 49-50). Special reports contain the findings of cases investigated and recommendations for remedying misconduct, and are published with the aim of making the results of investigations widely known (Gottehrer & Hostina 2000: 409). Annual reports, on the other hand, overview the activities of ombudsman offices throughout a particular year, are submitted to parliament and are discussed by the plenary assembly (2008: 48). Bearing in mind their limited enforcement powers, the ability of ombudsman institutions to issue reports is perceived, along with the power to investigate and make judgments and recommendations, to be “the heart of ombudsman effectiveness” (Gadlin 2000: 42). The public dissemination of their work matters for the effectiveness of ombudsman institutions, as state authorities or public officials fear public exposure and social mobilisation (Peruzzotti & Smulovitz 2006b: 350). In addition, by making their activities known to the public, ombudsman institutions maintain a presence in the public domain (Pegram 2008b: 72) and have the opportunity to increase their credibility by persuading people of the necessity of their work (Stieber 2000: 53). In other words, public dissemination of their work is potentially useful as a way of the legitimising ombudsman institutions.

To sum up, the aforementioned five indicators illuminate crucial aspects of the institutional design of ombudsman institutions which arguably impact upon their role as accounting actors. In other words, according to the relevant literature, wide jurisdiction, extensive investigative powers, easy accessibility and adequate human and financial resources are factors which correlate positively with the ability of ombudsman offices to hold state authorities and public officials accountable for their decisions or actions. These four indicators correspond to the first stage of public accountability, the investigation of a case of misconduct. The last indicator, public dissemination of work, relates to the last stage of enforcement, as ombudsman institutions rarely have the authority to enforce their judgments or recommendations through the imposition of sanctions. Hence, the threat of public exposure through denunciation of wrongdoings arguably has the potential to increase the accountability of the authorities under scrutiny. Overall, this thesis acknowledges that the above indicators of institutional design echo the deterministic biases of the relevant literature in the sense of foreseeing a positive correlation between formal competences or capacities and effectiveness, i.e. the capability of ombudsman institutions to act as accounting actors. However, this research project argues that ombudsman institutions interact with other state and social actors to compensate for their institutional deficiencies hence in this thesis institutional design is examined complementarily with networking.

2.2.2 Networks of accounting actors

The importance for public accountability of communication and cooperation between various actors is a widely discussed topic in the relevant literature (e.g. O'Donnell 1999; Vangansuren 2002; Morlino 2004; Ugglå 2004; Ambrož 2005; Peruzzotti & Smulovitz eds. 2006a; Diamond 2008; Pegram 2008a). Here I use O'Donnell's influential distinction between so called "vertical" and "horizontal" accountability. Ombudsman institutions and other state agencies with similar functions, such as audit offices, the general inspector or countercorruption commissions, are formally authorised to monitor or control other public sector bodies and occasionally impose sanctions, if the decisions or actions of the accountable party violate the law or infringe rights (Schmitter 2004: 52). Overall, the effectiveness of these agencies as accounting actors is expected to increase, as long as they do not act in isolation but in networks of cooperation (O' Donnell 1999: 39). As I explain in more detail

below, networking is potentially beneficial to capacity building through the exchange of resources. Similarly, Diamond believes that, “transparency in government can be achieved when the agencies of horizontal accountability interlock and overlap in a systemic fashion” (2008: 303). For instance, an ombudsman handles a complaint concerning a case of electoral fraud, the electoral commission investigates the case and the judiciary presses for criminal penalties.

Furthermore, public accountability arguably also stems from society. More precisely, civil society organisations and the media have the potential to hold state authorities accountable for their decisions or actions through exposure of governmental wrongdoing (“vertical social accountability”). In other words, the increase of reputation costs through social mobilisation and media exposure can arguably initiate the answerability phase of accountability processes by forcing the accountable party to reply and to justify her/his conduct in public. However, public pressure does not guarantee a response from the accountable party, nor the enforcement of a decision or measures which right wrongs. Hence, the existing literature suggests that social actors activate “horizontal” state agencies (e.g. ombudsman institutions, courts) which have the legal authority to investigate cases of misconduct and impose sanctions, if needed. Thus, Peruzzotti and Smulovitz argue that

public exposure of issues and wrongdoing not only generates symbolic costs [...] but also forces political institutions to address these cases and raises the actual costs of illegal or improper political behavior (2006a: 11).

In conclusion, networking, alongside institutional design, is another factor with the potential to reinforce the role of ombudsman institutions as accounting actors. As I explain in detail below, networking is theoretically beneficial to the capacity building of the ombudsman through the exchange of resources hence it is examined in this research project using two indicators. The former concerns institutionalised networking between ombudsman institutions and other state accounting actors (i.e. O’Donnell’s “horizontal accountability”) while the latter looks at the interactions between ombudsman institutions and social accounting actors such as civil society organisations and the media (i.e. Peruzzotti and Smulovitz’s “social accountability”). Based on an assumption of reciprocal influence according to which the existence of continuous and well-articulated demands from social actors can stimulate the agencies of horizontal accountability, while the existence of effective “horizontal” accounting actors can induce a chain of social accountability (O’Donnell 2006:

339), the two types are examined complementarily in this thesis. Last but not least, networking is explored overall in relation to institutional design for two reasons: on the one hand, it potentially attenuates determinism by shifting the attention from formalistic aspects of institutional design to the strategic calculations of networking partners, while on the other hand it arguably compensates for the deficiencies of institutional design through the exchange of resources. Thus, institutional design is empirically analysed in chapter 3 while networking is analysed in chapters 4 and 5 of this thesis.

2.3 Linking network theory to research hypotheses and methods

In spite of the emphasis placed by several academics and policy-makers on the importance of networking for accounting actors (e.g. O'Donnell 1998; Schedler, Diamond & Plattner eds. 1999; Vangansuren 2002; Reif 2004; Christopoulos & Hormovitis eds. 2005; OHCHR 2005; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Diamond 2008; Pegram 2008a & b), public accountability has rarely been examined empirically from the network analysis perspective. This observation is closely linked to the critique developed in the literature review that the majority of studies of ombudsman institutions are deterministic and atheoretical. In other words, many scholars praise the potential benefits of networking for accounting actors without empirically testing theory-embedded hypotheses. In addition, a significant part of the existing literature, particularly in Serbia, is descriptive and neglects the dynamics of interactions between various state and social actors by looking mainly at the formal aspects of institutional design. As a consequence, there is little evidence about the role of ombudsman institutions as accounting actors in institutionalised and non-institutionalised networks of public accountability.

Network theory arguably provides a relevant approach to the understanding of this research project exploring the ombudsman's impact on potential networks of public accountability in Serbia. In contrast to existing studies which often look at quantifiable dimensions (e.g. the number of investigations conducted, the degree of compliance of public administration with the ombudsman's recommendations etc.), this research project shifts the focus from outcomes to processes in order to illuminate the context which favours the realisation of outcomes. As I explained in the introductory chapter, accountability is conceptualised in this thesis in

operational terms, as a process of successive phases (investigation, provision of information and justification, imposition of sanctions), according to which

A is accountable to B when A is obliged to inform B about A's (past or future) actions and decisions, to justify them and to suffer punishment of eventual misconduct (Schedler 1999a: 17).

The necessity of networking for state accounting actors such as ombudsman institutions is arguably correlated with two contradictory aspects of their institutional status: on the one hand, they are meant to exert independent control over authorities despite being part of the state apparatus, while on the other hand they are expected to hold state authorities and public officials accountable for their decisions or actions, often without having crucial powers, such as the authority to impose sanctions, at their disposal. By networking with other state accounting actors (e.g. the courts) and social accounting actors (e.g. civic associations / NGOs, the media), ombudsman institutions have an opportunity to reduce the degree of dependence on the executive and reinforce their powers through the exchange of resources. Hence, O'Donnell argues that, "effective [...] accountability is not the product of isolated agencies but of networks of agencies [...] committed to such accountability" (1999: 39), while Diamond believes that transparency in government can be achieved when accounting actors from both the state and civil society "interlock and overlap in a systemic fashion" (2008: 303). This thesis aims to examine this school of thought in practice.

As I explained in the introductory chapter of this thesis, the concept of policy networks is particularly relevant to this project, as my research looks at a series of state and social actors in Serbia that for various reasons aim to hold state authorities and public officials accountable for their decisions or actions. In other words, their shared interest in public accountability explains why these actors might choose to interact with each other. Since policy network theory is rooted in social network analysis (Dassen 2010: 15, 49; Henry, Lubell & McCoy 2012: 432), it is useful to provide an overview of some basic concepts of the latter as a prerequisite for understanding the very essence of networks and to justify the relevance of network theory to the hypotheses and methods of this research project. To begin with, social network analysis has been influenced over time by various disciplines, theories and approaches such as structural-functional anthropology, Gestalt theory and sociometry, but it was graph theory that contributed to the visualisation of the initial concept of network analysis by depicting points connected by sets of lines. These lines can be given arrow heads

or signs (+ or -) to indicate the direction or nature of relationships between points (Scott 2000: 8, 13). Based on this distinction, Knoke explains that

the two basic components of all network analyses are a set of objects (variously called nodes, positions or actors) and a set of relations among these objects (variously called edges, ties or links)³² (1990: 8).

Objects can be connected by multiple relations to multiple other objects, but the foundation stone of any network is any pattern of exchange between two individuals or groups, or the dyad – according to Simmel (1950: 22), the “simplest sociological formation”.

Social network analysis’ interest in dyadic ties is closely related to Granovetter’s influential argument that small-scale interaction between two actors has the potential to impact upon both the actors themselves and their environment, thereby bridging the micro and macro levels of social reality (1973: 1360). In other words, network theory suggests that social reality can change through the participation and mutual transformation of actors in networks (Keck & Sikking 1999: 100). The degree to which dyadic or multiple interactions impact upon networking actors and their environment largely depends on the strength of ties between them. Granovetter defines ties as the combination outcome of the amount of time, emotional intensity, intimacy and reciprocal services that characterise relations between networking actors (1973: 1361). In other words, ties between two or more network participants are multidimensional, whereas reciprocity, or more precisely the expectation of obtaining something as a response to an offering, is arguably perceived as one of the reasons which explain the participation of actors in dyads or more complex relationships (Stone Sweet 1999: 149).

In any case, it is crucial to distinguish between the form and content of ties in order to understand how networks actually work in practice. More precisely, relational form refers to the properties of the ties between networking actors, while relational content concerns the substantive meaning of these ties (Knoke 1990: 236). Regarding form, several aspects of ties are considered to be important for the maintenance of a network; some refer to dimensions of magnitude (e.g. intensity, density) and time (e.g. frequency, durability) while others refer to the degree of joint involvement (e.g. reciprocity, direction). In short, a fundamental argument of network theory is that the more intensely, frequently and reciprocally two or more actors

³² Holohan criticises social network analysts for perceiving any set of nodes or actors connected by ties as a network, whereas organisational analysts prescribe certain prerequisites such as actors’ recognition of or commitment and contribution to a network (2005: 33).

interact, the more likely it is that their ties will be strengthened and their network maintained. Hence, networks presuppose commitment from participating actors and investment of material and non-material resources.

Nevertheless, it is not just the form of relations but also the structure and nature of a network that impacts upon the participating actors. Gormley and Balla pinpoint various aspects of networks, such as their centrality (the quantity of information possessed by a strategically situated actor or agency), density (the extent to which all possible relations are actually present), size (number of network participants), complexity (number of different tasks or aims), multiplexity (number of separate relationships between two actors) and differentiation (degree of functional and service specialisation among network participants) (2004: 115), while Scott adds the dimension of reachability, referring to the degree of ease with which networking actors can contact one another (2000: 32). Some of these aspects are mostly applicable to larger types of networks but in all cases they contribute to a spatial and functional depiction of network relationships. Overall there is no unanimity in the literature as to whether network structure impacts upon network participants or vice versa, but scholars like Marsh reconcile the two arguments by suggesting that the relationship between structures and agents is dialectic, as “the actions of agents change structures which, in turn form the context within which agents act” (1998: 70).

There is, however, wide agreement among scholars that network relationships are based on the exchange of resources. Communication, first of all, involves the transfer of information from one actor to another, yet networks facilitate the exchange of various tradable resources and services (Scott 2000: 30) depending on the nature of each individual network. Policy networks, for instance, occur as a consequence of communication, i.e. as the outcome of information flow between various state and social groups on the one hand and the government on the other (Smith 1994: 56). Hence, they may be associated with a series of tradable resources, such as patronage, authority, knowledge, expertise, control or access to information, policy amendments, cooperation with implementation, recourse to the courts, support either as political mobilisation or as legitimacy and material and moral leverage such as pressure in the form of demonstrations, petitions or media coverage etc. (Keck & Sikkink 1999: 97; Compston 2009: 21-32). In general, many scholars argue that the aforementioned exchange creates resource dependencies (Smith 1994: 58; Marsh 1998: 195), in which networking actors increasingly rely on each other, depending on the type and quantity of resources exchanged. Having said this, resource exchanges are not always equal, as one party

may profit more from the interaction than the other (Compston 2009: 19), nevertheless this asymmetry does not necessarily pose a threat to the maintenance of a network.

The exchange of resources and services within a network presupposes bargaining and negotiations (Smith 1994: 63-64), which in turn have the potential to improve coordination and reinforce cooperation and consensus building among the participating actors (Marsh 1998: 8-9). Hence, it is expected that the more actors communicate, interact and negotiate over the direction of their network by exchanging tradable resources, the more likely it is that they will agree on the conditions of such an arrangement. As a consequence, Marsh argues that, “negotiations can produce a positive-sum outcome in which all benefit” (1998: 9). However, there is no unanimity among scholars regarding the motivations of networking actors. Stone Sweet explains that the normative notion of reciprocity was deeply embedded in earlier social science works as an explanatory factor for the maintenance of social systems, but with the rise of neorationalism in contemporary political science, emphasis shifted to the strategic choices and tactics of groups or individuals (1999: 149). More precisely, Pickvance explains that reciprocity within a network creates indebtedness over time, arguing that, “if *ego* helps *alter* today, *ego* expects *alter* to reciprocate in the future; in the meantime *alter* is indebted to *ego*” (1997: 316), while rational choice approaches argue that actors have an interest in adopting strategies and tactics while exchanging resources with their networking counterparts as a way of maximising their preferences and increasing the overall benefit from such interactions (Marsh 1998: 25; Compston 2009: 22). Notwithstanding the prevalence of rational choice in network theory, the literature incorporates a plethora of social forces that drive actors to network with others, varying from reciprocity and ideology to rational calculation and then from learning and social exchange to persuasion, coercion and repression (Knoke 1990: 21).

Familiarisation with the basic concepts of social network analysis above (network structure, nature of ties, motivations of networking actors, exchange of resources) is necessary for understanding the very essence of policy networks as the focal point of this research project. Most definitions of this distinct type of network involve many of these concepts to varying degrees, but they all have in common the expectation that networks have the potential to impact directly or indirectly upon policies. Before discussing in detail how policy networks are defined in this research project, it is useful to provide a brief overview of the historical-political context which enabled their emergence as an alternative means for the distribution and exercise of power.

As I explained in the introductory chapter of this thesis, the increasing attention given to networks is closely associated with what academics describe as a shift from government to governance in recent decades (e.g. Scharpf 1978; Marin & Mayntz 1991). In other words, the focus of public policy as an academic discipline moved gradually from bureaucratic – in the Weberian sense – state and public administration to new, often informal forms of governing, in which power is distributed and exercised in an increasingly horizontal manner. This shift has been attributed to various domestic and international factors; Dassen argues that the increasing functional differentiation of modern societies resulted in a fragmented social organisation consisting of specialised subsectors, and subsequently to a multiplication of interdependent actors that participate in increasingly complex public affairs, while the intrinsic limitations of rigid, hierarchical policy-making precipitated the need for alternative, flexible forms of governing (2010: 12). On the other hand, centrifugal processes of globalisation and decentralisation transform the sovereign state as we know it, as power is gradually transferred upwards to international organisations (e.g. EU), downwards to local administration (e.g. regions, municipalities) and sideways to independent regulatory or oversight bodies in the name of agencification (Ferlie, Fitzgerald et al. 2011: 308). In view of this transformation, state and non-state actors with a vested interest in policy-making adjust to new circumstances by participating in policy networks.

Given the diversity of the individual actors and factors that impact upon the formation of networks, it becomes clear that policy network is an umbrella term to describe various types of nexuses consisting of state and non-state, domestic and international actors such as issue networks, policy communities, iron triangles, policy-subsystems or sub-governments and epistemic communities (Rhodes 2006: 423). The best known and most applied typology in the literature is attributed to Rhodes and Marsh, who locate the ideal types of policy networks along a continuum according to the closeness of the relationships within them, spanning from policy communities (close relationships) to issue networks (loose relationships) (Dassen 2010: 24; Blanco, Lowndes & Pratchett 2011: 300; Jordana, Mota & Noferini 2012: 647). In short, some characteristics of policy communities are: a limited number of participants with mostly economic or professional interests; frequent and high quality interaction between all members; symmetrical distribution of resources within the community; and a hierarchical structure and balanced power between members. Conversely, issue networks are associated with multiple participants, fluctuating interaction, asymmetrical distribution of exchangeable

resources, flexible structures and unequal power (Smith 1994: 60). This brief distinction between extreme, ideal types indicates the variation that characterises policy networks.

Before discussing the aspects of networks which are crucial to this research project, it is important to define policy networks in accordance with the aforementioned concepts of social network analysis, and provide a brief overview of the historical-political factors that led to their emergence. Thus, policy networks are defined in this thesis as

sets of relatively stable relationships which are of non-hierarchical and interdependent nature linking a variety of actors who share common interests with regards to a policy and who exchange resources to pursue these shared interests acknowledging that cooperation is the best way to achieve common goals (Börzel 1998: 254).

Similarly to other approaches in the relevant literature (e.g. Rhodes 2006: 423; Blanco, Lowndes & Pratchett 2011: 301-302; Jordana, Mota & Noferini 2012: 647), Börzel's definition encompasses major concepts of network analysis without fitting fully any of the ideal types found in the aforementioned typology of policy networks. Indeed, stable relationships are usually associated with participants in policy communities, whereas a lack of hierarchy between networking actors is closer to the notion of issue networks. Börzel selects a minimalist definition for a reason associated with the very essence of policy networks: even though typologies are useful in terms of systematising variation, they impose limitations on a phenomenon that is by nature subject to the influence of various endogenous and exogenous actors and factors. Hence, Börzel's definition encompasses only the very central elements that constitute a policy network, such as agreement between various actors on a certain policy agenda, interdependent relationships based on exchangeable resources and cooperation due to an acknowledgment that goals can be achieved only through the instrumentalisation of these relationships.

Although cooperation is frequently used as a value-loaded, normative term, the above definition of policy networks is closer to the rational choice school of thought as it argues that actors acknowledge the potential to maximise their preferences through collective action. This perception is even more explicit when it comes to Hay's minimalist definition of policy networks as

modes of coordination of collective action characterised and constituted through the mutual recognition of common or complementary strategic agendas. Networks, within

such an account, are strategic alliances forged around a common agenda (however contested, however dynamic) of mutual advantage through collective action (1998: 38).

In short, this approach lays emphasis not only on the expectation of mutual advantage but also on the strategic calculations of networking actors that define largely individual actions. In a similar fashion, Leifeld and Schneider argue through their research on information exchange in policy networks that contact-making between interacting actors in such networks is beneficial for various reasons (for instance, in terms of gathering and disseminating information or forming alliances against opponents), yet establishing and maintaining contacts is expensive in terms of labour, time and money; hence, 'political actors choose contacts who minimise transaction costs while maximising outreach and information' (2012: 731-732). In other words, scholars like the above argue that several stages in the life cycle of policy networks, such as the process of network formation, the practice of networking, the processes of network depletion and finally network termination, depend largely on the strategic calculations of the individual actors participating in those networks (Hay 1998: 36, 45-51).

Without underestimating the importance of theoretical pluralism and "paradigmatic" diversity in political analysis (Weyland 2002: 79), this thesis examines policy networks as structures of interest intermediation from a rational choice perspective. More precisely, policy networks are perceived as a meso-level concept in policy-making that is applied to describe all types of public-private interactions, but especially those between various interest groups and the state (Dassen 2010: 21; Đurić 2011: 89). In addition, this research project's emphasis on individual actors and their impact on potential networks of accounting actors in Serbia argues for rational choice as a theory which is relevant to the examination of network dynamics at the micro-level, as it privileges agents over structures (Daugbjerg & Marsh 1998: 69). Rational choice is hereby understood as a methodologically individualist analysis that focuses on networking actors, their strategic interactions and utility-maximising actions (Weyland 2002: 60; Schmidt 2010: 5). Even though I argued earlier in this thesis that structures and agents are generally characterised by a dialectical relationship in terms of reciprocal influence (Daugbjerg & Marsh 1998: 70), in this research project networks are conceived as regulatory structures that facilitate or constrain actors while they interact in an attempt to maximise their preferences (Marsh 1998: 10). Hence, networks of public accountability in Serbia are perceived as a variable that depends on the interacting actors, their strategic calculations and individual decisions.

Nevertheless, cooperation in the name of strategically-planned utility maximisation gives the incorrect impression that networking partners are in a state of continuous agreement. In fact, as I explain in the main body of this thesis, cooperation in networks can sometimes coexist with competition (Ohanyan 2008: 5) in a pattern that Holohan calls “co-opetition” (2005: 18-19). The concept of co-opetition suggests that, despite the apparent antithesis between cooperation and competition, the two terms are not necessarily mutually-exclusive, but can coexist as parts of a context in which networking actors compete with each other while acknowledging the importance of cooperation for the maximisation of their preferences. Similarly, Kriesi, Adam and Jochum argue that policy networks can be characterised by both a high degree of cooperation and a high degree of conflict. The latter derives from major disagreements in ambivalent relationships between networking actors and can be regulated through bargaining (2006: 351-352). In any case, competing interests do not necessarily undermine the stability of a network as long as networking actors acknowledge the necessity that it is maintained. Hence, rational calculation or actors’ expectation that, notwithstanding disagreements, they can achieve their goals by interacting with others is arguably a significant motivation for participation in networks.

The positive connotations of cooperation as a type of interaction based on consensus and agreement are partly explained by the correlation with the popular concept of social capital. Various scholars in the network literature argue that the availability of social capital to networking actors facilitates coordination and cooperation (Tavits 2006: 212; Brunie 2009: 255). Even though academics disagree on the actual content of the concept, social capital is widely perceived as a resource produced by interactions in networks (e.g. Farr 2004; Ledeneva 2004; Hafner-Burton, Kahler & Montgomery 2009). The term itself implies that it is embedded in social relations (Freitag 2006: 126), which is why one of the most influential scholars in the field defines social capital as “features of social life – networks, norms, and trust – that enable participants to act together more effectively to pursue shared objectives” (Putnam 1995: 664-665). This definition does not exclude the possibility of strategic calculations and utility maximisation by individual actors, yet Putnam’s correlation between the above concept and the production of collective goods such as “civic engagement” (Ledeneva 2004: 6) diverts attention from the micro- to the macro-level and has popularised the idea that social capital is beneficial to democratic states and societies. As a consequence, the implicit normativism of this widely accepted approach arguably attenuates the analytic capacity of the concept.

In contrast to Putnam, scholars such as Bourdieu and Coleman adopt a more positivist stance. The former perceives social capital as an actual or potential resource available to participant in networks, which gives actors a sense of membership in a group (Bourdieu 1986: 248-249) while the latter suggests thinking of social relations between interacting actors as social capital, given that they have the potential to improve communication in networks and facilitate the exchange of various resources (Coleman 1988: 98). Similarly, Brunie implicitly favours the idea of rational calculation as the motivation behind network formation since she conceives social capital as “the ability of actors to mobilise their social contacts in order to obtain valued resources” (2009: 253). In other words, Putnam focuses on the potential correlation between social capital, economic growth and democracy, while scholars like the above conduct a micro-level analysis of relations within networks as a means of obtaining resources or simply as resources themselves (Ledeneva 2004: 6). Since this research project uses a rational choice perspective to examine potential networks of accounting actors in Serbia as structures of interest intermediation, this thesis embraces the above approaches as they focus on micro-level interaction between actors and the potential exchange of resources that justify their participation in networks.

Discussion of social capital inevitably draws attention to the concept of trust. In an attempt to explain why actors decide to participate in such networks, Leifeld and Schneider distinguish between various drivers of tie formation in policy networks, spanning from ideology and similarity of preference on political issues to functional or institutional interdependence and social trust (2012: 731). Holohan is more emphatic when it comes to the importance of trust to networks, arguing that

it is the element that needs to be constantly in production to optimise the networked organisation. In the absence of a market exchange of resources and information, and in the absence of one giant hierarchy, what brings people and organisations from diverse organisations together in an effective way is trust. Trust is intrinsic to greater identification with the mission, greater exchange of resources and information, and greater cooperation in problem solving (2005: 35).

The notions of membership identification and continuous exchange of resources as a consequence of improved communication and cooperation echo Bourdieu’s and Coleman’s approaches to social capital above. In addition, trust involves an aspect of informality which is particularly important to small-scale interaction between actors in non-institutionalised networks. Thus, despite the normative connotations of the concept, trust is perceived as a

mechanism that reduces uncertainty in relations between partners and facilitates collective action (Jordana, Mota & Noferini 2012: 650). As I explain on several occasions in the main body of this thesis, trust, or the lack of it, is a crucial factor that largely explains the success or failure of interactions between state and social accounting actors in Serbia.

In conclusion, the appropriateness of network theory for this project is better understood when the research hypotheses are correlated with the operational conceptualisation of public accountability and the development of a framework of indicators through which I examine the effectiveness of ombudsman institutions as accounting actors. This thesis examines the interactions of ombudsman institutions with other state and social actors and the potential formation of policy networks in the name of public accountability as a response to post-transition Europeanisation in Serbia. More precisely, one of the hypotheses of this research project derives from two intrinsic but contradictory characteristics of ombudsman institutions: on the one hand, they are meant to exert independent control over authorities despite being part of the state apparatus, while on the other hand they are expected to hold state authorities and public officials accountable for their decisions or actions, often without having crucial powers at their disposal, especially the right to impose sanctions. This thesis tests the hypothesis that ombudsman institutions acknowledge the importance of interacting with other state and social accounting actors as a way of reducing their degree of dependence on the executive and expanding their investigative and enforcement powers.³³ In other words, the aim is to empirically test the hypothesis that networking between ombudsman institutions and other actors compensates for the deficiencies of institutional design. Hence, this thesis looks at the combination of strategies and resources of networking actors.

2.4 Cases, methods and sources of data

The necessity of shifting focus from the descriptive evaluation of outcomes to the analytic exploration of causes, i.e. the examination of the circumstances under which ombudsman institutions can hold state authorities accountable for their decisions or actions, justifies the relevance of a qualitative method such as interviews for this research project. Although

³³ Paradoxically, a prerequisite of this acknowledgement by ombudsman institutions is a certain degree of independence from the executive, otherwise offices that are politically and financially dependent might attempt to network with other state and social actors in order to prove their commitment to public accountability.

certain aspects of networking, such as frequency of interactions between network participants, can be easily quantified, a qualitative method such as interviews provides the appropriate tools to identify the motivations of networking actors. In addition, interviews give “voice” to a series of actors that do not necessarily possess a central position within a network of state or social accounting actors (e.g. local ombudsman offices, small civic associations/NGOs) while the selection of semi-standardised interviews enables in-depth exploration of interactions in a broader context of cooperation and competition. As I explain below, in this research project data collection is primarily based on a basic questionnaire consisting of open-ended questions, adjusted to each individual type of interviewee (staff of international organisations, ombudsman offices and state accounting institutions, NGO activists, journalists and academics) in order to shed light on the relationship of “co-competition” between networking actors from different angles.

Even though, as I showed in the introductory chapter of this thesis, the proliferation of ombudsman institutions in the name of accountability and human rights protection has been a process that has affected all post-communist states in Europe except Belarus, this research project focuses on a single case, Serbia, with the aim of drawing valuable conclusions for other post-transition countries in the region. Single case studies are arguably a fruitful method of social science inquiry for a series of reasons: compared to large N-studies, they are more efficient at achieving higher conceptual validity, exploring causal complexity and hypothesising causal mechanisms by combining “within-case analysis” with “cross-case comparisons” (George & Bennett 2005: 19). This research project in particular differs from other single case studies in that it applies a multi-level approach. In other words, this thesis examines the interactions of eleven ombudsman offices at the national, regional and local levels with other state and social accounting actors with the aim of testing the hypothesis that a variation in the resources available or networking potential affects involvement in institutionalised or non-institutionalised networks of public accountability. Based on this assumption, it is expected that the more exchangeable resources an ombudsman office has, the more likely it is to have a central position within a network and thus interact with various accounting actors.

The presence of multiple units of observation (i.e. national, regional and local ombudsman offices in Serbia) raises the question of whether a research design based on the comparative method, such as a most similar or dissimilar systems design is more appropriate for the hypotheses of this project than case study research. Indeed, the number of cases examined

appears to be a contested issue in the literature when it comes to the conceptualisation of case studies (Burton 2000b: 215). Lijphart for instance argues that, “the statistical method can be applied to many cases, the comparative method to relatively few (but at least two), and the case study method to one” (1971: 691), while in contrast Burns defines multi-case studies as a separate type of case study (2000: 463-464). Whether or not numerous cases blur the boundaries between comparative method and case study, it is crucial to make a clear distinction between cases and units of observation. This research project in particular focuses on a single case with multiple units of observation since the latter are not compared directly with each other yet are subject to the replication of similar questions in order to test common hypotheses. Thus, the emphasis of analysis is not exhausted on similarities and differences between ombudsman offices at different levels of government but on the exploration and understanding of the internal (e.g. institutional design) and external factors (e.g. networking) which impact upon the role of ombudsman institutions as accounting actors.

The aforementioned multi-level decentralisation of ombudsman offices is the defining characteristic which differentiates Serbia from other post-communist states in Europe,³⁴ hence this thesis argues for its exceptional relevance as a case study for examining public accountability from a network perspective. As I explained in the introductory chapter of this thesis, Serbia moved rapidly from being a European latecomer to becoming an ombudsman enthusiast, establishing more than 15 ombudsman offices at the national, regional and local levels in less than a decade. This trend is correlated with the increasing public discourse on accountability, transparency and the rule of law in post-transition Serbia and the subsequent multiplication of so called “independent regulatory and oversight bodies” (e.g. the Public Auditor, the Commissioner for Information of Public Importance and Personal Data Protection, the Anti-corruption Agency) in the name of liberalisation, deregulation and protection of human rights (Radojević 2010b). Whether or not these processes are initiated by truly reform-oriented political elites or due to external pressure (e.g. EU conditionality), the decentralisation of ombudsman offices indicates that the aforementioned discourse concerns all levels of government in contemporary Serbia.

This multiplication and proliferation of ombudsman offices makes Serbia an interesting case to examine, not just because of the country’s “uniqueness” within the group of European

³⁴ Apart from Serbia, Bulgaria is the only non-federal, post-communist state in Europe that has established ombudsman offices at a local level, through an amendment to the Law on Local Self-Government and Local Administration (Open Society Institute 2002: 102-103; Stern 2008a: 127-128).

post-communist states but also because of the implications of this trend for institutionalised and non-institutionalised networks of public accountability in the last decade. From the perspective of network theory, an increased number of relatively active networking actors are expected to be associated with a large number of interactions between them, as well as diversified motivations and exchanged resources. In other words, the proliferation of ombudsman offices across Serbia and their interactions with peripheral accounting actors such as local civil society organisations and the media has the potential to expand networks of public accountability by including additional actors that would probably be neglected or marginalised if there were a single, centrally based national ombudsman institution. Of course, this hypothesis presupposes that local ombudsman offices and peripheral accounting actors are open to communication and cooperation by acknowledging the potential to accomplish their goals through networking.

On the other hand, networking between peripheral state and social actors has a greater chance of being non-institutionalised in comparison with interactions between their counterparts at the national level as a consequence of micro-level dynamics. In other words, it is highly possible that network participants in small localities might be interconnected through personal ties that add a dimension of informality³⁵ to local networks of accounting actors. However, non-institutionalisation or informality is not exclusive to peripheral or small-scale networks. For example, Peruzzotti and Smulovitz argue through the conceptualisation of “social accountability” in Latin America that accounting actors such as ombudsman institutions interact with both state agencies and social actors in order to achieve their goals through actions channelled both institutionally (e.g. activation of legal actions or claims before oversight agencies) and non-institutionally (e.g. social mobilisation and media exposé) (2006a: 10). Legislation or protocols of cooperation often constitute the foundation of such institutionalised channels of interaction,³⁶ while non-institutionalised or informal networking

³⁵ Ledeneva explains that the term “informal” carries different connotations in different contexts “but it is used equally frequently in its positive, neutral and negative senses” (2006: 18). Similarly, Meyer argues that “we do not start from the assumption that informal political practices or distrust towards elite politics are per se non-democratic, unreasonable, dysfunctional or morally illegitimate (‘bad’)” (2006: 14). Based on analysis of my research findings, in the conclusions of this thesis I discuss whether informality among state and social actors reinforces or weakens networks of public accountability in contemporary Serbia.

³⁶ For instance, the Law on the Serbian Protector of Citizens (Zaštitnik građana) defines the occasions in which the office is expected to cooperate with state accounting institutions like the Constitutional Court (Article 19) or other ombudsman offices at regional or local levels (Articles 34 & 35). Službeni glasnik Republike Srbije, 2007. Zakon o zaštitniku građana, broj 79/2005 i 54/2007. http://www.ombudsman.rs/index.php/lang-sr_YU/otnoma/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 02 February 2012]. Similarly, the Provincial Ombudsman of Vojvodina has signed a protocol of cooperation with local ombudsman offices in the region (Bačka Topola, Bečej, Subotica and Zrenjanin) (Marosiuk 2007: 7).

among state accounting agencies and mostly social actors largely depends on their motivations, previous communication and interactions.

The examination of informal politics has a long history in democratisation studies as scholars have realised that formal institutions fail to fully explore the dynamics of political, social, economic and cultural transformations in new democracies. Helmke and Levitsky define informal institutions as

socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels (2006: 5).

Various approaches interpret the conditions for the emergence of informal institutions, ranging from the absence, deficiencies or limitations of formal institutions to the lack of respect for formal rules (e.g. non-compliance by citizens or ineffective enforcement by the state) and the inflexibility of rigid, bureaucratic regulations (Meyer 2006: 24). As a consequence, informal institutions emerge for various reasons, such as compensation for formal deficiencies, the promotion of particularistic interests or improvements in the efficiency and flexibility of formal rules. Thus, Helmke and Levitsky develop a typology of formal-informal relationships according to the degree of convergence between formal and informal outcomes and the effectiveness of formal institutions, distinguishing between four different types: 1) complementary, 2) accommodating, 3) competing, and 4) substitutive informal institutions (2006: 13-18). In short, the authors argue that informal institutions emerge in order to complement relatively effective formal rules, alter the outcomes of formal institutions without violating them directly, undermine formal rules or substitute formal institutions which are not routinely enforced.

Based on Helmke and Levitsky's typology, the informal relations between ombudsman institutions and social stakeholders or peripheral accounting actors in this thesis correspond to substitutive formal-informal relationships as they arguably emerge in order to compensate for the deficiencies of institutional design. This approach embraces Lomnitz's definition of informality

not only as a residue of traditionalism but as an intrinsic element of formality insofar as it is a response to the inadequacies of formalisation [and therefore as] an adaptive mechanism that simultaneously and in a vicious cycle reinforces the shortcomings of the formal system (1988: 42-43).

In other words, state and social actors in Serbia enrich their capacities and compensate for their institutional deficiencies by participating not only in institutionalised but also in non-institutionalised networks of accounting actors. In networking terms, participants that occupy peripheral positions within a network due to limited resources or marginalisation by other actors (e.g. local ombudsman offices, civil society organisations) are expected to seek alternative, informal paths of communication and interaction in order to reinforce their capacities and accomplish their goals. The same applies to central institutions such as the national Protector of Citizens which, as I explain in the main body of this thesis, interacts informally with various actors in order to make up for the limitations of institutional design and formal networking. In any case, depending on the power equilibrium between network participants, non-institutionalised relations and informal networking can either reinforce or undermine institutionalised interaction. In conclusion, the multiplication and proliferation of ombudsman offices in Serbia matters due to the involvement of multiple state and social actors in processes of public accountability as well as the subsequent dimension of informality that derives either from the interactions of local offices with peripheral accounting actors at the micro-level or the relationship of ombudsman institutions with social actors in general, such as civil society organisations and the media.

Non-institutionalised networking and informality explain, among other reasons, the selection of in-depth semi-standardised interviews as the main method employed in this research project. The rationale of a qualitative research method is first of all associated with the brief presence of ombudsman institutions in Serbia. More precisely, we know little about the dynamics between these institutions and other state and social actors, while there is limited quantifiable evidence regarding their operation and performance over time. These observations are particularly applicable to non-institutionalised interactions and informal relations. Without excluding the possibility of conducting case studies by using either qualitative or quantitative methods (Burton 2000b: 217), this research project lies within the realm of qualitative methodology, embracing Burns's argument that

[a] case study is used to gain in-depth understanding replete with meaning for the subject, focusing on process rather than outcome, on discovery rather than confirmation (2000: 460).

Hence, the conduct of in-depth semi-standardised interviews with representatives of state and social accounting actors is an appropriate method for empirically exploring the dynamics behind networks of accounting actors in Serbia.

One of the differences between quantitative and qualitative research in the social sciences is the emphasis of the latter on meaning and contextual understanding at the micro-level (Bryman 2008: 393-394). Similarly, Ritchie argues that the four main functions of qualitative research are 1) the crystallisation of the context of a social phenomenon (contextual function); 2) the exploration of factors, motivations or origins that lead to certain events, decisions or actions (explanatory function); 3) the examination of how things operate (evaluative function) and 4) the development of new conceptions, hypotheses or solutions (generative function) (2003: 26-31). Interviews have the potential as a method of qualitative research to fulfil these functions, as long as they meet certain criteria and standards (e.g. question formulation and sequencing, interview staging) and research findings are analysed according to theory-embedded hypotheses.

Depending on the nature of each project, researchers can choose between three generic types of interviews: the standardised (formal or structured), unstandardised (informal or non-directive) and semi-standardised (guided-semi structured or focused) interview (Berg 2004: 78). The names imply that the different types of interviews are placed along a continuum according to the degree of standardisation. As a consequence, standardised interviews do not allow deviations from question order, in contrast to unstandardised interviews which provide absolute freedom to both the interviewer and the interviewee, to the extent that the latter are described by Webb and Webb as a “conversation with a purpose” (Legard, Keegan & Ward 2003: 138). Unstructured interviews are also called in-depth interviews, even though this term also applies to semi-standardised interviews due to their flexible structure (Burns 2000: 423; Bryman 2008: 438).

In short, in-depth semi-standardised interviews combine the structure of standardised interviews with the flexibility of unstandardised ones (Legard, Keegan & Ward 2003: 141), hence they are arguably appropriate for the examination of an underexplored, multidimensional phenomenon such as formal and informal networks of accounting actors in Serbia. By conducting in-depth semi-standardised interviews, this thesis aims to examine various interrelated dimensions of these networks (e.g. content of interactions, motivations, exchange of resources) while allowing interviewees to deviate from question sequence and

illuminate relevant aspects of the wider context. On the contrary, the conduct of strictly structured interviews in this research project would restrict the scope of examination and result in findings of limited analytical capacity, without the potential to explain how complex multidimensional structures like networks of public accountability work in practice beyond technical dimensions such as frequency and content of interactions between networking actors. Conversely, completely unstructured interviews would concentrate on the context of public accountability, neglecting the centrality of theory-embedded research hypotheses for the conduct of this research project. Hence, in-depth semi-standardised interviews are arguably an appropriate method for the examination of underexplored, multidimensional phenomena such as formal and informal networks of accounting actors as they combine the systematisation and contextualisation of standardised and unstandardised interviews respectively.

Based on the main argument of this research project that ombudsman institutions should not be examined in isolation but in correlation with other state institutions and social actors that participate in formal and informal networks of accounting actors, in this research project interviewees are divided into six individual but interrelated groups: 1) staff of ombudsman offices at national, regional and local levels, 2) state accounting institutions, such as independent oversight bodies, 3) civic associations and NGOs, 4) journalists, 5) members of staff of international organisations and 6) academics. The selection of the first four groups of interviewees is closely associated with the concepts of “horizontal” and “social” accountability and the subsequent research hypotheses discussed in the introductory chapter of this thesis, as the aim of this research project is to examine the role of ombudsman institutions as accounting actors in Serbia through exploring their interactions with other state and social actors.

The last two groups of interviewees, members of staff of international organisations and academics, do not correspond to the typology of accounting actors found in the relevant literature, but are indirectly involved in formal and informal networks of accounting actors in Serbia. More precisely, international organisations such as the EU, the CoE and the OSCE have been actively engaged in the promotion of the ombudsman concept, and regularly support the existing offices through the implementation of various projects. As a consequence, their involvement in networks of public accountability is indirect but crucial, since they can increase the flow of exchanged resources between networking actors and assist ombudsman institutions by exerting external pressure on the state authorities under scrutiny.

On the other hand, academics have been included in the sample of interviewees due to their expertise in the subject and the direct involvement of some of them in the ombudsman-legislation that defines crucial aspects of institutional design.

The interviews were based on questionnaires created specifically for each individual type of interviewee in correlation with the operative framework of indicators presented earlier in this chapter. In other words, they consist of questions regarding the two interrelated pillars of the aforementioned operative framework, institutional design of ombudsman offices and networking with other state and social accounting actors. In spite of maintaining a common structure on the grounds of a cohesive exploration of accountability networks from multiple angles, the questionnaires were adjusted to each individual type of interviewee with respect to their networking position and the role of the state or social actor that they represent. For instance, journalists were asked to comment on the role of the media in making ombudsman institutions known in Serbia, while representatives of state accounting institutions were asked to compare the jurisdiction and powers of their offices with those of ombudsman institutions. In all cases, questionnaires consisted of single, open-ended questions in order to prevent confusion and monosyllabic answers (Legard, Keegan & Ward 2003: 153-154; Berg 2004: 89-90).

For reasons of brevity, I present and analyse below only the main aspects of these questionnaires, however all six are included in appendix B of this thesis. In general, question sequencing plays a decisive role in interviewees' answers (Berg 2004: 90). For this reason, the questionnaires for this project began with introductory, non-threatening questions.³⁷ For instance, staff members of ombudsman institutions were asked to give a brief, descriptive overview of their offices (e.g. year of establishment, premises, number of employees, basic figures about reports and number of complaints submitted annually) while the remaining groups of interviewees were introduced to the topic of this research project with a question on visibility:

From your own experience and knowledge, do you think that ombudsman institutions are widely known in Serbia?

³⁷ Initially overestimating the directness of Serbs in daily communication, one of the questions I posed to the first couple of interviewees was to ask their opinion of the independence of ombudsman institutions from the executive. The implicit reluctance of some of them to openly discuss a sensitive issue soon after our first face to face contact convinced me to pose this question indirectly towards the end of the interview.

The rationale behind the selection of this introductory question is to encourage the interviewees to delineate the context of the discussed topic without forcing them to express a personal opinion at the beginning of the interview. Journalists alone were asked additionally to comment on the particular role of the media in the visibility of ombudsman institutions.

The main body of the questionnaires directed to the three groups of state and social actors involved in potential networks of horizontal and social accountability – state accounting institutions, civil society organisations and the media – consisted of questions which shed light on various aspects of their networking interactions with ombudsman institutions in Serbia. More precisely:

How many times have you interacted with the ombudsman institutions in the last years?

Why? On which occasions? (frequency, motivations)

Whose initiative was it? (direction)

Was your interaction bilateral or were there other state and social actors (e.g. accounting state institutions, civic associations/NGOs, media) involved as well? (density, multiplexity)

Are you in constant or occasional contact with the ombudsman institutions? (durability)

How do you assess the interaction with the ombudsman institutions? Do you think that you profited from it? How about the ombudsman institutions? (exchange of resources)

The clarification in parentheses indicates that the above questions correspond to concepts like frequency, direction and durability that have been borrowed from social network analysis. However, there is no associated attempt to quantify interactions between state and social accounting actors. On the contrary, the relevance of policy networks to this thesis and the selection of in-depth, semi-standardised interviews as the main method for this research project argue for the exploration of qualitatively potential networks of accounting actors in Serbia. Nevertheless, this thesis acknowledges the analytic capacity of the above concepts to illustrate important dimensions of networks in general, hence they are used in the above questionnaire as a guide for the formulation of relevant and complementary questions.

Due to interrelations between these dimensions of networking, the sequence of questions was not strict as the interviewees would shift from one topic to another while discussing the interactions of ombudsman institutions and the actor they were representing. Moreover, the

application of these questionnaires in practice showed that the interviewees did not speak exclusively about networking but shared their opinion about and experience of other interrelated factors that potentially impact upon the performance of ombudsman institutions as accounting actors, such as the adequacy of financial and human resources or the degree of independence from the executive. The same questions were adjusted accordingly for staff members of ombudsman institutions in order to explore their viewpoint towards other state and social accounting actors.

As I explained earlier in this chapter, institutional design is the first pillar constituting the operative framework of effectiveness indicators hence it is crucial for understanding the involvement of ombudsman institutions at individual stages of accountability processes. However, interviewees like the aforementioned (e.g. members of civil society organisations and journalists) are not expected to be familiar with the technical aspects of institutional design; hence a multi-dimensional question of this kind was explicitly posed only to academics and representatives of international organisations who have academic or professional expertise in this field. The question was as follows:

How do you assess the ombudsman institutions in Serbia according to the following indicators?

- a)* Width of jurisdiction (e.g. diversity of complaint types)
- b)* Extent of investigative powers (e.g. access to documents and premises)
- c)* Extent of coercive and enforcement powers (e.g. sanctions, recommendations)
- d)* Procedural and physical accessibility of the offices
- e)* Sufficiency and quality of financial and human resources
- f)* Public dissemination of work (e.g. reports, public events)

Similarly, staff members of ombudsman institutions were asked to assess the institutional design of their offices according to these indicators.

Apart from the aforementioned adjustments for each individual type of interviewee, all questionnaires finish with two broad, open-ended questions: the first refers to the proliferation of ombudsman institutions in Serbia while the second concerns the state of public accountability in the post-transition context:

Currently, there are approximately 15 ombudsman offices in Serbia at national, regional and local levels. What do you think about the multiplication of ombudsman offices across the country?

Do you think that the ombudsman institutions in Serbia can hold public officials and state authorities accountable for their decisions or actions? Under what circumstances? What are the limitations?

The substantial difference between these two questions and the previous ones is that they are of a general nature and require interviewees to express their opinion explicitly on the topic, so they were not posed at the beginning of the interview as they might be perceived as threatening by the interviewees. Indeed, the application of these questionnaires in practice showed that the majority of interviewees felt increasingly comfortable over the course of the interview, so they were generally more willing to discuss sensitive issues by the end of our discussion. Finally, the last question can be criticised for implicit bias as it suggests that ombudsman institutions can indeed reinforce public accountability in Serbia. However, the question was intentionally formulated as above in order to examine what interviewees understand by an abstract and debatable term such as “accountability”.

In-depth, semi-standardised interviews are the main method employed in this research project as a means of exploring formal and informal networks of accounting actors in Serbia, however other sources of information, such as annual and special reports from ombudsman offices or legislation, are also used. “Triangulation” is a popular term in methodology literature, referring to the use of more than one method or source of data so that findings may be cross checked (Burns 2000: 419; Bryman 2008: 700). This is particularly important when it comes to reputational methods like interviews. For example, using reputational measures to assess power within networks – i.e. identifying strong and weak networking partners according to subjective claims – necessitates the enrichment of empirical research with factual sources and data (e.g. Kriesi, Adam & Jochum 2006; Vuković & Babović 2014). Hence, documents are generally a common source of data, particularly official state documents (Bryman 2008: 515) such as the aforementioned reports.

The term “secondary analysis” is often used to refer to the processing of such material as, according to Hakim, it concerns

any further analysis of a dataset which presents interpretations, conclusions, or knowledge additional to or different from, those presented in the first report on the inquiry as a whole and its main results (Burton 2000a: 347).

This is particularly the case with annual reports which summarise the activities of ombudsman offices through the presentation and analysis of individual cases as well as the

aggregation of statistical data. The interviewees for this research project were selected according to the 2010 annual report from the national ombudsman office which identified the state and social accounting actors with which the office had interacted throughout that year; however information is used from any available annual report of ten ombudsman offices in Serbia³⁸ with the aim of drawing valuable conclusions over time. More precisely, this thesis uses information from the annual reports of the national ombudsman office for the years 2007-2011, the regional ombudsman of Vojvodina for 2004-2011, and the local ombudsman offices of Bačka Topola (2010-2011), the city of Belgrade (2010-2011), Kragujevac (2006-2011), Niš (2010-2011), Subotica (2006-2011), Voždovac (2010-2011), Vračar (2009-2011) and Zrenjanin (2004-2011). Another source of information I use in this thesis is legislation (e.g. the Serbian Constitution, municipal decisions on the establishment of local ombudsmen, the Law on Local Self-Administration), due to its impact on the institutional design of ombudsman offices. In conclusion, a review of legislation and document analysis of annual reports complement the interviews as the main method of this thesis.

2.5 Fieldwork overview

The fieldwork for this research project was conducted from October 2010 to June 2011 in Serbia. Prior to my departure from London, I attended a seminar by the UCL Graduate School on “Doing fieldwork safely” and I submitted a Risk Assessment Form to the Postgraduate Administrator according to UCL regulations. Next, I consulted the UCL Research Ethics Committee’s website in order to ensure that my research conformed to the ethical principles and standards of the university and I decided not to apply for project permission as my research does not involve vulnerable groups, access to records of personal and confidential information or induction of psychological stress, anxiety etc.³⁹ Finally, I purchased a digital voice recorder and printed business cards for the interviews in Serbia. While living in Belgrade, I undertook regular language courses in Serbian as speaking the language proved to be a prerequisite for the conduct of this research project, particularly when it came to older interviewees who did not speak English. In addition, the majority of

³⁸ The Ombudsman of Kraljevo is the only office that did not provide any annual report.

³⁹ UCL Research Ethics Committee, 2012. What Types of Research Require Ethical Approval? http://ethics.grad.ucl.ac.uk/forms/what_requires_approval.pdf [Accessed 22 February 2012]

documents used for this thesis, including the annual reports of ombudsman institutions, are available only in Serbian hence language courses were particularly useful.

The selection of interviewees was based on non-probability sampling, so that all state and social accounting actors (e.g. state accounting institutions, civic associations/NGOs, media) as well as international organisations were chosen on the grounds of their communication or interaction with ombudsman institutions. For this reason, I used two annual reports (2009-2010) from the national Protector of Citizens, the ombudsman office with the largest number of interacting partners in Serbia. Similarly, academics were selected through an online catalogue of journals launched by the Centre for Evaluation in Education and Science⁴⁰ and random search online. Finally, local ombudsman offices were proportionally selected on geographical grounds (three offices in the Autonomous Province of Vojvodina, three in the City of Belgrade and three in Central and Southern Serbia)⁴¹ with the aim of tracing possible disparities between the centre and periphery or the North and South. In other words, this research project aims to examine through institutional design and networking whether factors such as size and centrality of location impact upon the operation of local ombudsman offices (e.g. a larger number of complaints in Belgrade, complaints regarding violation of minority rights in Vojvodina etc.).

Contacting a potential interviewee and arranging an appointment can be a difficult task. In most cases, I initially tried to approach the interviewees via email followed by phone calls due to low rates of responsiveness. Regarding the group of civil society organisations, I booked several interviews by visiting their premises in person, while in one case of a local ombudsman office I approached an additional interviewee through snowballing when a local ombudsman brought me in contact with his counterpart in a neighbouring city. Overall, the responsiveness rates according to type of interviewee are as follows:

⁴⁰ Centar za evaluaciju u obrazovanju i nauci, 2012. Srpski citatni indeks. <http://scindeks.nb.rs/> [Accessed 22 February 2012]

⁴¹ The number of local ombudsman offices examined in this thesis does not correspond to the total number of offices ever established in Serbia as some of them have ceased to exist (e.g. Grocka, Rakovica) while some others (e.g. Novi Sad, Kruševac) began operating during or after the completion of fieldwork.

Table 3. Overview of interviewees

Type of interviewee	Number of interviews	Responsiveness rate
Civic associations/NGOs	12 out of 16	75%
International organisations	4 out of 8	50%
Academics	5 out of 6	83%
State accounting agencies	4 out of 8	50%
Journalists	3 out of 7	43%
Ombudsman offices	11 out of 13	85%
Total responsiveness	39 out of 58	64%

To sum up, I conducted 39 in-depth semi-standardised interviews out of 58 potential interviewees that I contacted in total. In terms of responsiveness, the staff members of ombudsman offices and civil society organisations as well as academics were the most responsive in contrast to representatives of international organisations, journalists and staff members of state accounting institutions. The staff members of ombudsman offices were particularly responsive and helpful in that in all cases but one (Kraljevo) they provided their annual reports or other documents, such as legal acts and copies of local newspapers. The above table also indicates the sequence in which interviews were conducted. The decision to speak to staff members of ombudsman offices towards the end of the fieldwork derives from my conviction that the relevant literature is overly biased in favour of ombudsman institutions. Hence, I prioritised voices in state apparatus and civil society in order to hear different opinions and gain alternative insights into the topic. In addition, knowing from the beginning of my fieldwork that competent use of Serbian is a prerequisite for the conduct of this research project, I initially conducted 19 interviews in English with representatives of NGOs and international organisations before proceeding to the remaining interviews in Serbian with academics, journalists and public officials.

All interviews but two were conducted at the premises of the stakeholders; this is particularly important in the case of ombudsman offices as I had the opportunity to visit their premises and draw conclusions regarding aspects of their institutional design, such as accessibility. In addition, all but five interviews were audio-recorded and then transcribed.⁴² Audio-recording is particularly useful to the researcher, not just because s/he can devote her/his full attention to the interview but also because – as Legard, Keegan and Ward correctly put it,

it provides an accurate, verbatim record of the interview, capturing the language used by the participant including their hesitations and tone in far more detail than would ever be possible with note-taking (2003: 166).

Similarly, all interviews were transcribed in such a way that spontaneous or intentional elements of narration like word stress, irony or the selection of value-loaded terms were fully recorded. Interview transcription is a lengthy process, but it can be useful as transcriptions reflect upon the understanding of researcher; hence they constitute the foundation of critical analysis of research findings. Last but not least, an unexpected factor that arguably facilitated the conduct of interviews and therefore data collection was the overly positive stance of the majority of interviewees towards my Greek nationality; my interpretation is that they felt more comfortable discussing particularities attributed to the Serbian case such as informality with someone that they identified as “one of us”.

2.6 Limitations of the research project

Before proceeding with the analysis of my research findings, it is essential to summarise and discuss the limitations of this research project in terms of theory relevance and application of methods, including sampling and data collection. First of all, the operationalisation of public accountability for the empirical purposes of this research project can be criticised for reducing the analytical capacity of the concept. As I explained in the introductory chapter of this thesis, there is no unanimity among academics and policy-makers regarding the actual content of the concept. However, without underestimating the necessity of examining public accountability in theoretical terms, this thesis adopts an inductive approach and argues that the empirical exploration of the phenomenon through a restrictive operationalisation limits

⁴² Five of the interviewees refused to be audio-recorded for reasons of confidentiality.

the ambiguity of the concept and provides a robust foundation for theoretical assumptions. In short, this research project perceives the empirical examination of public accountability as a means of understanding the concept in theoretical terms.

Despite the fact that policy network analysis arguably provides the appropriate theoretical tools for exploring the relationship between ombudsman institutions and networks of accounting actors, the prevalence of dyadic over multiple interactions between networking actors in Serbia poses the question of whether individual interactions indicate stable and cohesive policy networks or just network potential. Overall, large and clearly defined networks of multiple actors and interactions between them tend to be more diverse than small ones in terms of motivations, exchangeable resources etc. However, Granovetter's study of dyadic ties argues that even the slightest interaction between two actors has the potential to impact upon the actors themselves and their environment (1973). Similarly, the literature on policy networks does not prescribe a minimum number of interacting actors, but focuses on the policies that emerge from interactions between interdependent actors (e.g. Rhodes 1997; Börzel 1998). As a consequence, this thesis acknowledges the theoretical implications of conflating single interactions with networking; however, the decisive impact of bilateral interactions between Serbian ombudsman offices and other state and social actors upon themselves and their environment argues for a micro-analysis in this research project as a prerequisite for understanding the potential formation of networks of accounting actors in Serbia. In other words, networks in this research project are not conceived as a given phenomenon but rather as a metaphor to analyse or theorise contemporary governance (Dowding 1995; Blanco, Lowndes & Pratchett 2011).

The explicit emphasis on individual actors and their interactions indicates that this research project perceives networks of accounting actors as a dependent variable. In other words, the aim of this thesis is to assess the impact of individual state and social actors on potential networks of public accountability in Serbia in order to illustrate the context in which public officials and state authorities under scrutiny may account for their decisions or actions. The absence of relevant theory-embedded, empirical research in the literature explains why this project looks primarily at the accounting part of public accountability. Perceiving networks as an independent variable would imply the examination of the relationship between accounting and accountable parties in Serbia, a crucial topic that should be the object of further research.

Finally, the selection of interviewees was based on non-probability sampling, yet the main source of identification was the annual reports of a single ombudsman office, the national Protector of Citizens. As a consequence, this thesis looks mainly at the interactions between the national ombudsman and various state and social actors without placing equal emphasis on peripheral actors (e.g. local civil society organisations or media) which mostly interact with regional or local offices.⁴³ Another reason for the asymmetrical emphasis of this thesis on the national Protector of Citizens over the peripheral ombudsman offices is related to the centrality of the former within the nexuses under examination. As I explained earlier in this chapter, the central positioning of an actor within a network translates into more opportunities for interactions and exchangeable resources compared to peripheral actors (Kriesi, Adam & Jochum 2006: 342). Apart from that, certain groups of interviewees are numerically underrepresented in the sample for this research project (e.g. journalists, staff members of state accounting institutions) as a consequence of the scarcity of network participants (e.g. the small number of independent oversight bodies) or low responsiveness (e.g. the media). In any case, the emphasis of this thesis on the national Protector of Citizens among the various ombudsman offices is correlated with the institutional centrality of the former and its consequent multiplexity of interactions with state and social actors which turn the national ombudsman in Serbia into a good case for the exploration of public accountability from a network perspective.

2.7 Conclusions

This chapter has delineated the theoretical background and methodology of this thesis with the aim of justifying the relevance of network theory and in-depth semi-standardised interviews respectively for this research project. Based on the introductory chapter's critique that ombudsman institutions are praised by the relevant literature for their positive impact on public accountability without prior examination in practice, I have developed and analysed an operative framework of indicators in this chapter, according to which I empirically explore the role of Serbian ombudsman institutions as accounting actors. These indicators illuminate

⁴³ While analysing the annual reports of peripheral ombudsman offices, I attempted to reach electronically ten local media outlets in Kragujevac, Niš, Novi Sad and Subotica which interact regularly with the aforementioned offices, however I received no reply.

aspects of two factors, institutional design and networking, that arguably impact upon the capability of institutions to hold state authorities and public officials accountable for their decisions or actions. Inspired by the idea of complementarity between the two factors, this thesis empirically examines the assumption that ombudsman institutions attempt to compensate for their institutional deficiencies with benefits obtained through networking with state and social accounting actors. In addition, non-institutionalised interactions and informal relations have been discussed in this chapter in correlation with network theory, as they arguably play a crucial role in networking with social network participants and peripheral accounting actors. The two pillars of the aforementioned operative framework, the institutional design of Serbian ombudsman offices and their networking interactions with state and social accounting actors, are analysed in the following three chapters of this thesis.

Chapter 3

Ombudsman institutions as accounting actors: exploring the interdependence between institutional design and networking

3.1 Introduction

3.2 Width of jurisdiction

3.3 Extent and adequacy of powers

3.3.1 Investigative powers

3.3.2 Coercive and enforcement powers

3.4 Accessibility

3.5 Operational efficiency

3.5.1 Financial resources

3.5.2 Human resources

3.6 Public dissemination of work

3.7 Conclusions **Fehler! Textmarke nicht definiert.**

3.1 Introduction

The worldwide expansion of regime change in the last decades of the twentieth century and the rise of new institutionalism in the social sciences are two reasons for the revived academic and public interest in the potential impact of institutions on social change. Krygier uses a dichotomy between “institutional optimism” and “cultural pessimism” to delineate contradictory expectations from institutions: the former concept indicates a determination that social change (e.g. successful transitions to democracy) depends largely on appropriate institutions while the latter underlines the impeding role of cultural factors in such processes (1998: 78-79). Without underestimating the importance of institutionalism in understanding post-transition states and societies, the example of normative and deterministic ombudsman literature which I criticised in the introductory chapter of this thesis justifies the scepticism of several academics towards the explanatory potential of strictly institutionalist approaches (e.g. Przeworski 1991; Elster, Offe & Preuss eds. 1998; Heinrich 1999; Noel 2005). In

practice, several cases of unsuccessful reform and policy implementation in Eastern Europe and elsewhere subvert the determination that well-designed and fully-empowered institutions will work smoothly in practice, confirming Heinrich's argument that "institution building in political practice is something entirely different from conceptualising institutions on paper" (1999: 11). In conclusion, the discrepancy between conceptualisation of institutions and their implementation in practice suggests that institutions bear different meanings in theoretical and empirical terms.

The aforementioned dichotomy between institutional optimism and cultural pessimism implies that various factors impact upon complex processes like political, economic and social transitions as well as upon the way we perceive and interpret them. In a spirit of reconciliation between different theoretical traditions, Elster, Offe and Preuss argue that three types of variables, legacies, institutions and decisions, provide the epistemological tools for scrutinising political and economic transformations from different angles (1998: 293-295). From the political theory perspective, legacies and decisions represent opposite theoretical approaches (historical institutionalism and rational choice respectively) in a wide spectrum of institutionalist interpretations (Kaiser 2002: 254); nevertheless, each of them illuminates different aspects of social phenomena, hence holistic institutionalist analyses should arguably take not only institutional design but also structural factors and choices of individuals into account. For example, the case of ombudsman institutions confirms that the exclusive emphasis of the existing literature on the formal aspect of institutional design fails to trace the dynamics of other factors that impact upon the effectiveness of ombudsman institutions as accounting actors, such as networking with other actors.

Inspired by Elster, Offe and Preuss's multi-paradigmatic approach, this thesis acknowledges the limitations of institutional design as a single explanatory factor; hence it examines various formal aspects of institutions complementarily with networking. More precisely, institutional design and networking are combined in an operative framework of indicators through which I examine empirically the role of ombudsman institutions as accounting actors in Serbia. As I explained earlier, public accountability is operationalised in this thesis as a process of successive stages (investigation, provision of information and justification, imposition of sanctions). This chapter focuses on the involvement of ombudsman offices in each individual stage through five aspects of institutional design: 1) width of jurisdiction, 2) extent and adequacy of investigative and coercive or enforcement powers, 3) procedural and physical accessibility, 4) adequacy of financial and human resources, and finally 5) public

dissemination of work. These aspects have been widely perceived by the relevant literature as prerequisites for the accomplishment of the goals of ombudsmen, so they are examined in this chapter in the context of the cases of the relevant offices in Serbia.

The practical limitations of institutional design, in correlation with the acknowledgment of the strategic (i.e. utility-maximising) behaviour of accounting actors, necessitate the examination of the topic of this thesis from a network perspective. In other words, this thesis argues that ombudsman institutions acknowledge their institutional deficiencies and compensate for them by interacting with other state and social accounting actors. Overall, networking is widely perceived as an opportunity for interacting actors to reinforce their capacities through the exchange of material and non-material resources. This exchange is not always symmetrical; however benefit is usually mutual, irrespective of the degree to which network participants contribute to each individual interaction. In conclusion, ombudsman institutions operate in the context of other institutions; hence it is important to take into account the interactions among them.

To sum up, this chapter focuses on five interrelated aspects of institutional design: 1) width of jurisdiction, 2) extent and adequacy of investigative, coercive and enforcement powers, 3) procedural and physical accessibility, 4) operational efficiency in terms of financial and human resources, and 5) public dissemination of work. The aim is to explore the role of Serbian ombudsman offices as accounting actors from an institutionalist perspective; thus, potential networks of public accountability in Serbia are conceived as structures of interest intermediation that are subject to change as a consequence of decisions and actions taken by individual accounting actors such as ombudsman institutions. Due to the interrelatedness between institutional design and networking in the operative framework of this research project, the aforementioned five aspects are associated with different kinds of material or non-material resources. These factors structure opportunities and impose constraints. For example, section 3.3.1 of this chapter shows that civil society organisations acknowledge the wide investigative powers of the national Protector of Citizens hence they interact with the latter in order to gain indirect access to detention centres. As a consequence, examining institutional design from a network perspective arguably illuminates the motivations and expectations of state and social accounting actors in Serbia.

3.2 Width of jurisdiction

According to the literature on ombudsmen, the first aspect of institutional design that impacts upon their performance as accounting actors is jurisdiction. Based on the operational conceptualisation of public accountability as a process of successive stages, jurisdiction is correlated with the initial stage of investigation. Thus, jurisdiction arguably provides the *raison d'être* of accounting actors like ombudsman institutions, as it is understood as the legal authority to investigate cases of misconduct in the public sector. In other words, jurisdiction is a prerequisite for investigation; hence networking actors are expected to interact with ombudsman offices in order to get indirectly involved in the investigation stage of accountability processes.

In Serbia, the jurisdiction of ombudsman offices is defined by three separate laws as a consequence of their proliferation at different levels of government (national, regional and local): the Law on the Protector of Citizens (nos. 79/2005 and 54/2007),⁴⁴ the Provincial Assembly Decision on the Provincial Ombudsman (nos. 23/2002, 5/2004, 16/2005 and 18/2009)⁴⁵ and the Law on Local Self-Government (no. 129/2007).⁴⁶ In addition, the 2006 Constitution of the Republic of Serbia includes an article (Article 138) regarding the national ombudsman which defines the jurisdiction of the office, among other things.⁴⁷ Similarly to the majority of European ombudsman offices, the Serbian Protector of Citizens has no authority to monitor the judiciary, the head of state or the government (Kucsko-Stadlmayer 2008b: 498-500). In contrast to the so called “classical ombudsmen”, the jurisdiction of which is limited to the combat of maladministration in the public sector,⁴⁸ (e.g. Hill 1974;

⁴⁴ Službeni glasnik Republike Srbije, 2007. Zakon o zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 05 March 2012]

⁴⁵ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavoivodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 05 March 2012]

⁴⁶ Službeni glasnik Republike Srbije, 2007. Zakon o lokalnoj samoupravi, broj 129/2007 <http://www.dils.gov.rs/documents/files/maj2010/Zakon%20o%20lokalnim%20samoupravama.pdf> [Accessed 05 March 2012]

⁴⁷ The national Protector of Citizens is defined by the Serbian Constitution as “an independent state body that shall protect the rights of citizens and monitor the work of public administration bodies, bodies of legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organisations, enterprises and institutions to which public authorities have been delegated. The Protector of Citizens has no authority to monitor the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, the courts and the Public Prosecutors” (Article 138). Narodna biblioteka Srbije, 2006. Ustav Republike Srbije, broj 37/2006 http://www.nb.rs/view_file.php?file_id=1975 [Accessed 05 March 2012]

⁴⁸ Nevertheless, the classification of ombudsman institutions according to the dichotomy between “classical” and “human rights” types can be misleading since maladministration often involves the violation of human

Gadlin 2000; Stieber 2000; Ugglá 2004; Abraham 2008a; Kucsko-Stadlmayer ed. 2008), Article 1 of the Law on the Protector of Citizens emphasises human rights protection,⁴⁹ similarly to Article 138 of the Serbian Constitution. This explicit emphasis of legislation on the protection of human and minority freedoms and rights indicates that Serbia follows the example of other post-transition states in establishing a so called “human rights ombudsman” (Giddings, Sladecsek & Diez Bueso 2000: 442; Reif 2004: 10-11). Hence, Article 6 of the same law prescribes four deputies to assist the Protector of Citizens in the fields of gender equality, children’s rights, rights of national minorities and persons with disabilities as well as the rights of persons deprived of liberty.⁵⁰

Looking at the width of jurisdiction and the subsequent allocation of duties among deputies of the Protector of Citizens, the Serbian ombudsman bears significant similarities with the regional ombudsman of Vojvodina which is in charge of protecting human rights protection from the misconduct of authorities at the regional level (Article 1 of the Provincial Assembly Decision on the Provincial Ombudsman).⁵¹ In addition, Article 6 of the same law specifies that the Provincial Ombudsman shall have five deputies covering the fields of national minorities’ and children’s rights as well as gender equality (ibid.). As of March 2012, the Provincial Ombudsman of Vojvodina had three specialised deputies for these fields in addition to two further deputies in charge of general complaints about the work of public authorities at the regional level. Overall, the authority and expertise of these offices in the field of human rights protection largely explains their interactions with civil society organisations; as I explain in chapter 5 of this thesis, official state support of their activities is one of the motivations explaining networking between civil society organisations and state accounting institutions.

rights (Giddings, Sladecsek & Diez Bueso 2000: 442). For this reason, the Law on the Protector of Citizens complements Article 138 of the Serbian Constitution by combining the protection of human rights with the combat of maladministration.

⁴⁹ “The Protector of Citizens shall also ensure that human and minority freedoms and rights are protected and promoted. In the context of this law, the term ‘citizen’ covers not only local nationals but also any physical person who is a foreign national, as well as any local or foreign legal person whose rights and responsibilities are determined by the administrative authorities specified under paragraph 1 of this article” (Article 1). Službeni glasnik Republike Srbije, 2007. Zakon o zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 05 March 2012]

⁵⁰ Ibid.

⁵¹ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmenu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 05 March 2012]

The case of local ombudsman offices in Serbia reinforces the argument that jurisdiction matters for potential networking with other state and social actors. More precisely, the ombudsman concept was introduced to Serbia with the establishment of local offices by the Law on Local Self-Government in 2002 (no. 9/2002) and 2007.⁵² Compared to the laws on the national and regional ombudsmen, the Law on Local Self-Government differs in that the establishment of local offices is voluntary (Dimitrijević 2005: 29) and crucial aspects of their operation, including width of jurisdiction, extent of powers and appointment/dismissal processes of the heads of offices, are regulated by statutes and acts of local authorities. As a consequence, less than 10% of Serbian municipalities (*opštine*) and cities (*gradovi*) have so far established offices,⁵³ while the discretionary interpretation of legislation by local authorities questions both the consistency of the law's implementation across Serbia and the degree of independence of local ombudsmen, as I explain below. The former issue indicates a lack of unanimity regarding the necessity for ombudsman institutions across the country while the latter arguably has a detrimental effect on the reputation of local ombudsman offices as accounting actors.

In practice, most statutes or acts regulating the establishment of local ombudsman offices are largely based on the aforementioned Law on Local Self-Government (no. 129/2007).⁵⁴ Jurisdiction is limited to the protection of citizens' rights from maladministration at a local level; hence ombudsman offices in Serbian cities and municipalities resemble the so called "classical ombudsman" in contrast to the aforementioned Protector of Citizens and the Provincial Ombudsman of Vojvodina. The only exception is the local Ombudsman in

⁵² "Units of local self-government can establish a protector of citizens who is in charge of monitoring the respect of human rights and determining violations of acts by public administration bodies and public services in cases of violations of regulations and acts of local self-government units. Two or more units of local self-government can jointly establish a protector of citizens. The jurisdiction, competences and process of appointment and removal of the protector of citizens shall be regulated by statutes and other general acts" (Article 97) *Službeni glasnik Republike Srbije*, 2007. *Zakon o lokalnoj samoupravi*, broj 129/2007 <http://www.dils.gov.rs/documents/files/maj2010/Zakon%20o%20lokalnim%20samoupravama.pdf> [Accessed 06 March 2012]

⁵³ It is difficult to estimate the exact number of local ombudsman offices ever established in Serbia as some of them ceased to exist when the respective local councils decided not to renew their mandate (e.g. Grocka, Rakovica). At the time of my fieldwork in Serbia (October 2010 – June 2011), there were at least ten local offices operating (Bačka Topola, Bečej, Belgrade, Kragujevac, Kraljevo, Niš, Subotica, Voždovac, Vračar) out of 145 municipalities and cities (excluding Kosovo), as well as the delegation offices which the Provincial Ombudsman of Vojvodina and the Protector of Citizens have established in Pančevo/Subotica and Bujanovac/Medveđa/Preševo respectively.

⁵⁴ An indicative example is the municipal decision on the establishment of an ombudsman in Vračar: "The Protector of Citizens protects individual and collective rights and interests of citizens when they are violated by an act or omission of the local administration and public services established by the municipality, or when a violation occurs through the execution by the municipality of decisions and other general acts or the performance of duties delegated to the municipality" (Article 6). *Skupština gradske opštine Vračar 2008. Odluka o Zaštitniku/Zaštitnici građana/građanki gradske opštine Vračar*, broj 96-69/2008-VIII/3.

Zrenjanin, who is supported by two specialised deputies for the protection of minority rights on the one hand, and children's rights and gender equality on the other.⁵⁵ As the brief overview of social network analysis in the second chapter of this thesis explained, the intensity of interactions between individuals and the quantity and quality of exchangeable resources are factors that determine whether an actor will occupy a central or peripheral position within a network. The same applies to policy networks; hence, the limited jurisdiction of local ombudsman offices over cases of maladministration at the municipal level narrows their networking potential with state and social accounting actors working on violations of human rights or public issues at national-regional levels.

Being, aside from Bulgaria, the only non-federal, post-communist state in Europe to establish ombudsman offices at national, regional and local levels (e.g. Open Society Institute 2002: 102-103; Stern 2008a: 127-128), Serbia's fragmented ombudsman legislation is rare among European countries. The aforementioned multitude of laws can arguably be attributed to the very nature of post-transition institution building in the context of Europeanisation as well as to the existing particularities of Serbian public administration. As I explain in various places in this thesis, several international organisations, such as the OSCE, the CoE and later the EU, have been actively involved in promoting ombudsman institutions in post-transition Serbia as they consider government accountability and human rights protection to be substantial elements of democratisation. This process has been accelerated recently due to Serbia's harmonisation with the EU (Stern 2008d: 372). However, the proliferation of regional and local offices across Serbia before the establishment of a national ombudsman arguably indicates not only the involvement of numerous domestic and international actors in the respective legislation but also a lack of agreement on a consistent ombudsman agenda in view of the country's EU perspective. In short, the unusual proliferation of ombudsman institutions in Serbia cannot be disassociated from the existing post-transition setting, as the international community is actively involved, with the ostensible aim of promoting democracy, while domestic actors at different levels of government attempt to establish themselves in a politically, financially and socially changing environment.

In addition, the establishment of human rights ombudsmen in the Autonomous Province of Vojvodina and the municipality of Zrenjanin does not necessarily stem from the aforementioned post-transition institution building but from a longstanding multicultural

⁵⁵ Skupština gradske opštine Zrenjanin 2003. Odluka o zaštitniku građana, broj 10/03.

tradition in the region that can be still traced in the local public administration and legal order (e.g. Lošonc 2004; Ilić 2009; Kešetović 2012; Tolvaišis 2012). This argument is embraced by all representatives of the region's ombudsman offices interviewed for this thesis.⁵⁶ In other words, the early establishment of these offices soon after Milošević's fall from power and before the appointment of the first national Protector of Citizens suggests a regional interest in minorities and their rights which is not exclusively associated with the aforementioned exogenous influence and pressure for human rights protection in the name of Europeanisation; hence, human rights protection in Vojvodina is not perceived as a post-transition transplant but as a concept which has continuously evolved from communist to post-communist times. Last but not least, another factor which shall be not neglected is the decisive impact of ombudsman-inspired individuals on the establishment of such offices at the local level, as I explain in more detail below. This variation of actors and factors that has resulted in Serbia's fragmented ombudsman legislation argues for separate examination of ombudsman offices at national, regional and local levels.

The multitude of laws regarding ombudsman institutions in Serbia impacts not only upon the jurisdiction of offices at different levels of government but also upon the way individual offices interpret their field of competence. The following example regarding the issue of good governance indicates the variation in mentality regarding the goals which an ombudsman is expected to accomplish. More precisely, the law on the national Protector of Citizens does not prescribe a specialised deputy combatting maladministration, even though the vast majority of complaints submitted annually concern cases of non-compliance by public administration with principles of good governance.⁵⁷ This deficient jurisdiction derives, among other things, from the absence of a legal act defining good governance as opposed to maladministration. The limitation was noted by the EU,⁵⁸ hence the Protector of Citizens

⁵⁶ The interviewees from Vojvodina are Aniko Muskinja Hajnrih (Provincial Ombudsman of Vojvodina), Zlatko Marosiuk (local Ombudsman of Subotica), Miladin Nešić (local Ombudsman of Bačka Topola) and Dragana Radlovački Grozdanov (local Ombudsman of Zrenjanin).

⁵⁷ According to the latest annual report from the national Protector of Citizens, the institution received 2459 complaints about cases of maladministration out of a total number of 3640 complaints submitted throughout 2011. In other words, complaints about maladministration amounted to approximately 68% of the overall workload of the office (Janković 2012: 154).

⁵⁸ Cooperation between the EU and the Protector of Citizens intensified through the so called "Twinning Project" which was implemented between September 2009 and December 2011. The project was funded by the EC with the aim of assisting the organisational restructuring of the office, promoting cooperation between ombudsman offices at different levels of government and contributing to capacity strengthening of the institution in terms of human resources and technical equipment. The project was coordinated by the Greek ombudsman and was supported by the ombudsman offices of the Netherlands and Austria as well as by the Ludwig Boltzmann Institute for Human Rights. <http://bim.lbg.ac.at/en/projects-twinning/serbia-ombudsman> [Accessed 08 March 2012]

created a Code of Good Governance according to the European Ombudsman's Code of Good Administrative Behaviour.⁵⁹ The code was submitted to the President of the National Assembly, Slavica Đukić-Dejanović, for approval by the plenary and forwarded to local ombudsman offices in an attempt to implement good governance principles consistently in practice (interviewee 23,⁶⁰ local ombudsman). Before this, the absence of a code of good governance was one reason for the misinterpretation of good governance not only by state authorities and public officials but also by certain local ombudsman offices. An interviewee explains that:

One of the anecdotal stories we've heard is that a local ombudsman asked a citizen to turn up within a certain deadline as part of the investigation process that s/he initiated otherwise s/he would impose a sanction on the citizen, as if s/he were representing a coercive institution (interviewee 16, representative of international organisation).

Thus, the interviewee argues that the misunderstanding of the ombudsman's role by certain local offices indicates the ambiguity of good governance at different levels of government, which in turn derives from the deficient legal framework and the absence of an "ombudsman culture" in Serbian society (ibid.). In other words, it is a symptom of distorted decentralisation in Serbia in correlation with discretionary interpretation and implementation of legislation by local authorities and individuals. In conclusion, the fragmentation and inconsistency of legislation regarding the establishment of ombudsman offices in Serbia has detrimental effects on – mostly – local offices, ranging from limited jurisdiction to vulnerability to local authorities and misinterpretation of their role as accounting agencies. From a policy network perspective, these weaknesses and limitations have a decisive impact upon their interactions with other state and social actors and potentially lead to their marginalisation within potential networks of accounting actors.

The multiplication and proliferation of ombudsman institutions across Serbia in the name of decentralisation is also closely associated with an emerging conflict over jurisdiction between central and peripheral offices. In other words, through analysis of empirical findings this thesis concludes that the decentralised system of ombudsman institutions in Serbia weakens peripheral offices for a series of reasons that I discuss below. Overall, decentralisation is

⁵⁹ Zaštitnik građana, 2010. Odluka o otvrđivanju Kodeksa dobre uprave [http://www.ombudsman.rs/attachments/1036_Inicijativa%20kodeks%20\(2\).pdf](http://www.ombudsman.rs/attachments/1036_Inicijativa%20kodeks%20(2).pdf) [Accessed 08 March 2012]

⁶⁰ For reasons of confidentiality, the interviewees for this research project are numbered as a way of securing their anonymity. The numbers do not correspond to the alphabetical list of interviewees in Appendix A of this thesis.

perceived by several interviewees as a potentially positive trend that facilitates citizens' access to public administration and decision-making (e.g. interviewee 1, NGO activist, interviewee 2, NGO activist, interviewee 19, representative of state accounting institution, interviewee 22, local ombudsman), enhances public representation (interviewee 23, local ombudsman) and improves problem-solving due to the actual proximity of local offices to citizens and their daily problems at micro-level (interviewee 25, local ombudsman). Thus, a local ombudsman praises the involvement of local ombudsman offices in small-scale politics, expressed by their interest in, "examples and situations that are not attractive to the media or journalists but they are very important for us" (interviewee 36). In conclusion, the widely positive attitude of various state and social stakeholders towards decentralisation in Serbia coincides with Kjaer's observation that decentralised services are increasingly perceived as more efficient than centrally delivered ones (2004: 29).

However, the multiplication and proliferation of ombudsman institutions across Serbia raises two questions; the former refers to the issue of cooperation between offices at the national, regional and local levels while the latter concerns the capability of small, decentralised offices to perform their duties efficiently.⁶¹ These two issues correspond to the effectiveness factors of networking and institutional design respectively. More precisely, ombudsman offices at different levels of government are expected in theory to cooperate on the grounds of common interests and particularly in cases that are forwarded from one office to another (Article 35 of the Law on the Protector of Citizens).⁶² Conversely, the law underlines that the Provincial Ombudsman of Vojvodina and local ombudsman offices shall forward complaints that fall under the jurisdiction of the Protector of Citizens. In order to improve communication through the flow of information and transfer of cases, the Provincial Ombudsman of Vojvodina has also signed a protocol of cooperation with local ombudsman offices in the Autonomous Province of Vojvodina (Bačka Topola, Bečej, Subotica, Zrenjanin) (interviewee 29, local ombudsman), while a further protocol of cooperation was signed in April 2012 by the Serbian local ombudsmen in order to improve communication and facilitate work practices in cases of blurred boundaries of jurisdiction.⁶³

⁶¹ The aspect of operational efficiency is discussed in detail in section 3.5 of this chapter.

⁶² Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 10 March 2012]

⁶³ Protokol o saradnji lokalnih Zaštitnika građana na teritoriji Republike Srbije, 04.2012 (document provided by the local ombudsman in Subotica).

In spite of institutionalised communication and cooperation, several interviewees put particular emphasis on underlining the absence of a formal hierarchy among ombudsman offices at different levels of government (e.g. interviewee 9, NGO activist, interviewee 23, local ombudsman, interviewee 24, local ombudsman, interviewee 30, local ombudsman) in an attempt to prove the equality of peripheral ombudsman offices to the national Protector of Citizens. Thus, an interviewee argues that “there is no hierarchy neither upwards nor downwards” [“ni prema gore, ni prema dole“] (interviewee 30), referring to the relationship between ombudsman offices at the national, regional and local levels. The increased sensitivity of peripheral ombudsman offices to the issue of hierarchy indicates an attempt to justify their utility as accounting actors in Serbia as well as an aversion to being subordinated to the national Protector of Citizens. Indeed, several ombudsmen claim that the aforementioned laws divide jurisdiction among different offices in favour of the national ombudsman (e.g. interviewee 25, local ombudsman, interviewee 26, local ombudsman, interviewee 33, local ombudsman), to the extent that one of them blames the Protector of Citizens for depriving local offices of their jurisdiction by being “in charge of everything and we of nothing” (interviewee 36). In conclusion, the allocation of duties according to the prescribed jurisdiction of ombudsman institutions in Serbia explains the competitive attitude of peripheral offices towards the national Protector of Citizens. Local ombudsman offices are established in the name of decentralised efficiency, yet their limited field of competence attenuates their involvement in investigation processes, thereby reducing their networking potential with other state and social accounting actors.

Interestingly, decentralisation is arguably a matter of political will. The representative of a state accounting institution argues that it is a political question whether the state prefers several specialised offices over a single one with wider jurisdiction (interviewee 18), while an interviewee from academia criticises the asymmetry between political and territorial decentralisation in Serbia, implying that the establishment and proliferation of new institutions across the country does not necessarily correspond to the actual needs of the periphery (interviewee 35). In other words, both interviewees imply that the decentralisation of institutions like the ombudsman satisfy particularistic interests. Given that ombudsman institutions have historically been associated with democracy in academic and public discourse due to their intrinsic relation to representation and accountability, it is reasonable to argue that the proliferation of ombudsman institutions in Serbia derives among other reasons from the need of political elites at the national, regional and local levels to prove their

commitment to democratic principles. In any case, the above analysis suggests that ombudsman offices were promoted in Serbia as more democratic or efficient mechanisms of accountability, however their restricted jurisdiction and limited resources reduce their networking potential with other actors, making them easier for political actors to tolerate.

Thus, the multiplication of ombudsman offices across Serbia is met with mixed feelings by most of this research project's interviewees. In spite of the anticipated reinforcement of public representation and civic engagement discussed above, several interviewees are concerned that the confusion of citizens as a consequence of blurred boundaries of jurisdiction among various offices might lead to an "ombudsman fatigue" in Serbian society (e.g. interviewee 9, NGO activist, interviewee 18, representative of accounting state institution, interviewee 31, local ombudsman, interviewee 17, academic). Criticism mostly concerns peripheral ombudsman offices; for example, some interviewees criticise the renaming of local offices from "Građanski branilac – Ombudsman" (Civil Advocate)⁶⁴ to "Zaštitnik građana" (Protector of Citizens) in the amended Law on Local Self-Government⁶⁵ (interviewee 8, representative of international organisation, interviewee 35, academic) and argue that, "citizens might confuse the 'real' Protector of Citizens with the 'other ones'" (interviewee 37, academic). This distinction between "real" and "pseudo-ombudsmen" is implicitly argued by several other interviewees representing the academic community, international organisations and civil society organisations. As I discuss later in this thesis, their scepticism derives from the limited resources of peripheral ombudsman offices and their doubtful independence from local authorities (e.g. interviewee 2, NGO activist, interviewee 3, NGO activist, interviewee 5, NGO activist, interviewee 6, NGO activist, interviewee 8, representative of international organisation, interviewee 15, academic, interviewee 37, academic).

The alleged absence of formal hierarchy between ombudsman offices at different levels of government and the consequent competition over jurisdiction pose the question as to whether Serbia is an exceptional case [*Sonderfall*] compared to other countries. From a policy network perspective, the answer is negative. Even though policy networks vary from rigid policy communities to loose issue networks in terms of hierarchical structure (Dassen 2010: 24; Blanco, Lowndes & Pratchett 2011: 300; Jordana, Mota & Noferini 2012: 647),

⁶⁴ Službeni glasnik Republike Srbije, 2002. Zakon o lokalnoj samoupravi, broj 9/2002.

⁶⁵ Službeni glasnik Republike Srbije, 2007. Zakon o lokalnoj samoupravi, broj 129/2007

<http://www.dils.gov.rs/documents/files/maj2010/Zakon%20o%20lokalnim%20samoupravama.pdf> [Accessed 10 March 2012]

competition over resources is not only intrinsic to all kinds of networks but is also compatible with cooperation as long as interacting actors acknowledge the necessity of maintaining these networks (Holohan 2005: 18-19; Ohanyan 2008: 5). This argument builds upon the conceptualisation in this thesis of network participants as strategically-calculating actors that view interactions within networks as an opportunity to maximise their preferences and promote their interests. In that case, competing relationships between ombudsman offices at different levels of government in Serbia do not necessarily differ from respective relationships in other countries.

On the other hand, the disagreement among various international and domestic actors regarding the rapid proliferation of ombudsman institutions across the country suggests that the aforementioned competition between offices at different levels of government is closely related to the distorted decentralisation which emerged as part of Serbia's post-transition institution building. More precisely, ombudsman institutions were not established consistently and compatibly with a view to Serbia's Europeanisation, but rather haphazardly in the name of efficient decentralisation. The role of domestic authorities and individuals is crucial in that respect, as they politicised the establishment and proliferation of accounting mechanisms in order to prove their commitment to democratic principles. The dubious independence and lack of operational efficiency of several ombudsman offices resulted in the aforementioned distinction between "real" and "pseudo-ombudsmen", as various actors, ranging from international organisations to domestic civil society representatives and academics, explicitly favour the central offices of the national Protector of Citizens and to a lesser extent of the Provincial Ombudsman of Vojvodina over peripheral bodies. From a policy network perspective, this preference stems not only from the rational calculation that ombudsman offices which are centrally located have better access to exchangeable resources but also from the proportional lack of trust in the majority of peripheral ombudsmen. As I will explain later in this chapter, interpersonal relations between individuals who work for the national Protector of Citizens, other independent oversight bodies and civil society organisations constitute the foundation for interactions embedded in trust, which is in turn a prerequisite for the potential production of social capital.

In any case, the competition between ombudsman offices at the national, regional and local levels over the scope of assigned duties indicates that jurisdiction is much more than a formal aspect of the relevant legislation. Regarding O'Donnell's influential definition of horizontal accountability as, "the existence of state agencies that are legally enabled and empowered,

and factually willing and able, to take actions that range from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful” (1999: 38), it becomes clear that jurisdiction, i.e. the legal authority to monitor or control other bodies in the public sector, is the *raison d'être* of ombudsman institutions. O'Donnell underlines that delivering results depends both on formally assigned and factually available powers, however it is reasonable to argue that the more restricted jurisdiction is, the less frequent and influential the involvement of accounting institutions in investigations of misconduct cases will be. This limited authority affects in turn their potential to communicate and cooperate with state and social accounting actors over the exchange of material and non-material resources.

From a network perspective, jurisdiction transforms into a resource among networking partners in the form of the legal authority to monitor or control public administration bodies through the conduct of investigations. As I explain in chapter 5 of this thesis, social actors like civic associations or NGOs and the media interact with ombudsman institutions in order to access a state resource through which they can accomplish their goals. The wider jurisdiction is, the more probable it is that an accounting actor will interact with an ombudsman office. For example, an NGO activist who represents a human rights organisation in this thesis is not opposed to the idea of the proliferation of ombudsmen, yet she argues that many NGOs, including hers, are not affected by this process since they deal with nationwide problems that fall under the jurisdiction of the national Protector of Citizens. In other words, networking between her organisation and ombudsman institutions depends on the width of jurisdiction of each individual office. State accounting institutions, on the other hand, which have no monitoring rights over certain sections of public administration or types of human rights violations need to interact with ombudsman institutions in order to enrich their jurisdiction. This is the case with the Commissioner for Information of Public Importance and Personal Data Protection which I present in detail in chapter 4 of this thesis. To sum up, the above examples correspond to the social and horizontal types of public accountability respectively.

Within networks consisting of ombudsman offices, jurisdiction is correlated not only with the authority to monitor or control public administration bodies, as in the aforementioned cases of civil society, media and state accounting institutions, but also with a workload that justifies the utility of such offices. According to the ombudsman literature, wide jurisdiction, i.e. legal authority over various types of complaints, translates into increased workload. However,

examining institutional design from a network perspective shows that jurisdiction matters not only for the legitimation of ombudsman institutions as accounting actors but also for their capability to accumulate resources by occupying a central position within a network of accounting actors. For example, section 3.5.1 of this chapter shows that ombudsman offices with a wide jurisdiction, like the national Protector of Citizens or the Provincial Ombudsman of Vojvodina, have better access to state and international funding than local offices. As a consequence, jurisdiction or legal authority to conduct investigations as an accounting actor shall not be examined exclusively as a formal aspect of institutional design but as a potential resource among competing network participants.

3.3 Extent and adequacy of powers

3.3.1 Investigative powers

Wide jurisdiction, the authority of a state accounting institution to monitor or control other public administration bodies, is meaningless in the absence of accordingly extensive investigative powers. In other words, competences such as free access to premises and documents substantiate the jurisdiction of accounting agencies. As I explained in the introductory chapter of this thesis, investigations correspond to the first stage of accountability processes. Accounting actors conduct an investigation either as a response to the submission of a complaint or on their own initiative (*ex officio*). O'Donnell's aforementioned definition of horizontal accountability underlines that accounting actors such as ombudsman institutions should not only be legally empowered but also factually able to hold public officials and state authorities accountable for their decisions or actions. Despite being clearly defined by the relevant legislation, investigative powers should therefore be examined in correlation with other aspects of institutional design (e.g. financial and human resources), as well as networking, which can potentially improve the capability of ombudsman institutions to conduct investigations.

The Serbian Protector of Citizens, along with the majority of European ombudsman institutions, is not only authorised to initiate investigative proceedings following the submission of a complaint by a person or group of people, but also on its own initiative (*ex*

officio), where cases of misconduct in the public sector are brought to the office's attention through the media or by third parties such as civic associations and NGOs (Kucsko-Stadlmayer 2008b: 490). Article 21 of the Law on the Protector of Citizens specifies the investigative powers of the national ombudsman,⁶⁶ while Article 22 gives the office free access to the premises of institutions which host those deprived of liberty, such as prisons or detention centres (*ibid.*). Overall, the institution's legally assigned right to unrestricted access to premises and documents, as well as public authorities' obligation to participate in investigations and respond to the ombudsman's inquiries, indicate that the legislation is intended to strengthen the institution by providing extensive investigative powers. The duty of disclosure, i.e. public authorities' obligation to provide an accounting state institution with access to documents, is underlined by the additional emphasis in Article 28 of the Provincial Assembly Decision on the Provincial Ombudsman.⁶⁷ Apart from accessing public documents the Provincial Ombudsman of Vojvodina is also assigned the right to access the premises of administrative bodies at the regional level, including medical institutions providing psychiatric treatment (*ibid.*).

The legislation overview above shows that a common feature of the Protector of Citizens and the Provincial Ombudsman of Vojvodina is the legal authority to access the premises of institutions where complaints are likely to emerge, such as detention centres and psychiatric institutions. The explicit reference to this right in legislation indicates that jurisdiction is not limited to the combat of maladministration in the public sector, but extends to human rights violations at the national and regional levels. As I explain below in this thesis, this is particularly important for networking between these offices and civil society organisations as some NGOs take advantage of this authority in order to obtain indirect access to the premises of state institutions. On the contrary, the jurisdiction of local ombudsman offices is limited to

⁶⁶ "Authorities have the obligation to cooperate with the Protector of Citizens, allow him access to premises and make available any information that is important for the respective investigation [...], regardless of confidentiality, unless it is opposed to the law. The Protector of Citizens has the right to interview any public official relevant to the investigation in process. The Protector of Citizens and the deputies shall respect the confidentiality of information acquired through the performance of their duties. The obligation of confidentiality applies also to the employees of the Protector of Citizens" (Article 21). Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/ot-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 22 April 2012]

⁶⁷ "The Ombudsman shall be entitled to request the administrative bodies to supply all information and produce papers, the bodies are in possession of, as well as to provide direct access to the records, documentations and collection of data related to his investigation, including state, official, business and professional secrets. [...] The Ombudsman shall be obliged to maintain the secrecy of the data obtained in compliance with the regulations, during and upon termination of his/her term of office" (Article 28). Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 22 April 2012]

authorities at the local level, excluding therefore institutions or departments of the broader state apparatus; nevertheless, their right to access public documents is of a similar extent to the rights of their counterparts at the national and regional levels. For example, Article 23 of Belgrade's Decision on the Protector of Citizens⁶⁸ decrees that

authorities under scrutiny are obliged to provide to the Protector of Citizens any available data, official files or documents at request, regardless of confidentiality unless it is opposed to the law, and allow access to any premises.⁶⁹

To sum up, the existing legislation prescribes wide investigative powers to Serbian ombudsman offices at the national, regional and local levels by providing rather unrestricted access to public documents and the premises of administrative bodies, as well as the right to interrogate any public official who is potentially relevant to an investigation in progress. In addition, all laws and local decisions defining the jurisdiction and powers of ombudsman institutions in Serbia pinpoint that the participation of public officials and state authorities in the relevant investigations is compulsory as they are expected to be responsive and facilitate access to documents and premises. In cases of non-compliance with formal procedures, ombudsman offices have the right to inform the relevant higher-level authorities, as Article 29 of the Provincial Assembly Decision on the Provincial Ombudsman of Vojvodina clearly states.⁷⁰ Regarding these rather extensive competences of investigation, it is not surprising that the majority of interviewees in this thesis who represent ombudsman offices expressed their overall satisfaction about the existing legal framework (e.g. interviewee 24, local ombudsman, interviewee 27, local ombudsman, interviewee 28, local ombudsman).

From a network perspective, access to public documents and premises as well as the right to inspect state authorities without prior notice constitute resources that motivate state and social actors to interact with ombudsman institutions. In practice, this is particularly the case with social actors such as civil society organisations and the media, since state accounting institutions like the Commissioner for Information of Public Importance and Personal Data Protection or the Commissioner for Protection of Equality are assigned comparable powers of investigation by the relevant legislation. Thus, several of this research project's interviewees

⁶⁸ The term "Protector of Citizens" in the City of Belgrade's Assembly Decision does not refer to the national ombudsman but to the respective local office.

⁶⁹ Skupština grada Beograda, 2009. Odluka o Zaštitniku građana, broj 34/09 i 41/09, Službeni list grada Beograda, <http://www.begrad.rs/download.php/documents/Odluka%20o%20zastitniku%20gradjana.pdf> [Accessed 23 April 2012]

⁷⁰ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 [Accessed 23 April 2012]

who represent civic associations and NGOs argue that they deliberately interact with ombudsman institutions, particularly with the national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina, in order to profit from the availability of these powers. For instance, a representative of a Belgrade-based civil society organisation explains that the Protector of Citizens has, in contrast to civil society, the authority to inspect police stations, detention centres or psychiatric institutions, “in the middle of the night by just knocking on the door” (interview 1), while another NGO activist argues that his organisation obtains indirect access to places of detention by cooperating with the national ombudsman. The following case confirms this argument: on 5 December 2011, a team lead by the deputy Protector of Citizens for the protection of persons deprived of liberty, one psychiatrist, two forensic doctors and a representative of the Helsinki Committee in Serbia conducted a visit to Pavilion VII of the Penitentiary-Correctional Institute in Požarevac-Zabela following numerous allegations of systemic torture. The 2011 annual report of the Serbian ombudsman explains that:

After the above-described visit, the Protector of Citizens received a complaint from a prisoner claiming to have been subjected to unlawful actions by prison officers in Pavilion VII of the Penitentiary-Correctional Institute in Požarevac-Zabela. On 27 December 2011, the Protector of Citizens visited the complainant and on that occasion established that on 24 December 2011 he had suffered multiple bodily injuries, while the type of injuries and the manner in which they were inflicted undoubtedly led to the conclusion that the bodily injuries were inflicted by security service staff using rubber batons. In the opinion of the Protector of Citizens’, this constitutes an act of torture resulting in the violation of the mental and physical integrity of the complainant, and the fact that the bodily injuries were not recorded in the official files and that the prison governor was not informed about them constitutes an unlawful and incorrect act. Moreover, the failure to take the complainant for a medical examination after inflicting injuries upon him led to the violation of his right to health care. The Protector of Citizens sent a recommendation to the Penitentiary-Correctional Institute in Požarevac-Zabela to undertake all available measures to establish the liability of prison officers for the violation against the complainant, for the failure to record the bodily injuries inflicted and for the failure to inform the prison governor, as well as for the failure to take the complainant for a medical examination (Janković 2012: 34-35).

Similarly, the Belgrade Centre for Human Rights explains on its website that it cooperates with the national ombudsman in order to supervise the police’s work regarding persons

deprived of liberties as part of the so called “National Mechanism for the Prevention of Torture”, a project launched by the OSCE Mission to Serbia⁷¹. Given that ombudsman institutions at the national, regional and local levels have comparable investigative powers, the absence of any reference to local offices by the representatives of civil society is associated with their limited jurisdiction over authorities at the local level. In other words, civil society organisations prefer to interact with central rather than peripheral ombudsman offices due to their wider jurisdiction.

In any case, rational calculation or the expectation of utility maximisation appears to be the driving force behind the decision of civil society organisations to network with ombudsman institutions for their investigative powers. The director of an NGO explains that

we haven't used this mechanism much but we observe where he [the Protector of Citizens] goes and whether he conducts investigations accordingly and if not, we also use the CoE and their mission because they are very capable of entering the premises of prisons etc. So, we mix all these mechanisms [...] (interviewee 10).

In other words, the interviewee argues that his organisation deliberately (“uses”) interacts with the Protector of Citizens and other institutions or organisations in order to obtain indirect access to the premises of detention centres, while networking with multiple actors increases the possibility of benefit maximisation by taking advantage of their combined competences and powers.

Despite the asymmetry of exchanged resources that characterises most interactions between networking partners (Compston 2009: 19), both the Protector of Citizens and civil society arguably benefit from interacting with each other, as they cannot rely solely on their own capacities (interviewee 14, NGO activist). More precisely:

Civil society cannot have access [to the premises of state bodies] without an appointment. So, we cannot say “I'm going there now” because they won't let you in. And we have no access to the detention premises of the police. So, they [the Protector of Citizens] have by definition better access but we are the ones who produce reports on

⁷¹ Beogradski centar za ljudska prava, 2013. Podsticanje uključivanja civilnog društva u reformu policije, <http://www.bgcentar.org.rs/podsticanje-ukljucivanja-civilnog-drustva-u-reformu-policije-glavni-meni/> [Accessed 11 June 2014] [Accessed 11 June 2014] & Zaštitnik građana, 2011. Predstavljen Nacionalni mehanizam za prevenciju torture, http://www.ombudsman.rs/index.php/lang-sr_YU/2011-12-25-10-17-15/1643-2011-12-13-15-13-16 [Accessed 11 June 2014]

prisons and social institutions. And you know, none of us has the capacity to do everything (ibid.).

Civil society indeed has the expertise to report on human rights in contemporary Serbia, but empirical research is based upon information that civic associations and NGOs often acquire through investigations conducted by ombudsman institutions⁷². Thus, information, a fundamental exchangeable resource for network participants, depends largely on the extensive investigative powers of ombudsman institutions. In conclusion, the networking potential of accounting actors derives – among other things – from the capability to provide resources like information to their networking partners by using their investigative and other powers.

Nevertheless, the availability of legally prescribed powers does not necessarily mean that institutions make full use of them in practice. The representative of an international organisation is sceptical towards the investigative powers of ombudsman offices in Serbia, arguing that

I'm not sure how it works in practice. But again law and the implementation of law are not automatically matching, you know. Sometimes we have a perfect legal solution drafted on paper but the implementation is zero (interviewee 20).

Similarly, certain interviewees from civil society criticise the national Protector of Citizens for rarely using the right to investigate a case of misconduct or violation of rights without prior submission of a complaint (*ex officio*) (e.g. interviewee 3, NGO activist, interviewee 9, NGO activist), while some others argue that ombudsman institutions do not exert their powers due to inappropriate technical and inadequate human and financial resources, such as vehicles for visiting premises, specialised personnel for interrogating public officials etc. (interviewee 8, representative of international organisation). This critique is justified and shows the determinism of ombudsman literature regarding institutional design. In other words, extensive powers are perceived as inherently beneficial to the performance of ombudsman institutions and their interactions with other actors, without prior empirical examination of these assumptions. The variation between Serbian ombudsmen in terms of

⁷² Civil society organisations often reproduce this information on their websites. For example: YUCOM, 2011. Ombudsman: Konkretnim merama do postizanja ravnomerne zastupljenosti pripadnika bošnjačke i drugih nacionalnih manjina u sastavu Policije na području Novog Pazara, <http://www.yucom.org.rs/rest.php?tip=vest&idSek=4&idSubSek=4&id=207&status=drugi> [Accessed 12 June 2014] & Helsinški odbor za ljudska prava u Srbiji, 2014. Briga o mentalnom zdravlju: politika i strategija, http://www.helsinki.org.rs/serbian/projekti_ezoms_t04.html [Accessed 12 June 2014]

jurisdiction and investigative powers (i.e. comparable investigative powers but unequal jurisdiction between central and peripheral offices) confirms the above hypothesis that network participants interact with accounting actors such as ombudsman institutions provided that their investigative powers are applied in practice.

To sum up, the existing legislation provides rather extensive investigative powers to ombudsman offices at the national, regional and local levels. State and social accounting actors, particularly civil society organisations, interact with ombudsman institutions in order to take advantage of these powers. Regarding the conceptualisation of public accountability in this thesis as a process of successive stages, these powers apparently concern the investigation of a case of misconduct by state and social accounting actors. However, the networking potential of individual offices largely depends on the width of their jurisdiction. In other words, central institutions like the national Protector of Citizens or the Provincial Ombudsman of Vojvodina have a greater chance of interacting with other actors in this respect as a consequence of their authority over a wider field of competence than local offices. This distinction indicates the different position of central and peripheral ombudsman offices in potential networks of accounting actors in Serbia.

Another issue that affects the possibility of interactions between ombudsman institutions and other state or social accounting actors is the capability of the former to use their investigative powers in practice. Since legislation cannot guarantee the actual implementation of these powers, networking depends on various interrelated aspects of institutional design such as jurisdiction as well as human and financial resources. In other words, there is a greater chance of state and social accounting actors taking advantage of ombudsmen's investigative powers when the latter possess wide jurisdiction and ample resources. However, the scepticism of several interviewees as to whether ombudsman institutions deliberately avoid using their investigative powers in practice raises the question of lack of trust between interacting partners as a consequence of certain offices' dubious independence of public authorities. This crucial aspect of the operation of ombudsmen, mostly concerning peripheral offices at the local level, is discussed more thoroughly in the following sections of this thesis.

3.3.2 Coercive and enforcement powers

Although according to the literature the imposition of sanctions is an essential part of accountability processes when the accountable party does not comply with the requests of accounting actors, the paradox of most ombudsman institutions around the world is their lack of coercive and enforcement powers. This inability to enforce judgements through the imposition of sanctions or other means has been widely discussed in the literature (e.g. Hansen 1972; Schedler, Diamond & Plattner eds. 1999; Mainwaring 2003; Bovens 2006; Peruzzotti & Smulovitz eds. 2006) and is criticised by many ombudsman offices as one of their main institutional weaknesses (Kucsko-Stadlmayer ed. 2008: 42). This lack of enforcement powers devalues jurisdiction and investigative powers since ombudsman institutions cannot justify their authority as accounting actors. However, ombudsmen differ from coercive institutions such as courts as they conceive dispute resolution in terms of arbitration and mediation (e.g. Friedmann 1977; Gadlin 2000; Vangansuren 2002; Ambrož 2005; Christopoulos & Hormovitis eds. 2005; Pegram 2008b; Van Roosbroek & Van de Walle 2008; Pegram 2010). From the perspective of triadic dispute resolution, ombudsman institutions mediate between complainants and authorities in order to reach an alternative solution to a judicial procedure. As a consequence, public exposure and denunciation of wrongdoings is arguably perceived as an indirect type of sanction or enforcement power.

Among European ombudsman institutions, few national offices have the authority to initiate disciplinary or criminal proceedings (Bosnia and Herzegovina, France, Poland and Sweden are among those which do) (Kucsko-Stadlmayer 2008b: 508-509). Most, including the Serbian Protector of Citizens, have the right to recommend the initiation of proceedings to coercive institutions which are authorised by law to impose sanctions (e.g. the courts) (Article 20 of the Law on the Protector of Citizens).⁷³ Similarly to the national Protector of Citizens, the Provincial Ombudsman of Vojvodina is authorised to initiate direct disciplinary and indirect criminal proceedings on its own accord through the Public Prosecutor (Article 35

⁷³ “The Protector of Citizens is authorised to recommend the dismissal of a public official who is responsible for violation of human rights or initiate disciplinary action against an employee of public administration who is directly responsible for the repetition of a violation and refuses to cooperate with the Protector of Citizens or when the violation caused material or other major damage. In case of criminal or other punishable offences by an official or employee of public administration, the Protector of Citizens is authorised to submit a request for the initiation of a criminal proceeding to any appropriate penal institution” (Article 20). Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 03 May 2012]

of the Provincial Assembly Decision on the Provincial Ombudsman).⁷⁴ However, Article 34 of the same law explains that the Provincial Ombudsman shall first and foremost inform the Assembly and the Executive Council of the Province or the public in cases where state authorities or public officials do not act upon the opinions, proposals or recommendations of the office (ibid.). This reference indicates that disciplinary or criminal proceedings are in practice initiated only in exceptional cases. The possibility of sanctioning a public official or state authority through the activation of coercive institutions also concerns Serbian ombudsman offices at the local level, but legislation suggests again that this option is used only when all other means are exhausted.⁷⁵

To sum up, the existing legislation does not provide direct coercive powers to Serbian ombudsman offices except for the option of recommending the initiation of criminal proceedings to other institutions which impose sanctions. Despite the legal authority to initiate disciplinary proceedings against the public officials and state authorities under scrutiny, ombudsman offices in Serbia are not equipped with powers to enforce their recommendations through coercion. On the contrary, they can exert pressure by notifying the authorities which supervise the non-complying officials or departments and by informing the public about misconduct or violation of rights in the state apparatus. Hence, according to the literature the threat of public exposure transforms into a crucial indirect enforcement power of state accounting institutions such as ombudsman offices (Peruzzotti & Smulovitz 2006a: 23-25). In conclusion, ombudsman institutions have the potential to make up for their deficient coercive and enforcement powers by interacting with state and social actors. Through coordinated public exposure and denunciation of wrongdoings, ombudsman institutions theoretically have a greater chance of enforcing their judgements.

From the perspective of resources, limited enforcement powers are widely perceived by network participants as a major weakness of accounting actors. Several representatives of

⁷⁴ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 23 April 2012]

⁷⁵ For instance, the reference to the possibility of initiating disciplinary or criminal proceedings in the municipal Decision on the Ombudsman of Zrenjanin (Article 31) complements Article 30, which delineates the stance of the office in cases of non-compliance: "If administrative authorities do not act in accordance with the opinion, suggestion or recommendation of the Ombudsman or do not inform the Ombudsman about the measures taken to eliminate a violation, the ombudsman shall notify the body that supervises their work. If competent authorities do not take action after this notification, the Ombudsman shall inform the President and Vice President of the Local Assembly, the Chairperson, Deputy Mayor and Secretary of local administration and may inform the public through the media" (Article 30). Skupština gradske opštine Zrenjanin, 2003. Odluka o Zaštitniku građana, broj 10/2003.

civil society organisations argue that ombudsmen’s impact on public accountability in Serbia is limited as state authorities do not respect their recommendations, as they do not fear being sanctioned (e.g. interviewee 2, NGO activist, interviewee 3, NGO activist, interviewee 4, NGO activist). Similarly, the employee of a state accounting institution argues that the absence of coercive powers impacts upon the way ordinary citizens perceive the so called “independent state bodies” as they are in principle not used to the idea of dispute resolution through arbitration and mediation (interviewee 32). Hence, the director of a civic association comments that

all independent institutions face the same problem as they are not punitive and they cannot charge you or fire you. This is why they recommend to public institutions and officials to implement certain changes and they are simply ignored. So, the only tool they have is public exposure. In other words, it’s all about “name and shame”, this is why media are needed. (interviewee 9).

The emphasis on “name and shame” tactics indicates that publicity is particularly crucial for state accounting institutions such as ombudsman offices because the threat of public exposure transforms into an alternative enforcement power. By raising public awareness on certain issues or focusing on individual cases of misconduct or violations of rights, ombudsman institutions can arguably compensate for their deficient enforcement powers by exerting indirect pressure as it is expected that public officials and state authorities will become increasingly accountable for their decisions or actions for fear of public exposure (e.g. interviewee 28, local ombudsman, interviewee 36, local ombudsman). For this reason, publicity is perceived as the most efficient “weapon” in processes of public accountability (interviewee 25, local ombudsman) and the media as the “most important ally” for ombudsman institutions (interviewee 26, local ombudsman).

The counterargument to mediatisation, or the increasing influence of the mass media over politics and public opinion, focuses on the overestimation of raising public awareness. The director of a civic association argues that:

[...] being in the newspaper here [in Serbia] doesn’t mean a thing because every day some of the leading or local politicians are in the news without facing any consequences, penal, financial or moral. This is a major problem (interviewee 9).

In other words, the interviewee argues that public exposure has no effect in countries like Serbia where penalties are not enforced and citizens frequently adopt a fatalistic or even

indifferent stance towards cases of corruption, mismanagement etc. In the absence of effective state accounting mechanisms and alert citizens, public accountability in contemporary Serbia is arguably deprived of its public nature. In any case, the non-enforcement of sanctions in the public sector arguably has a dual consequence: on the one hand, the state is delegitimised in the eyes of citizens, while on the other hand conscientious public employees are subordinated to their colleagues (interviewee 16, academic). As a consequence, publicity indeed has the potential to exert pressure on state authorities; however various factors such as the lack of continuity of public exposure or the indifference of citizens can reduce its overall influence.

In conclusion, ombudsman institutions in Serbia follow the example of several other offices around the world in having particularly limited coercive and enforcement powers. In spite of proclaiming their wish to shape politics through the promotion of a non-coercive culture of dispute resolution (e.g. interviewee 28, local ombudsman, interviewee 31, local ombudsman, interviewee 33, local ombudsman), the inability to enforce judgements delegitimises their authority as accounting actors. This institutional weakness is acknowledged not only by the ombudsman institutions themselves but also by their interacting partners in the state apparatus and society. The emphasis on publicity as a means of compensating for the lack of enforcement powers through the threat of public exposure increases the importance of social actors and particularly the media as networking partners. Notwithstanding criticism that publicity is overestimated as a resource for exerting pressure on state authorities, ombudsman institutions arguably have a greater chance of enforcing their judgements through mediatisation and social mobilisation initiated by the media and civil society organisations respectively. As a consequence, this thesis observes interdependence between ombudsman institutions and – mostly – social accounting actors in terms of investigative and coercive or enforcement powers; civil society organisations and the media benefit from the authority of ombudsmen to investigate cases of misconduct and violations of rights in the public sector, while ombudsman offices expect to compensate for their lack of enforcement powers through publicity garnered by social accounting actors.

3.4 Accessibility

Looking at the main interpretations of the relevant literature regarding the rapid post-war proliferation of ombudsman institutions, the concept of accessibility has long been associated with the debate on alternative channels of public representation and the emergence and multiplication of complaint mechanisms in the public sector. The former approach is theoretically embedded in constitutional law and conceives the right to petition as an alternative option for citizens to express their preferences and interests through a process which is more direct and less periodic than elections (Hopp 1993; Würtenberger & Schenke 1999). By aggregating and transferring citizens' complaints to the state, ombudsman institutions act as a proxy that can potentially facilitate citizens' access to the anonymous state (Graf Vitzthum 1985: 27). The latter approach interprets the worldwide proliferation of ombudsman institutions as a reaction to the post-war enlargement and complexity of public administration and bureaucracy and stresses the necessity of additional mechanisms of oversight and control to supplement traditional judicial proceedings (Frank 1970; Bennett 1997; Stieber 2000; Abraham 2008a, b & c; Van Roosbroek & Van de Walle 2008).

A common denominator of both approaches is the concept of accessibility. More precisely, the ombudsman literature assumes that the more accessible an ombudsman office is, the more likely it is that the office will receive a considerable number of complaints.⁷⁶ In addition, the more geographically accessible an ombudsman office is, the more representative the sample of citizens addressing the office will be, as marginalised social groups such as the rural population and citizens with only basic education will have the opportunity to communicate with a state institution which is usually centrally based. This workload in turn drives ombudsman institutions to investigate the cases addressed to them, and to ask state authorities and public officials for justification of their decisions or actions. In other words, accessibility is correlated by the relevant literature with the ability of ombudsman institutions to conduct investigations, hence it is perceived as a prerequisite of their effectiveness as accounting actors. This argument is particularly relevant to the Serbian case, as ombudsman offices at different levels of government proliferated across the country in the name of post-transition

⁷⁶ Conversely, the British Parliamentary Commissioner for Administration has been criticised by the ombudsman literature for the so called "MP-filter", namely the provision that citizens should initially submit their complaint to a member of the House of Commons who will then decide whether the case will be forwarded to the office or not. Scholars perceive this provision as an obstacle to the office's accessibility, which reduces the number of complaints submitted (Gwyn 1982; Gottehrer & Hostina 2000).

decentralisation. However, the above assumption is problematic for two main reasons: firstly, there is no automatic link between accessibility and increase in workload, since various factors can prevent citizens from submitting complaints (e.g. lack of trust in institutions, political apathy). Secondly, increased workload does not necessarily translate into an increase in investigations. The capability to conduct investigations depends more on the adequacy of financial and human resources rather than on an assuming “commitment” of ombudsman institutions towards citizen-complainants. As a consequence, the assumption reflects the normativity and determinism of the ombudsman literature on this aspect of institutional design.

Nevertheless, empirical research findings show that the accessibility of ombudsman offices translates into increased and enriched information for certain state and social accounting actors, a major exchangeable resource in policy networks (e.g. Berardo & Scholz 2010; McNutt & Pal 2011; Leifeld & Schneider 2012). In other words, civil society organisations and the media correlate easily accessible ombudsman offices with diversification of information from the field. Regarding the conceptualisation of public accountability in this thesis as a process of successive stages, the exchangeable resource of information is associated with the initial stage of investigation by state and social accounting actors. For this reason, procedural and physical accessibility are examined in this section as an indicator which partly explains potential networking between ombudsman institutions and other actors.

Accessibility can be conceptualised in procedural and physical terms. Procedural accessibility is defined by legislation as a process according to which a person or group of people comes into contact with an ombudsman office and submits a complaint. In Serbia, any natural or legal, native or foreign person has the right to submit a complaint to the national ombudsman according to Article 25 of the Law on the Protector of Citizens.⁷⁷ The same provision concerns people who wish to submit a complaint to a local ombudsman office (e.g. Article 16 of Belgrade’s Decision on the Protector of Citizens).⁷⁸ Additionally, the Decision on the

⁷⁷ “Any natural or legal, native or foreign person that considers his/her rights were violated by an act or mistreatment of public bodies can submit a complaint to the Protector of Citizens. In case of children’s rights violation, the complaint can be submitted by the parents or legal guardian, while in case of legal persons, the complaint can be submitted by anyone who is authorised to represent the entity [...]” (Article 25). Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 10 May 2012]

⁷⁸ Skupština grada Beograda, 2009. Odluka o Zaštitniku građana, broj 34/09 i 41/09, Službeni list grada Beograda, <http://www.beograd.rs/download.php/documents/Odluka%20o%20zastitniku%20gradjana.pdf> [Accessed 10 May 2012]

Provincial Ombudsman of Vojvodina makes special reference to people deprived of liberties, such as prisoners or patients in psychiatric institutions (Article 23).⁷⁹ In the case of Serbian ombudsman offices at the national, regional and local levels, complaints must be submitted within a year of an act of maladministration or violation of rights (e.g. Article 26 of the Law on the national Protector of Citizens), either in written form, including email, or orally (e.g. Article 18 of Belgrade's Decision on the Protector of Citizens) and free of charge (e.g. Article 22 of the Decision on the Provincial Ombudsman). In addition, anonymous petitions or complaints are not accepted, however ombudsman offices can act on their own initiative (*ex officio*) when it comes to serious cases of maladministration or violations of rights (e.g. Article 25 of the Law on the national Protector of Citizens) (*ibid.*). Overall, several of this research project's interviewees express their satisfaction regarding the procedural accessibility of ombudsman offices, arguing that the legislation provides an easy way for citizens to submit a complaint (e.g. interviewee 1, NGO activist, interviewee 5, NGO activist, interviewee 17, representative of state accounting institution, interviewee 27, local ombudsman, interviewee 28, local ombudsman, interviewee 30, local ombudsman).

On the contrary, physical accessibility, i.e. the extent to which it is physically feasible for people to contact the staff of ombudsman offices and submit complaints, depends largely on the financial resources and available infrastructure of each individual office. Ten of the eleven ombudsman offices under examination are present online (see appendix C) and can be reached by email as well as by phone; yet four are not accessible to disabled and elderly people as there is no lift in the buildings where they are located.⁸⁰ Even though physical presence is not a prerequisite for the submission of a complaint, the interviewees who represent these ombudsman offices acknowledge that limitations such as these prevent people from having personal consultations with their staff⁸¹ (e.g. interviewee 23, local ombudsman, interviewee 25, local ombudsman, interviewee 28, local ombudsman). As a consequence, social groups like the aforementioned are excluded from taking advantage of their right to address their problem to an expert and seek advice. In conclusion, ombudsman institutions in Serbia are physically accessible with the exception of four offices.

⁷⁹ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 10 May 2012]

⁸⁰ This observation derives from visits in person to each individual ombudsman office.

⁸¹ The local ombudsman of a rural municipality explains that he dedicates several days each week to personal consultations, visiting small settlements around the city. Hence, he is in frequent contact with people who are either illiterate, and who therefore ignore their right to petition, or have no time or money to visit his office in the seat of the municipality (interviewee 27).

Irrespective of formal accessibility, state and social actors which interact with ombudsman institutions in Serbia place particular emphasis on the information these offices obtain by being accessible to the public. From a network perspective, information is arguably the main exchangeable resource between networking partners (Scott 2000: 30). The findings of this empirical research confirm that various actors, ranging from civil society organisations to the media and state accounting institutions, perceive ombudsman offices as an ample source of information which is potentially important to their activities. Overall, it is widely argued that accessible ombudsman offices are likely to be aware of local problems and people's preferences, especially in rural places (interviewee 5, NGO activist, interviewee 22, journalist) and among peripheral minority communities (interviewee 19, representative of state accounting institution, interviewee 38, representative of state accounting institution). This is particularly important for Belgrade-based civil society organisations, media bodies and state accounting institutions which have limited financial and human resources to conduct fieldwork and contact people at Serbia's periphery, in the manner in which the national Protector of Citizens does through his delegates in the Albanian-speaking municipalities of Preševo, Bujanovac and Medveđa (interviewee 11, NGO activist, interviewee 14, NGO activist, interviewee 22, journalist). Similarly, the Provincial Ombudsman of Vojvodina and the respective local offices are expected to depict a more representative image of multicultural everyday life in the region. Without ignoring the fact that easily accessible offices do not necessarily contact a large number of citizens, state and social actors pinpoint the capability of ombudsman institutions to obtain information from the field by being accessible to the public.

In conclusion, accessibility is a formal dimension of institutional design that is praised by the ombudsman literature based on the assumption that procedurally and physically easy access to ombudsman offices improves communication with citizens, therefore increasing the number of complaints submitted and investigations conducted. In spite of being normative and deterministic, this assumption is reproduced in practice by state and social accounting actors which correlate accessibility with information. In other words, easy procedural and physical access to ombudsman institutions as accounting mechanisms is widely perceived as a means of obtaining information from the field, hence accessibility increases the chance of ombudsmen interacting with other state and social actors.

3.5 Operational efficiency

3.5.1 Financial resources

Similarly to other institutions, ombudsman offices require adequate financial and appropriate human resources in order to operate efficiently as accounting actors, since the availability of funding and expert personnel is a prerequisite for the implementation of investigative powers. In addition, resources also matter for other aspects of institutional design such as accessibility or public dissemination of work. For instance, the conduct of field visits and the implementation of media strategies require appropriate organisational capacities. In short, financial and human resources affect the involvement of ombudsman institutions in various stages of accountability processes, such as investigations and indirect imposition of sanctions through public exposure. Apart from their obvious importance to the operational efficiency of accounting actors, this thesis shows through empirical findings in Serbia that possession of adequate financial and human resources also increases the networking potential of ombudsman offices. In other words, when ombudsman offices are rich in resources, state and social accounting actors interact with them in order to profit from funding (e.g. through implementation of common activities) and expert staff (e.g. legal consultation). As a consequence, human and financial resources partly explain potential networking between state and social accounting actors in Serbia.

Being part of the state apparatus, ombudsman institutions are primarily financed by the state, regional or local budgets. In Serbia, Article 37 of the Law on the Protector of Citizens decrees that the office shall draft and submit a proposal for funding to government, ensuring that the allocated financial resources are adequate for the efficient performance of duties but also in accordance with the macroeconomic policy of the state.⁸² Nevertheless, the final decision regarding the precise amount of funding is taken by the government. Similarly, Article 41 of the Decision on the Provincial Ombudsman of Vojvodina states that the ombudsman shall propose the desired amount of funding to the Provincial Assembly⁸³ while

⁸² Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 22 May 2012]

⁸³ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 22 May 2012]

Article 46 of the Decision on the Protector of Citizens in Belgrade clarifies that the proposal for funding shall be submitted to the local council.⁸⁴ To sum up, the existing legislation on Serbian ombudsman institutions prescribes that funding allocation is first and foremost at the discretion of respective state authorities, raising the issue of the financial dependence of the offices on the authorities they are meant to control. In other words, state authorities can manipulate ombudsmen by restricting their funding as has often been the case with ombudsman offices in Latin America (Ugla 2004: 435-436).

However, ombudsman institutions are free to seek additional sources of funding through projects financed by national governments, international organisations or civil society. This kind of indirect funding cannot be used for organisational expenses such as salaries or bills but it can have a decisive impact upon the organisational capacities of offices, thereby reducing their financial dependence on the state authorities. The following table summarises the additional funding sources of the national Protector of Citizens throughout 2011:

Table 4. Alternative sources of funding for the national Protector of Citizens

Project	Donor	Amount
Twinning Project – capacity building by the Greek and Dutch Ombudsmen	EU	€ 784,590
Visits by the Protector of Citizens to Roma settlements	OECD	€ 13,075
Preventing exploitation of children in South-East Europe	Save the Children – Norway	€ 14,783.79
Technical improvement of the office’s website	Norwegian Government	€ 100,250
Establishment of regional offices in Southern Serbia	SIDA / UNDP	\$ 214,493.84
Promoting human rights in Roma communities	OHCHR / British Embassy	€ 51,705
Judicial reform and public accountability	USAID	\$ 404,000

Source: annual report of the Protector of Citizens 2011 (Janković 2012: 181-182)

⁸⁴ Skupština grada Beograda, 2009. Odluka o Zaštitniku građana, broj 34/09 i 41/09, Službeni list grada Beograda, <http://www.beograd.rs/download.php/documents/Odluka%20o%20zastitniku%20gradjana.pdf> [Accessed 22 May 2012]

Although several of these projects are implemented over a period longer than a year,⁸⁵ the total amount of additional funding available to the Protector of Citizens exceeds the regular annual state funding of the office. More precisely, the total budget for the above seven projects amounts to 167,519,893 Serbian dinars while the office received 149,712,500 dinars⁸⁶ from state budget for the year 2011 (Janković 2012: 180). As a consequence, ample external funding significantly reduces the financial dependence of the Protector of Citizens on the state budget.

The ombudsman of Vojvodina and various local offices across the country also have access to external funding, yet to a lesser extent than the national Protector of Citizens. More precisely, the Provincial Ombudsman of Vojvodina received 1,144,252.40 dinars for the implementation of two projects (“Preventing exploitation of children in South-East Europe” in association with Save the children - Norway and “The Provincial Ombudsman close to citizens” under the auspices of the UN Agency for Gender Equality and Empowerment of Women), compared to the 43,702,922 dinars allocated by the regional budget for the year 2011 (Muškinja Hajnrih 2012: 150-151). Regarding local ombudsman offices, there is little evidence about external funding in their annual reports and they are generally reluctant to discuss their financial resources in public. However, they occasionally cooperate with other institutions and organisations on projects organised by international donors or NGOs (e.g. “Incentive for anti-corruption measures in Serbia” under the auspices of the UNDP) (Radlovački Grozdanov 2012: 29) while they participate in seminars, workshops and roundtables, the expenses of which are covered by the organisers (Runić 2012: 9). In short, the Provincial Ombudsman of Vojvodina and particularly the local ombudsman offices have limited access to external funding, which means that their operational efficiency largely depends on the state authorities at the regional and local levels.

The financial dependence of Serbian ombudsman institutions on the authorities they are meant to control not only raises the question of overall independence from the executive but also impacts upon their public image as accounting actors. A researcher at a Belgrade-based NGO argues that:

⁸⁵ According to the Protector of Citizens’ latest annual report, four out of seven projects listed in the table last for more than a year (Twinning Project: 24 months, technical improvement of the office’s website: 16 months, establishment of regional offices in Southern Serbia: 19 months, judicial reform and public accountability: 20 months) (Janković 2012: 181-182).

⁸⁶ The term “dinars” refers from this point onwards to Serbian dinars.

...there is no adequate transparency regarding the funding of the Protector of Citizens. If you ask people on the street who do they think pays the personnel of the office, most of them will say the government. In other words, these people are paid by the government to control the government – unbelievable! (interviewee 6).

Although the Protector of Citizens has by law no jurisdiction to control the government, the interviewee uses the terms “government” and “state” interchangeably, referring to the osmosis between executive and public administration in contemporary Serbia. In any case, state funding is frequently correlated with the potential of the executive to manipulate the so called “independent state institutions”. Scepticism concerns in particular local ombudsman offices which depend financially on local authorities (e.g. interviewee 8, representative of international organisation, interviewee 14, NGO activist, interviewee 37, academic). On the other hand, the national Protector of Citizens and the Provincial Ombudsman of Vojvodina are less criticised for their financial dependence on the executive, which may be associated among other reasons with the aforementioned balanced funding of both offices by the state and external donors. This distinction between central and peripheral ombudsman institutions indicates differing degrees of trust towards such offices at different levels of government. Overall, the reputation of financial dependence on state authorities reduces the chances for networking between ombudsman offices and – mostly – social accounting actors.

In an attempt to persuade the public about their funding transparency, ombudsman institutions usually summarise their financial resources in annual reports. Nevertheless, five out of nine Serbian ombudsman offices at the local level that are examined in this research project (Bačka Topola, Kraljevo, Voždovac, Vračar and Zrenjanin) provide no public information about the exact amount of funding by the respective local authorities. On the contrary, the annual reports of the remaining four offices include the following data:

Table 5. Annual funding of local ombudsman offices

	Belgrade	Niš	Subotica	Kragujevac
2006			no data	no data
2007			no data	no data
2008			no data	7,362,000 ⁸⁷
2009			7,017,000	8,096,000
2010	15,000,000	4,061,000	7,619,000	8,825,000

⁸⁷ The amounts shown in the following tables are in Serbian dinars.

2011	15,409,000	3,748,000	7,804,000	9,938,000
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Source: Data compiled by the author from the offices' annual reports (Marosiuk 2010: 17; Vuletić 2010: 24; Gaćeša 2011: 4-5; Marosiuk 2011: 18; Vuletić 2011: 27; Zdravković 2011: 25-26; Gaćeša 2012: 5; Marosiuk 2012: 21; Vuletić 2012: 18; Zdravković 2012: 26)

The above table shows that the publication of data on funding was not a priority for local ombudsman offices during their first years of operation. However, the consistent publication of financial resources from 2008/2009 onwards arguably indicates the awareness of offices of the need to account for their funding to an increasingly sceptical public. Another interesting finding of the above table is that the annual funding of local ombudsman offices is increasing over time, with the exception of Niš. In particular, the funding of the local ombudsman in Kragujevac increases by 10 % annually. This arithmetic progression of funding at the local level contrasts with Serbia's stagnant macroeconomic indicators, especially since the outbreak of the ongoing global financial crisis. Meanwhile, the latest annual report of the local ombudsman in Subotica states clearly that most of the office's annual funding is spent on salaries (Marosiuk 2012: 21). Similarly in Niš, 2,917,043.98 dinars out of a total annual budget of 3,748,000 dinars for 2011 went on the salaries of the office's employees (Zdravković 2012: 26). As a consequence, it is reasonable to ask whether the remaining financial resources are sufficient for other activities, such as conducting investigations, improving accessibility or public dissemination of work. In short, the disproportional allocation of funding to salaries questions the operational efficiency of local ombudsman offices as accounting actors.

The national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina differ from local offices in terms of having better access to indirect sources of funding such as international projects, through which they can reinforce their capacities without depending on state or regional budgets. However, they still dedicate a significant part of allocated financial resources to employees; the national Protector of Citizens spent 50.1 % of the annual state funding for 2011 on salaries, benefits and compensations while the remainder was spent on other expenses and activities of the office (Janković 2012: 176-180). On the other hand, the Provincial Ombudsman of Vojvodina spent 78% of its state funding on salaries in the same year (Muškinja Hajnrih 2012: 150). In short, state funding of both offices over the years has been as follows:

Table 6. Annual funding of the national Protector of Citizens

Year	Annual state funding	Percentage spent
2007	27,472,000	8.89 %
2008	92,248,657	56.21 %
2009	107,257,000	91.37 %
2010	121,645,000	92.21 %
2011	149,712,500	89.29 %

Source: Data compiled by the author from the offices' annual reports (Janković 2008: 60; Janković 2009: 77; Janković 2010: 97-98; Janković 2011: 117; Janković 2012: 176-177)

Table 7. Annual funding of the Provincial Ombudsman of Vojvodina

Year	Annual state funding	Percentage spent
2004	no data	no data
2005	23,659,920.61	74.81 %
2006	31,115,840	80.43 %
2007	29,696,840	92.68 %
2008	35,914,331.60	93.30 %
2009	37,623,027	93.27 %
2010	41,708,160	87.30 %
2011	43,702,922	92.69 %

Source: Data compiled by the author from the offices' annual reports (Teofilović 2006: 189; Teofilović 2007: 161; Teofilović 2008: 167; Teofilović 2009: 193; Janča 2010: 175; Muškinja Hajnrih 2011: 148-149; Muškinja Hajnrih 2012: 150-151)

The above table shows that state funding of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina has increased over the years, but both offices spend less on an annual basis than the initially allocated financial resources. Similarly, the ombudsman office of Kragujevac spent 95.60 % of the available funding in 2011 (Vuletić 2012: 18). This observation suggests that in spite of the adverse financial conditions in Serbia, individual ombudsman offices at national, regional and local levels enjoy sufficient state funding, a prerequisite for their operational efficiency according to the relevant literature.

Interestingly, the amount of available state funding is assessed differently by ombudsmen and other stakeholders. More precisely, the majority of interviewees representing ombudsman

offices in this research project pinpoint the shortage of financial resources in Serbian public administration, however they are fairly satisfied with the allocated state funding (interviewee 25, local ombudsman, interviewee 27, local ombudsman, interviewee 28, local ombudsman, interviewee 30, local ombudsman). Only two out of eleven interviewees complain about their financial resources, claiming that projects like public dissemination of work through outreach activities cannot be implemented within the limits of the current budget (interviewee 33, local ombudsman) and arguing that financial deprivation impacts upon the authority of offices and therefore the potential to network with other state and social actors (interviewee 36, local ombudsman). This last statement implies that financial dependence on state authorities has a detrimental impact on the perception of ombudsmen as accounting actors. In other words, state and social accounting actors arguably avoid interacting with ombudsman offices, as they are widely perceived as being dependent on the executive. Hence, financial resources are correlated with the image of independence, which is in turn a prerequisite for accounting actors to interact with ombudsman offices in Serbia.

On the other hand, the majority of academics, NGO activists and journalists participating in this research project believe that the financial resources of ombudsman institutions are particularly limited and therefore reduce their operational efficiency and effectiveness as accounting actors (e.g. interviewee 13, NGO activist, interviewee 15, academic, interviewee 16, representative of international organisation). The main concern of civil society organisations and the media is that limitations in funding prevent ombudsman offices from exerting their investigative powers. For example, a NGO activist criticises ombudsman offices for not being sufficiently active in monitoring prisons and detention centres, as a consequence of lacking financial and other resources (interviewee 2). Similarly, his colleague from another Belgrade-based NGO argues that the monitoring of psychiatric institutions by the Protector of Citizens has been sporadic due to a lack of the appropriate equipment, such as vehicles, needed to simultaneously conduct multiple investigations across Serbia (interviewee 6). A journalist, on the other hand, expressed his concern that fewer investigations by the national Protector of Citizens translate into less information from the field for the media (interviewee 34). However, financial resources matter for civil society and the media not only because ombudsman offices can exert their powers and produce original information but also because the availability of appropriate capacities, premises etc. is a prerequisite for networking through common activities, such as seminars, workshops and roundtables. Thus, the employee of an NGO explains that the recent increase in the funding

of the national Protector of Citizens, and the subsequent improvement of that office's premises⁸⁸ allow the office to host events with the aim of networking with various actors from the state and civil society (interviewee 10). In conclusion, social actors worry that limited financial resources attenuate the role of ombudsman offices as accounting actors and network participants.

Overall, assessment of the effectiveness of Serbian ombudsman institutions from the perspective of financial resources shows that funding not only affects the operational efficiency of offices but also their potential to network with other state and social accounting actors. With the exception of the national Protector of Citizens, and to a lesser extent the Provincial Ombudsman of Vojvodina, which obtain considerable funding from non-state, national sources, ombudsman offices in Serbia are financially dependent on the authorities they are meant to control. The consequences of this paradoxical dependence are twofold: on the one hand, a significant part of state funding is exhausted on salaries, putting a question mark over the availability of remaining resources for other activities. On the other hand, state and social accounting actors which would otherwise network with ombudsman offices fear the reputation costs of interacting with state institutions which are dependent on the executive, and worry that limited financial resources attenuate the role of ombudsman institutions as accounting actors by hindering them in exerting their investigative powers or raising public awareness through the implementation of media strategies. As a consequence, financial resources are correlated with the effectiveness of ombudsman institutions as accounting actors, not only in terms of institutional design but also networking with other actors.

3.5.2 Human resources

Being legally authorised to investigate a wide range of complaints ranging from violation of human rights to cases of maladministration in the public sector, ombudsman institutions depend on adequate and high-skilled personnel to cope with the considerable number of

⁸⁸ The premises of the Protector of Citizens were initially scattered in separate and inappropriate buildings, hindering the internal organisation and communication of the office; nevertheless, all departments were concentrated to a single building in May 2010 (Janković 2011: 116).

complaints submitted and the subsequent investigations.⁸⁹ The quantity and quality of human resources matter not only for the operational efficiency of ombudsman offices, that is the capability to thoroughly investigate a considerable number of diverse cases, but also for their attractiveness as network participants. More precisely, empirical research shows that state and social accounting actors interact with individual ombudsman offices with the aim of profiting from their expertise in certain fields of competence. This section summarises the human resources of ombudsman institutions in Serbia and discusses their impact on potential networking between state and social accounting actors.

Ombudsman institutions, particularly those at the national level, recruit a wide range of experts (e.g. social scientists, engineers) due to their extensive scope of jurisdiction. Nevertheless, the very nature of the ombudsman as an alternative dispute resolver necessitates staff with a good knowledge of legislation, hence most offices around the world are dominated by law graduates with a specialisation in the protection of human rights or the combat of maladministration in the public sector. This observation concerns first and foremost the heads of ombudsman offices (Kucsko-Stadlmayer 2008b: 465-466). A typical example is the Serbian ombudsman, defined by Article 5 of the Law on the Protector of Citizens as a Serbian citizen who is a law graduate and has at least ten years working experience in the field of human rights protection as well “high moral and professional qualities”.⁹⁰ In contrast to the Protector of Citizens, the four deputies that assist the head of the office are expected to have any higher education degree as well as five years working experience in the office’s fields of competence, according to Article 6 of the same law (ibid.). Similarly to the national Protector of Citizens, the Provincial Ombudsman of Vojvodina is required by the relevant Provincial Assembly Decision (Article 7) to be a Serbian citizen and a law graduate with at least seven years of professional experience in the field of human rights and “high moral integrity”.⁹¹ However, contrary to the Law on the Protector of Citizens, which specifies a legal background as a prerequisite for the appointee to that position, the last paragraph of the Decision on the Provincial Ombudsman of Vojvodina

⁸⁹ For detailed information about the exact number of complaints submitted and investigations conducted, as well as types of misconduct and violations of rights, see appendix D of this thesis (“Statistical overview of annual reports”).

⁹⁰ Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 06 June 2012]

⁹¹ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmenu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavoivodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 06 June 2012]

states that candidates without a law degree are accepted as long as they have longstanding experience in the field of human rights protection (ibid.). The emphasis on a legal background is not reproduced unanimously by Serbian ombudsman offices at the local level as some of them indeed require a law degree from anyone interested in the position of local ombudsman (e.g. Belgrade⁹²) while some others (e.g. Zrenjanin⁹³) are open to exceptions, as is the Provincial Ombudsman of Vojvodina. Irrespective of their academic background, potential candidates for the position of ombudsman at the national, regional and local levels are expected in all cases to be committed to and have working experience in human rights. In conclusion, the numerical dominance of law graduates among the employees of ombudsman offices is associated with the legal expertise of the institution in the field of human rights protection.

Ombudsmen and their deputies are usually assisted by a group of employees, consisting of administrative staff and field experts. Employees are arguably important for the operational efficiency of ombudsman offices as they come in contact with citizens, filter their complaints and investigate those falling under each individual office's jurisdiction. Although there is no automatic link in practice between a large number of employees and increased operational efficiency, inadequate human resources are expected to attenuate the involvement of ombudsman institutions in accountability processes (e.g. a limited number of investigations or lengthy procedures due to a lack of personnel). In any case, the number of employees depends largely on financial resources as well as on the width of each office's jurisdiction; hence local ombudsmen are expected to have fewer employees than their counterparts at national and regional levels. For instance, the largest ombudsman office in Serbia in terms of human resources is the national Protector of Citizens which had 69 employees in addition to three specialised deputies at the end of 2011. According to the office's latest annual report, most employees are university graduates (55 out of 69) and women (50 out of 69) (Janković 2012: 174). Similar proportions are seen at the office of the Provincial Ombudsman of Vojvodina: out of 28 employees in total, 23 have a university degree while 16 are women (Muškinja Hajnrih 2012: 149). In addition, the multicultural landscape of Vojvodina is replicated among employees as the personnel consists of 13 Serbs, 3 Hungarians, 2 Croats, 1 Slovak, 2 who declared themselves as Vojvodinians and 2 of undefined nationality (ibid.). On

⁹² Skupština grada Beograda, 2009. Odluka o Zaštitniku građana, broj 34/09 i 41/09, Službeni list grada Beograda, <http://www.beograd.rs/download.php/documents/Odluka%20o%20zastitniku%20gradjana.pdf> [Accessed 07 June 2012]

⁹³ Skupština gradske opštine Zrenjanin, 2003. Odluka o Zaštitniku građana, broj 10/2003.

the contrary, ombudsman offices at the local level consist of significantly fewer employees (Belgrade: 9, Voždovac: 2, Vračar: 2, Kraljevo: 3, Kragujevac: 8, Bačka Topola: 1, Zrenjanin: 4, Subotica: 4, Niš: 3) (interviews). This numerical difference between central and peripheral ombudsman offices indicates an asymmetry in funding and width of jurisdiction.

Despite a limited number of employees, local ombudsmen are fairly satisfied with the human resources available, as some of them correlate small offices with efficiency. For example, a local ombudsman argues that working in a small group of high-skilled professionals improves the organisational efficiency of the office (interviewee 36) while another one favours small personalised offices (“one-man show”) and emphasises interpersonal relations and direct communication with citizens as a means of restituting trust in public administration through small-scale, non-bureaucratic interaction between public officials and citizens (interviewee 24, local ombudsman). Regarding the academic background of employees working for ombudsman offices, law graduates are prioritised in recruitment process as the nature of most complaints requires a good knowledge of legislation and public administration (interviewee 28, local ombudsman). The only openly dissatisfied ombudsman is the national Protector of Citizens who claims in his latest annual report that the current number of employees is inadequate for the increasing number of complaints submitted and investigations initiated (Janković 2012: 174). Interestingly, the overall satisfaction of ombudsman offices with human resources contradicts the perception of social accounting actors.

Similarly to financial resources, representatives of civil society organisations and the media interviewed for this project are partly sceptical towards the available human resources of ombudsman institutions in Serbia and distinguish between national /regional and local offices as well as between deputies and ordinary members of staff. More precisely, various interviewees criticise the employees of local offices for depending on local authorities (interviewee 7, NGO activist, interviewee 8, representative of international organisation, interviewee 14, NGO activist, interviewee 37, academic) and doubt their expertise, competences and skills (interviewee 3, NGO activist, interviewee 4, NGO activist, interviewee 12, NGO activist, interviewee 35, academic). Regarding the personnel of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, the recruitment process has been criticised occasionally for not being adequately transparent, and relying on personal contacts and recommendations (interviewee 2, NGO activist, interviewee 8, representative of international organisation). This scepticism towards the independence and

expertise of the staff of ombudsmen arguably reduces the chance of networking between ombudsman offices and social actors.

In contrast to local ombudsmen and ordinary members of staff, the deputies of the national Protector of Citizens, and to a lesser extent of the Provincial Ombudsman of Vojvodina, are widely praised for their professionalism and cooperative spirit by several representatives of civil society and the international and academic communities (interviewee 5, NGO activist, interviewee 16, representative of international organisation, interviewee 17, academic, interviewee 19, representative of state accounting institution, interviewee 20, representative of international organisation, interviewee 21, academic). Particularly in the case of civil society organisations, it is of major importance that two deputies of the Protector of Citizens, Tamara Lukšić-Orlandić (children's rights) and Zorica Mršević (gender equality and rights of persons with disabilities), have previously worked for civil society organisations. An NGO activist explains that:

[the deputies] were no ordinary civil servants that were appointed to these positions and then tried to familiarise themselves with the protection of human rights. [On the contrary] they were stemming from the field of human rights' protection either by having worked for relevant NGOs or by teaching this topic at university, as it is the case of the deputy for gender equality of the national ombudsman who is a university professor but also a famous gender advocate, so she knows what needs to be changed in legislation etc. (interviewee 9).

Similarly, another interviewee from civil society praises Tamara Lukšić-Orlandić for being responsive and working effectively on the protection of children's rights, implying that their common professional background creates an atmosphere of trust between the ombudsman and civil society (interviewee 2, NGO activist). From a network perspective, this mutual nicety indicates that personal contacts and informal relations improve communication and facilitate cooperation between network participants. This observation is particularly important for the relationship between state and civil society in Serbia which, as I explain thoroughly in chapter 5 of this thesis, gradually transforms from competition into occasional cooperation. Even though the empirical findings of this research project show that civil society organisations deliberately interact with ombudsman institutions in order to achieve their goals by using state authority, the above examples of deputy ombudsmen confirm Helmke and Levitsky's argument that informality has the potential to compensate for deficiencies of institutionalisation and formal interaction (2006: 15).

In contrast to the majority of interactions examined in this thesis (e.g. between ombudsman institutions at different levels of government or between state and social accounting actors), the aforementioned close relationship between individual civil society representatives and deputies of central ombudsman offices is rather unique as it is largely based on interpersonal relations and informal interactions which contribute to the emergence of trust at the micro-level. As I explained in the second chapter of this thesis, the concept of trust is positively correlated with greater identification with the mission of policy networks and increased exchange of resources and information as well as improved cooperation in problem solving (Holohan 2005: 35). This argument is largely confirmed by examination of the above relationship.

Furthermore, interpersonal relations embedded in trust create the conditions for the emergence of social capital, conceptualised in this thesis in terms of rational choice as ‘the ability of actors to mobilise their social contacts in order to obtain valued resources’ (Brunie 2009: 253). However, the maximisation of individual preferences is arguably not the only driving force behind these social interactions; on the contrary, civil society interviewees’ emphasis on the professional background and subsequent personal commitment of the aforementioned deputies to human rights protection suggests a deeper sense of membership in potential groups of human rights advocates, a connotation that echoes Bourdieu’s conceptualisation of social capital (1986: 248-249). Even though competition and distrust are currently typical characteristics of most relationships between state and social actors who struggle to survive through the challenges of post-transition (e.g. competition over power allocation or resources, emergence of new players etc.), these primary elements of social capital arguably have the potential to create a stable foundation for prospective networks of accounting actors in Serbia. In other words, the maintenance of trust-embedded interpersonal relations over time is expected to positively impact upon the consolidation of public accountability networks when post-transition fluidity and its risks are reduced.

Apart from the opportunities that personal contacts create for networking between various state and social actors, civil society organisations often interact with ombudsman offices in order to profit from their legal expertise. In other words, several NGOs communicate with the staff of individual offices, such as the national Protector of Citizens, for legal consultation on various matters concerning their activities (interviewee 1, interviewee 4, interviewee 11, interviewee 14, NGO activists). Conversely, civil society organisations believe that ombudsman institutions are also in need of their social scientific expertise and the empirical

research they conduct in the field (interviewee 4, interviewee 6, interviewee 13, NGO activists), arguing therefore for the interdependence between ombudsman institutions and civil society organisations in terms of human resources.

In conclusion, the relevant literature correlates human resources with the capability of ombudsman offices to receive numerous complaints and conduct a considerable number of investigations while maintaining high standards of professional expertise. However, there is no automatic link in practice between a large number of employees and operational efficiency, hence this thesis argues that human resources shall be better examined as a factor which potentially impacts upon networking between ombudsman institutions and state and social actors. The disagreement between ombudsman offices and other actors regarding the adequacy of human resources indicates differing expectations from potential networking. More precisely, several civil society organisations are sceptical about the degree of independence and expertise of the staff of local ombudsmen, two aspects which significantly reduce the networking potential of peripheral ombudsman offices. The national Protector of Citizens, on the other hand, is acknowledged in terms of human resources for two reasons; firstly, its staff provides legal consultation on a wide spectrum of topics ranging from human rights to good governance and secondly, the deputy ombudsmen reinforce interactions with civil society organisations through personal communication. The importance of these interpersonal relations and social interactions between various stakeholders suggests that the role of individuals in potential networks of state and social accounting actors in Serbia should not be neglected.

3.6 Public dissemination of work

The last aspect of institutional design in this thesis, public dissemination of work, is widely perceived by scholars as an alternative means for accounting actors to enforce their judgements by exerting pressure on authorities through the threat of public exposure (e.g. Hansen 1972; Schedler, Diamond & Plattner eds. 1999; Bovens 2006, Peruzzotti & Smulovitz eds. 2006a; Kucsko-Stadlmayer ed. 2008). In other words, publicity transforms into a resource which has the potential to hold state authorities and public officials accountable for their decisions or actions, therefore corresponding to the enforcement and

sanction stage of operationalised public accountability in this thesis. This is particularly important for accounting actors such as ombudsman institutions which have limited coercive and enforcement powers. However, public dissemination of work presupposes communication with the media, hence publicity is better understood from a network perspective. This research project shows that various state and social actors acknowledge the importance of publicity for exerting pressure on authorities in contemporary Serbia, as well as the reciprocal benefit from the public dissemination of work. In other words, state accounting institutions and civil society organisations arguably use publicity in order to promote their own interests through coordinated mediatisation of public issues.

According to the ombudsman literature, annual and special reports have been historically perceived as the main institutionalised channel of public dissemination of work for ombudsman offices⁹⁴ (Kucsko-Stadlmayer 2008a: 48). The idea of reports as a means of exerting pressure on state authorities and public officials is clearly stated in Article 13 of the Decision on the Provincial Ombudsman of Vojvodina,⁹⁵ which lists public dissemination of work in the defined powers of the office.⁹⁶ Overall, activities of work dissemination, such as campaigns or public events, are perceived as a means of drawing attention to cases of maladministration and violations of rights and of raising public awareness about individual social issues. However, annual and special reports are expected, by legislation and the ombudsman literature, to compensate for ombudsman institutions' lack of coercive and enforcement powers (ibid.). As I explain below, the arguably limited impact of reports on public discourse in Serbia rejects this argument in practice.

⁹⁴ For example, Article 33 of the law on the Serbian national ombudsman decrees that “The Protector of Citizens submits to the parliamentary assembly a regular annual report that includes data on the activities of the previous year, information about observed deficiencies in the work of administrative bodies as well as suggestions for the improvement of the relationship between citizens and administrative authorities. The report shall be submitted no later than the 15 of March of the following year, it is published in the ‘Official Gazette of the Republic of Serbia’ and on the website of the Protector of Citizens and shall be delivered to the media. Throughout the year, the Protector of Citizens may submit special reports when necessary”. Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/ोजना/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 09 June 2012]

⁹⁵ The local Decision on the Protector of Citizens in Zrenjanin also conceptualises public dissemination of work as “power” (Skupština gradske opštine Zrenjanin, 2003. Odluka o Zaštitniku građana, broj 10/2003).

⁹⁶ “The ombudsman shall have the power to perform the following duties: [...] draw up the annual report on the exercise of human rights, inform the competent authorities and the broader public on the violation of human rights, [...] participate in the organisation and preparation of campaigns aimed at informing the public on issues relevant to the exercise and respect of human rights, initiate and encourage the education on human rights in all spheres of life [...]” (Article 13). Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009. <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 09 June 2012]

In an increasingly mediatised world, state and social actors can familiarise the public with their work in various ways: organising public events with other stakeholders (e.g. conferences, seminars and roundtables), launching campaigns and maintaining a regular presence in printed and electronic media. For instance, ten out of eleven Serbian ombudsman offices examined in this research project are present online;⁹⁷ however as of June 2012 only four of them were updating their websites on a regular basis through publication of opinions, recommendations and other activities (national Protector of Citizens, Provincial Ombudsman of Vojvodina, local ombudsmen in Niš and Zrenjanin). This inconsistent commitment to public dissemination of work can be interpreted in various ways: local ombudsmen underestimate the potential of the internet in comparison to traditional media (e.g. television), peripheral municipalities have weak technical infrastructure and limited financial and human resources or local ombudsmen think that they can work better without publicity. This example shows that the aforementioned potential of publicity as an indirect enforcement power is interpreted differently by individual ombudsman offices. As a general observation, the more networked an ombudsman office is (e.g. national Protector of Citizens), the more likely it is to maintain regular communication with other actors through public dissemination of work.

In theory, Serbian ombudsman offices acknowledge the necessity of adopting a multifaceted strategy of public dissemination of work, however they overemphasise television as the ultimate medium which impacts upon the public sphere in contemporary Serbia (e.g. interviewee 25, interviewee 26, interviewee 30, interviewee 31, local ombudsmen). Television, and to a lesser extent newspapers, are still perceived as the main information channels, while the internet is arguably less influential as it is mostly used by younger generations and the urban population (interviewee 27, local ombudsman, interviewee 33, local ombudsman, interviewee 4, NGO activist, interviewee 39, journalist). The dominance of old media in the Serbian public sphere as well as the active interest of ombudsman institutions in using these media are verified by statistical data in their annual reports. For example, various newspapers and journals (e.g. Blic, Danas, Politika, Pravda) published 726 articles on the activities of the national Protector of Citizens throughout 2011, including statements, reports, news, comments and press releases. In addition, TV channels with nationwide coverage such as RTS and B92 broadcast 283 relevant reports, of which over a hundred were statements by the Protector of Citizens and his deputies (Janković 2012: 152-

⁹⁷ The web addresses of Serbian ombudsman offices are listed in appendix C of this thesis.

153). Over the same period of time, the activities of the Provincial Ombudsman of Vojvodina were discussed by 418 articles in the printed media, 263 reports on television and radio as well as 149 articles online (Muškinja Hajnrih 2012: 142), while local ombudsmen were mostly present in the local media (e.g. 28 television reports and 6 articles for the local Ombudsman of Niš during 2011)⁹⁸ (Zdravković 2012: 23). As I explain thoroughly in chapter 5 of this thesis, ombudsman institutions with a central position in networks of accounting actors, like the national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina, maintain a regular presence in the media as a way of attracting publicity about their activities.

As I mentioned briefly in the introduction to this section, the empirical findings of my fieldwork in Serbia confirm Peruzzotti and Smulovitz's observation in Latin America that state and social accounting actors cooperate over mediatisation of public issues, i.e. they exert coordinated pressure on state authorities by using publicity. Despite the overemphasis of ombudsman offices on publicity, their interlocutors in civil society are sceptical about the actual role of the mass media in promoting the activities of state and social accounting actors. On the one hand, they acknowledge that the media have a decisive impact upon the visibility of ombudsman institutions, on the other, they argue that the general ignorance of citizens regarding the role, jurisdiction and competences of these offices indicates that the media avoid discussing their activities in depth (interviewee 4, NGO activist, interviewee 6, NGO activist, interviewee 9, NGO activist, interviewee 16, representative of international organisation). As I explain more thoroughly in section 5.3 of this thesis, this argument is closely related to the widespread manipulation of the Serbian media by political and business elites and the consequent limitation of investigative journalism to the extent that Davor claims that these elites 'define what the public interest is' (2013: 51). This lack of knowledge about ombudsman institutions mostly concerns citizens at the periphery of Serbia (interviewee 2, NGO activist, interviewee 13, NGO activist, interviewee 17, academic), an observation which confirms the findings of empirical research in Belgium which found that the average user of ombudsman services is likely to be highly-educated and white-collared, belonging therefore to social groups which are more present in urban rather than rural areas (Van Roosbroek & Van de Walle 2008: 298-299). As a consequence, the frequent presence of

⁹⁸ For detailed information on the presence of Serbian ombudsman institutions in the printed and electronic media, see appendix F of this thesis.

ombudsmen in the media does not necessarily translate into increased public awareness about good governance or human rights.

This critique suggests that the media prefer to interact with individual ombudsmen who are attractive for publicity reasons. For instance, ombudsman institutions in Serbia are widely associated with Saša Janković, the national Protector of Citizens, who is described by several of this research project's interviewees as a "prominent", "strong" or even "brave" figure who personifies the institution (interviewee 9, NGO activist, interviewee 10, NGO activist, interviewee 19, representative of state accounting institution). From the perspective of the media, Saša Janković and Rodoljub Šabić, the Commissioner for Information of Public Importance and Personal Data Protection, are described by a journalist as "very important for the media" (interviewee 22), however the benefit appears to be reciprocal as the Protector of Citizens arguably takes advantage of the media's interest in order to promote his office (interviewee 15, academic). In conclusion, publicity largely depends on the personality of individual ombudsmen; however both the media and ombudsman offices interact with each other, acknowledging reciprocal benefit.

Nevertheless, the aforementioned personification of institutions in correlation with publicity can have either a positive or negative effect on ombudsman offices. Overall, ombudsman advocates praise individuals who leave their imprint on newly-established institutions and exercise their duties through personal charisma (interviewee 21, academic). This normative and deterministic understanding of personified institutions overemphasises the moral authority of individuals and underestimates the possibility that publicity might be used not only in favour of the institution, but also against it. For instance, the representative of an international organisation argues that:

public exposure of the Protector of Citizens as a person, brings the office in the middle of contestations which can in turn influence people's views towards the office's independence (interviewee 16).

This argument echoes the widespread criticism of various interviewees regarding the controversial representation of Serbia by the Protector of Citizens, Saša Janković at the award ceremony for the Chinese Nobel Prize Peace laureate, Liu Xiaobo in 2010⁹⁹ (interviewee 5,

⁹⁹ After the Norwegian Nobel Committee announced that the human rights activist and political prisoner in China, Liu Xiaobo, would be awarded the 2010 Nobel Peace Prize, the Serbian government declined an invitation to be represented at the award ceremony. Nevertheless, Saša Janković, the national Protector of Citizens, took the initiative to represent the country in Oslo as an independent state body dealing with citizens'

NGO activist, interviewee 20, representative of international organisation, interviewee 21, academic). In short, publicity is not inherently good for ombudsman institutions as it is a resource which shall be used wisely by state and social accounting actors.

Civil society's overall scepticism towards the media arguably derives from distrust and competition. As I explain in section 5.3 of this thesis, the media are widely criticised for not realising their role in the democratisation of post-transition Serbia as a consequence of their manipulation by political and business elites and the subsequent limitations of investigative journalism. Regarding the public dissemination of their work by ombudsmen, civil society organisations argue that annual and special reports have no impact on public discourse (interviewee 10, NGO activist), while they criticise public awareness campaigns, arguing that:

so many institutions raise visibility of social issues, yet they do not necessarily create conditions for resolvment (interviewee 9, NGO activist).

In other words, they imply that the impact of publicity on accountability is overestimated. On the contrary, they stress civil society's importance to ombudsman institutions in terms of familiarising the public with their work through public events (e.g. seminars, workshops) (appendix E) and increasing their workload through frequent transfer of cases for investigation (e.g. interviewee 2, interviewee 5, interviewee 14, NGO activists). The above juxtaposition between civil society and the media indicates competition in terms of who is more important as an interlocutor for ombudsman institutions.

Notwithstanding distrust and competition, civil society organisations acknowledge the power of the media in contemporary Serbia and the potential benefit of publicity for both state and social accounting actors. Regarding the aforementioned attractiveness of the national Protector of Citizens, civil society pinpoints the state authority of the institution as a reason which explains the "privileged" relationship between the media and the Serbian ombudsman (interviewee 7, NGO activist) in contrast to civic associations and NGOs which are

rights protection. B92, 2010. Srbija ipak na dodeli Nobela za mir. http://www.b92.net/info/vesti/index.php?yyyy=2010&mm=12&dd=10&nav_category=11&nav_id=478241 [Accessed 12 June 2012]. Overall, Janković's involvement in a highly politicised public debate was met with mixed feelings; a representative of civil society in this research project argues that "he saved us from Nobel Prize embarrassment" by taking Serbia out of the group of countries (e.g. Afghanistan, China, Egypt, Iran, Russia, Sudan) that refused to acknowledge Xiaobo's contribution to human rights protection (interviewee 9, NGO activist) while an academic fears that Janković's decision to fly to Oslo on the government's airplane confused citizens regarding the boundaries between the executive and independent oversight bodies (interviewee 17).

institutionally less important and therefore less attractive to the media. For example, an NGO activist argues that:

[Saša Janković] is quite attractive to the media and he really gets a good slot of media time, even prime time, while on the other hand the organisations of civil society are not that attractive if it is not about a hot public issue (interviewee 13).

Interestingly, this preference by the media for state institutions like the Serbian ombudsman on the grounds of authority does not create the conditions for competition but for cooperation between social and state accounting actors, as several civil society organisations deliberately interact with the Protector of Citizens in order to profit from this indirect relationship with the media in terms of visibility and legitimisation (e.g. interviewee 5, interviewee 6, interviewee 11, NGO activists). In other words, civil society takes advantage of the Serbian ombudsman's attractiveness to the media in order to familiarise the public with various activities and promote their own interests. As I explain thoroughly in section 5.2 of this thesis, well-networked institutions like the national Protector of Citizens therefore act as an intermediary between state and social accounting actors.

The public attractiveness of the Protector of Citizens as a person and institution is also confirmed by the media. More precisely, journalists are aware of the media's importance in terms of the public dissemination of work, without distinguishing between the attractive state and unattractive social actors. However, they explicitly praise the national Protector of Citizens for having a consistent media strategy and for being open to communication with them (interviewee 22, interviewee 34, interviewee 39, journalists). Hence, the underestimation of peripheral accounting actors such as civil society organisations by the media is partly attributed to an absent or inconsistent media strategy. In addition, the aforementioned interviewees acknowledge that the media could be more involved in the promotion of human rights but they blame the local and electronic media, especially television, for sacrificing news in the name of sensationalism and time (ibid.). In any case, ombudsman institutions, particularly the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, are perceived as ample and reliable sources of information as they thoroughly investigate cases from the field and summarise their findings online, significantly facilitating the media's access to an extensive pool of information. Last but not least, the personification of the national ombudsman office through Saša Janković is positively assessed (interviewee 22, journalist), probably as it is perceived as a potentially reinforcing

factor for publicity and therefore an increased readership.¹⁰⁰ In short, the media do not confirm civil society's argument that state institutions are more attractive than social ones, while they attribute the ombudsman's popularity to three factors; the charismatic personality of Saša Janković, a consistent media strategy and an inexhaustive source of information. These factors, namely strategic choices by individuals and information, according to theory accelerate potential networking between state and social accounting actors.

In conclusion, public dissemination of work is understood by state accounting institutions and civil society organisations in terms of publicity, or as a means through which they can exert pressure on state authorities and public officials to account for their decisions or actions. The threat of public exposure and denunciation of wrongdoings is particularly important for actors with limited coercive and enforcement powers like ombudsman institutions. As a consequence, public dissemination of work is relevant in this thesis to the involvement of accounting actors in the answerability and enforcement stages of public accountability. Overall, this chapter argues that formal channels of dissemination of work (e.g. reports and public events) are ineffective in practice due to their limited impact on publicity, hence ombudsman institutions interact with the media in order to maintain a regular presence in the public sphere. In practice though, well-networked ombudsmen, such as those at the national and regional levels, place more emphasis on publicity than peripheral ombudsman offices. Various reasons explain the "privileged" relationship of individual ombudsman offices with the media, ranging from the charismatic personality of the head of office to a consistent media strategy and the regular flow of information between interacting partners. Civil society organisations are overly sceptical about the media due to distrust and competition, however they acknowledge the importance of publicity for promoting their interests and accomplishing their goals; hence they interact with the national Protector of Citizens who acts as an intermediary between civil society and the media. As a consequence, the case of Serbia shows that networking potentially compensates for the deficiencies of institutional design in terms of public dissemination of work and improves overall communication between state and social accounting actors.

¹⁰⁰ All three journalists interviewed for this research project represent the printed media (Blic, Danas, Politika).

3.7 Conclusions

This chapter focused on the institutional design of ombudsman offices in Serbia from the perspective of various interdependent indicators which according to the relevant literature reinforce their performance as accounting actors: 1) width of jurisdiction, 2) extent and adequacy of powers (investigative and coercive/enforcement powers), 3) procedural and physical accessibility, 4) operational efficiency in terms of financial and human resources, and 5) public dissemination of work. The empirical examination of the Serbian case confirms the assumption of the literature review that the relevant literature is overly deterministic in foreseeing positive correlations between the aforementioned aspects of institutional design and the performance of ombudsman institutions as accounting actors. However, evidence from empirical research shows that individual ombudsman offices acknowledge the limitations of institutional design and attempt to compensate for their deficiencies with resources or competences that they obtain by interacting with other state and social accounting actors. From a policy network perspective, this is particularly important for the operationalisation of public accountability in this thesis as a process of successive stages (investigation of a case of misconduct by an accounting actor, provision of information and justification of a decision or action by the accountable party and imposition of sanctions, if necessary) in which state and social accounting actors become involved. In other words, resources or competences acquired through interactions with other actors have the potential to improve the performance of ombudsman institutions at each of the above stages of public accountability. Despite the asymmetry of resources ranging from information and access via documents and premises to legal consultation, publicity and visibility, several examples of interactions between state accounting institutions, civil society organisations and the media in Serbia show that profit is usually reciprocal, hence the aforementioned actors have an interest in maintaining interactions over time.

The above aspects of institutional design were initially discussed with reference to legislation and quantitative data from the annual reports of ombudsman institutions in Serbia and then were analysed from a policy network perspective. In short, jurisdiction is understood as the legal authority of offices over a certain field of competence. In practice, this aspect of institutional design is meaningless without adequate investigative and coercive powers; however the case of local ombudsmen in Serbia shows that a narrow width of jurisdiction limits networking potential between ombudsman institutions and other actors, therefore

creating central and peripheral institutions in networks of accounting actors. This allocation affects the distribution of resources, as central actors are expected to be better-networked than peripheral ones. Regarding investigative and coercive or enforcement powers, the case of Serbia shows that there is a reciprocal profit between ombudsman institutions and social accounting actors; civil society organisations take advantage of the right of ombudsmen to access documents and premises and conduct investigations on their own initiative, while ombudsman institutions compensate for their limited coercive and enforcement powers through publicity, i.e. by exerting public pressure on authorities through coordinated activities with civil society organisations (social mobilisation) and attracting public attention over social issues (mediatisation). The third aspect of institutional design, procedural and physical accessibility, echoes normative and deterministic assumptions of the relevant literature. However, interviews with stakeholders in Serbia argue that accessible ombudsman offices are more likely to obtain a considerable amount of information, therefore increasing their chance of networking with other state and social accounting actors. Similarly, financial resources are usually perceived as a prerequisite for the operational efficiency of institutions, however in practice this factor is arguably correlated with the reputation of ombudsman institutions as independent accounting actors. The financial dependence of local ombudsmen in Serbia on the authorities they are meant to control has a detrimental effect on their reputation as accounting actors, therefore reducing the chance of networking with other actors. Regarding human resources, ombudsman institutions are important to the media and civil society organisations for their legal expertise on good governance and human rights, however social accounting actors distinguish between central and peripheral offices by criticising the latter for being dependent on the local authorities. The relationship between the Serbian ombudsman's deputies and civil society organisations shows, though, that personal contacts can improve communication and deepen cooperation between network participants. These interpersonal relations embedded in trust have the potential to create the conditions for the emergence of social capital. Finally, the ombudsman literature correlates public dissemination of work with the enforcement stage of public accountability, as state authorities are expected to account for their decisions or actions for fear of being publicly exposed. The limited impact of institutionalised dissemination of work (e.g. reports, public events) necessitates cooperation between state and social accounting actors by means of mediatisation of public issues and social mobilisation.

This brief overview of the empirical research conducted shows clearly that the formation and maintenance of potential accountability networks in Serbia largely depends on the decisions and actions of individual actors. From a rational choice perspective, the latter acknowledge the necessity of interacting with other state and social accounting actors in order to maximise their preferences and promote their interests through the exchange of resources. However, the observed distinction between strong, central and weak peripheral ombudsman offices does not derive simply from an asymmetrical distribution of resources but from the distorted type of decentralisation implemented in Serbia as part of post-transition institution building. More precisely, various international and domestic actors have been actively involved in the establishment of ombudsman offices at different levels of government; on the one hand, the international community embraces ombudsman institutions in the name of democracy promotion, while on the other, domestic elites attempt to prove their commitment to democratic principles in order to secure a position in the post-transition setting. However, this haphazard proliferation has resulted in fragmented legislation and public confusion regarding each office's jurisdiction and competences. The variation in institutional design and networking opportunities at different levels of government has contributed to the aforementioned distinction between strong, central and weak peripheral ombudsman offices in Serbia.

From a network perspective, the widely discussed competitive relations between various state and social actors are not uncommon in policy networks, as interacting partners often compete over exchangeable resources. However, the Serbian case of multiple ombudsman offices at different levels of government is unique to the extent that problematic coordination and widespread competition are largely associated with the aforementioned distorted decentralisation. In other words, disagreement among international and domestic actors on Serbia's post-transition trajectory impacts in various ways upon ombudsman institutions (e.g. the international community's active support of the national and regional ombudsmen alongside frequent political and financial manipulation of peripheral offices by local authorities and individuals), which therefore creates different networking opportunities and constraints for individual offices. Thus, potential networks of accounting actors in Serbia are largely shaped by the decisions and actions of interacting individuals, yet the role of exogenous factors such as the above should not be neglected in the exploration of network formation and maintenance.

Aside from that, this chapter exposes numerous competitive relations between state and social accounting actors in Serbia by looking at the above aspects of institutional design and discussing a wide range of resources related to them. For example, peripheral ombudsmen feel deprived of jurisdiction by central offices like the national Protector of Citizens, the printed media blame television for sacrificing in-depth analysis of public issues in the name of viewership while civil society criticises the media for not acknowledging their role in post-transition Serbia in an implicit attempt to justify its own relevance to human rights protection. Overall, with the exception of individual interpersonal relations embedded in trust, most interactions between state and social accounting actors in Serbia are largely distrustful. Nevertheless, this chapter showed that networking has – partly through informal relations and personal contacts – a dual effect on accounting actors in Serbia: on the one hand, it potentially compensates for the limitations and weaknesses of institutional design through the exchange of resources among network participants, while on the other hand the acknowledgement of reciprocal benefit improves communication and increases the chance of cooperation between – sometimes competing – state and social accounting actors. Based on the distinction between horizontal and social accountability, the following two chapters thus focus on the interactions between ombudsman institutions and state accounting institutions (chapter 4) as well as social actors (chapter 5) with the aim of exploring the impact of non-institutionalisation and informality on potential networks of accounting actors, as briefly discussed in this chapter.

Chapter 4

Public accountability from within: ombudsman institutions, independent oversight bodies and the judiciary

4.1 Introduction

4.2 “Ni prema gore, ni prema dole”: balancing cooperation and competition between ombudsman offices

4.3 Public accountability in the post-transition context: the case of independent oversight bodies in contemporary Serbia

4.4 Arbitration and mediation through coercion? Ombudsman institutions and the judiciary

4.5 Conclusions

4.1 Introduction

Within a decade of the regime change in 2000, several independent regulatory agencies (e.g. the Commission for the Protection of Competition, the Energy Agency, the Republic Agency for Electronic Communications, the Republic Broadcasting Agency) and oversight bodies¹⁰¹ (e.g. the Anti-Corruption Agency, the Commissioner for Information of Public Importance and Personal Data Protection, the Protector of Citizens, the State Audit Institution) were established in Serbia as part of post-transition institution building in the name of deregulation and liberalisation (Lilić 2010: 90; Radojević 2010b: 54). These new accounting actors are authorised to exert – in addition to legislative checks and balances – an external control on the executive, by being formally independent from the traditional branches of government (executive, legislature, and judiciary) (Kenney 2003: 60). Schmitter notes that:

...there must be something significant behind the proliferation of these institutions and the persistence with which Western democracies demand that newcomers try to adopt them (2004: 53).

¹⁰¹ The so called “independent regulatory and supervisory bodies” differ from each other to the extent that the former are expected to regulate a certain area like telecommunications or the banking sector while the latter are authorised to monitor the executive in certain respects like human rights protection (Orlović 2010: 117-118). In spite of distinct jurisdiction, regulatory and supervisory bodies are often examined together by academics and policy-makers due their formal institutional independence and subsequent exclusion from the tripartite separation of powers (executive, legislature, judiciary) (e.g. Schmitter 2004; Diamond 2008; Radojević 2010b).

The active involvement of the international community in the promotion of regulatory and independent oversight bodies indicates that their proliferation is arguably associated with the expansion of the free-market economy in newly-established democracies and the subsequent revival of liberal democratic principles. Regarding this research project, Schmitter's words can be paraphrased as follows: what does the proliferation of state accounting actors mean for new democracies like Serbia? Do they reinforce public accountability as international organisations and policy-makers expect or do they simply increase bureaucratic complexity in post-transition states?

In theory, independent oversight bodies are associated with so called "horizontal accountability", a concept developed by Guillermo O'Donnell (e.g. 1998; 1999). The term refers to state institutions which are authorised to monitor and investigate unlawful actions or decisions committed by other public sector agents or offices and redress wrongdoing through arbitration, the threat of public exposure or the imposition of sanctions, often through other accounting actors like courts with coercive powers (O'Donnell 1999: 38). The spatial element of horizontality depicts the hierarchical equality between accounting and accountable actors in contrast to verticality, which concerns unequal relations of public accountability such as the periodic judgment of citizens on their representatives through elections (Schedler 1999a: 23). As I explained in the introductory chapter of this thesis, various approaches distinguish between horizontal and vertical accountability, among which Morlino argues that the former is more continuous and formalised than the latter (2004: 12-13), while Mainwaring emphasises the institutionalisation of horizontal accountability, expressed through the initiation of investigation procedures (e.g. submission of complaints or *ex officio*) as well as the legal obligation of an official or authority under scrutiny to answer the accounting actor (2003: 7). In short, independent oversight bodies, including ombudsman institutions, are commonly associated with formal and institutionalised processes of public accountability.

The examination of institutional design in the previous chapter of this thesis exposed the intrinsic weaknesses and limitations of ombudsman institutions as accounting actors, as well as the utility of networking as a means of making up for institutional deficiencies through the exchange of resources. Based on O'Donnell's influential argument that, "effective [...] accountability is not the product of isolated agencies but of networks of agencies [...] committed to such accountability" (1999: 39), this chapter focuses on potential networks of accounting actors in the public sector with the aim of examining the involvement of ombudsman institutions in public accountability in Serbia through their interactions with

other independent oversight bodies and the judiciary. In other words, public accountability is examined “from within”, given that state accounting institutions are authorised to hold other bodies or agencies of the state apparatus accountable for their decisions or actions. This chapter is therefore based on the assumption that accounting actors such as the aforementioned can potentially right wrongs in the public sector if they interlock and overlap in a systemic fashion by communicating, cooperating and compensating for their institutional weaknesses with exchanged resources (Diamond 2008: 303). This, in turn, can be used to improve the involvement of accounting actors like ombudsman institutions in each individual stage of public accountability (investigation of a case of misconduct, provision of information and justification by the accountable party and imposition of sanctions, if necessary).

In short, this chapter looks at the interactions of accounting actors in the public sector and consists of three parts. The first part examines the institutionalised (e.g. workload transfer) and non-institutionalised (e.g. co-organisation of or participation in public events) interactions between Serbian ombudsman offices at the national, regional and local levels. Similarly to the empirical findings on institutional design in chapter 3, my research on the interactions between ombudsman institutions identifies a rather unilateral competition over resources between local offices and the national Protector of Citizens. Overall, this research project shows that the more networked a state or social accounting actor is (e.g. the national Protector of Citizens), the more likely it is to exchange a wide range of resources with other interacting partners. The second part of this chapter looks at the relationship between ombudsman institutions and two other central independent oversight bodies in the field of human rights protection, the Commissioner for Information of Public Importance and Personal Data Protection and the Commissioner for Equality. Despite mutual understanding and systematic interactions, this thesis argues that chances for independent oversight bodies to benefit from potential networking with each other are limited as a consequence of their comparable competences, capacities and exchangeable resources. The last part of this chapter discusses the contradictory relationship between ombudsman institutions and the judiciary and looks at the Constitutional Court of Serbia as a main actor in judicial review. Overall, the limitations of judicialisation as a strategy for holding state authorities and public officials accountable for their decisions or actions partly explains the attention paid by ombudsman institutions to mediatisation and social mobilization, discussed in chapter 5 of this thesis.

4.2 “Ni prema gore, ni prema dole”: balancing cooperation and competition between ombudsman offices

Despite the fact that ombudsman institutions in theory conceive dispute resolution in terms of arbitration and mediation (e.g. Friedmann 1977; Gadlin 2000; Ambrož 2005; Christopoulos & Hormovitis eds. 2005; Van Roosbroek & Van de Walle 2008; Pegram 2010), their inability to enforce judgments through the imposition of sanctions is widely perceived by several offices as a major weakness of their institutional design (Kucsko-Stadlmayer 2008a: 42). The aforementioned concept of horizontal accountability suggests that ombudsman offices interact systematically with other state accounting institutions in order to compensate for their lack of coercive and enforcement powers through the exchange of resources. The transfer of cases by Serbian ombudsman institutions to the Public Prosecutor in order for criminal proceedings to be initiated (see section 3.3.2) is an example of horizontal interaction between accounting actors. Similarly, Peruzzotti and Smulovitz focus on certain strategies of judicialisation and mediatisation, the mobilisation of coercive institutions and the media respectively, as a means for accounting actors such as ombudsman institutions to make their judgements heard by threatening state authorities with the imposition of sanctions or public exposure (2006a: 19-27). In conclusion, horizontal networking between state accounting institutions is widely associated with the aspect of enforcement.

However, according to the operational conceptualisation of public accountability used in this thesis, enforcement is just one of the successive stages in which state accounting actors get involved. O'Donnell's definition of horizontal accountability reminds us that the actions of state agencies range from oversight to criminal sanctions (1999: 38), while Diamond uses the concept of “overlapping and interlocking authority” to argue that state accounting institutions have the potential to investigate, expose and then correct governmental wrongdoing through systematic communication and cooperation with each other (2008: 303). As a consequence, networking between state accounting institutions matters not only in terms of enforcing judgements but also for improving their overall performance as accounting actors by investigating cases of misconduct and demanding answerability from authorities under scrutiny. This section focuses on the relations between Serbian ombudsman offices at the national, regional and local levels in order to show how proximate accounting institutions interact in practice. The following analysis consists of three parts: a brief introduction and interpretation of the proliferation of ombudsmen in Serbia, an overview of institutionalised

cooperation in terms of workload transfer and an analysis of attitudes among ombudsman offices at different levels of government.

As I explained in chapter 3 of this thesis, the multiplication and proliferation of Serbian ombudsman offices at the national, regional and local levels within less than a decade of the establishment of the first office in Bačka Topola (2002) did not take place according to a systematic strategy “from above” for the promotion of public accountability and the protection of human rights, but rather according to individual elite decisions, which are reflected by the fragmented legislation on ombudsman institutions. More precisely, the Law on Local Self-Government (no. 129/2007)¹⁰² suggests (yet does not prescribe) the establishment of ombudsman offices by local authorities, while the national Protector of Citizens and the Provincial Ombudsman of Vojvodina were established by the Law on the Protector of Citizens (no. 79/2005 and 54/2007)¹⁰³ and the Provincial Assembly Decision on the Provincial Ombudsman (no. 23/2002, 5/2004, 16/2005 and 18/2009)¹⁰⁴ respectively. This multitude of laws indicates that international and domestic actors, which have been involved in this process, have varying motivations and expectations of ombudsman institutions as accounting actors.

As with the worldwide proliferation of ombudsman institutions, there are various approaches to interpreting the equivalent trend in Serbia. First of all, the national Protector of Citizens has arguably been promoted and assisted by the international community through organisations such as the CoE, the OSCE and lately the EU (e.g. interviewee 4, NGO activist, interviewee 5, NGO activist, interviewee 15, academic, interviewee 17, academic, interviewee 20, representative of international organisation). This argument is confirmed in practice not only by the early legal recommendations of these organisations before the national ombudsman was established¹⁰⁵ but also by the multifaceted support of the office in

¹⁰² Službeni glasnik Republike Srbije, 2007. Zakon o lokalnoj samoupravi, broj 129/2007 <http://www.dils.gov.rs/documents/files/maj2010/Zakon%20o%20lokalnim%20samoupravama.pdf> [Accessed 20 July 2012]

¹⁰³ Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 20 July 2012]

¹⁰⁴ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 20 July 2012]

¹⁰⁵ The CoE was one of the first international organisations to be actively involved in the promotion of the ombudsman notion in Serbia soon after the democratic transition in 2000. For example, the Venice Commission, the Commissioner for Human Rights and the Directorate General of Human Rights of the CoE published a draft joint opinion on the Law on the Ombudsman of Serbia in November 2004, discussing various legal and technical aspects and recommending amendments for improving the office’s daily performance. CoE, Venice

recent years through the various projects, training and resources discussed in chapter 3 of this thesis. However, this seems not to be the case with local offices or the Provincial Ombudsman of Vojvodina, which were established soon after the change of regime in 2000. For example, the establishment of the first Serbian ombudsman office in Bačka Topola is attributed to a political decision by the first local ombudsman, Deneš Černik (interviewee 27, local ombudsman). Another interpretation that has been discussed in detail in section 3.2 of this thesis perceives the proliferation of ombudsman institutions as the outcome of decentralisation policies in post-transition Serbia¹⁰⁶ (interviewee 15, academic, interviewee 25, local ombudsman, interviewee 33, local ombudsman). In other words, several offices were established haphazardly with the involvement of various international and domestic actors at different levels of government, resulting in a distorted type of decentralisation. This is rather typical of post-transition settings in which the international community is usually involved in democracy promotion, while domestic actors like political and business elites attempt to secure their position in a transforming political, financial and social environment. Last but not least, the participation of local authorities in an increasing number of public events promoting ombudsman institutions (e.g. a seminar on “Local ombudsman offices in Serbia in terms of capacity building and networking for democratic change” or a conference entitled “Campaign for the promotion of the ombudsman institution in the multiethnic municipalities of Prijepolje, Priboj, Nova Varoš, Sjenica, Tutin and Novi Pazar”) (Teofilović 2007: 136) suggests that diffusion of the institution from one municipality to another is a possible scenario.¹⁰⁷ Based on this overview, I am convinced that the variation in motivations and expectations behind the proliferation of ombudsman institutions in Serbia partly explains the competing relations between offices at different levels of government discussed below, given that the existing offices not only have varying capacities and resources but also differing understandings of their role as accounting actors. In other words, this thesis argues that the role of individual actors which have been variously involved in the establishment and proliferation of ombudsman institutions in Serbia (e.g. international organisations, political

Commission, 2004. Serbia and Montenegro – Ombudsperson of Serbia <http://www.venice.coe.int/webforms/events/?id=361> [Accessed 15 June 2014]

¹⁰⁶ A critique of this popular argument stresses the asymmetry between political and territorial decentralisation in Serbia, implying that the establishment and proliferation of new institutions across the country does not correspond to the actual needs of the periphery but satisfies local interests (interviewee 35, academic).

¹⁰⁷ The assumption of diffusion is confirmed by the local ombudsman in Zrenjanin who had meetings with representatives from Kikinda and Vršac in order to discuss the possibility of establishing offices in those municipalities (Arsić 2010: 5).

elites, local authorities) should not be neglected when examining the emergence of potential networks of accounting actors.

In spite of the aforementioned multitude of laws, Serbian ombudsman offices are expected by legislation to cooperate on the grounds of common interests, and particularly over cases that are forwarded from one to another (Article 35).¹⁰⁸ This interaction is spatially horizontal as there is no formal hierarchy between ombudsman offices at different levels of government. In order to improve communication through the flow of information and the transfer of cases, the Provincial Ombudsman of Vojvodina has signed a protocol of cooperation with local ombudsmen in the region (Marosiuk 2007: 7). A similar protocol of cooperation was signed in April 2012 by local ombudsmen across Serbia with the aim of improving communication and facilitating work practice in cases of blurred boundaries of jurisdiction.¹⁰⁹ These legal acts prescribe institutionalised cooperation between ombudsman institutions in Serbia.

Despite fragmented information regarding the precise amount of workload forwarded, the annual reports of Serbian ombudsman institutions show that cases are transferred on a regular basis between offices at the national, regional and local levels. Overall, they are few in comparison to the total number of irrelevant complaints received by offices (e.g. complaints about judicial procedures). However, their transfer indicates frequent and institutionalised interaction between ombudsman institutions in Serbia. Regarding local offices, most transferred cases are forwarded to the national Protector of Citizens. The following table illustrates this flow of cases in numerical terms:

¹⁰⁸ “If the Protector of Citizens receives a complaint concerning the violation of citizens’ rights by acts, actions or failure of bodies in public administration that do not fall into the scope of national law, regulations and general acts but in the scope of regulations or acts of the autonomous province or local self-government, s/he shall refer the complaint without delay to the Provincial Ombudsman or civil defender (ombudsman) of the respective municipality” (Article 35). Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 20 July 2012]

¹⁰⁹ Protokol o saradnji lokalnih Zaštitnika građana na teritoriji Republike Srbije, 04.2012 (document sent by the Local Ombudsman of Subotica).

Table 8. Transfer of cases from local ombudsman offices to the national Protector of Citizens

	2007	2008	2009	2010	2011
Kragujevac	8		29	39	55
Niš				1	6
Subotica		5	7	3	6
Vračar			2	5	9

Source: Data compiled by the author from the offices' annual reports (Vuletić 2008: 39; Marosiuk 2009: 9; Marosiuk 2010: 15; Runić 2010: 4; Vuletić 2010: 16; Marosiuk 2011: 16; Runić 2011: 3; Vuletić 2011: 19; Zdravković 2011: 7; Marosiuk 2012: 17; Runić 2012: 6; Vuletić 2012: 15; Zdravković 2012: 6)

Due to inadequate information provided by the annual reports of the national Protector of Citizens¹¹⁰ and the remaining local offices, the table is not exhaustive in terms of precisely depicting the number of cases forwarded to the national ombudsman. Only the annual report of the latter for the year 2010 confirms that the Protector of Citizens received 48 cases from local offices throughout that year (Janković 2011: 133). This number agrees with the data in the above table. Before overviewing transfer of workload from the Provincial Ombudsman of Vojvodina to the Protector of Citizens, it is worth mentioning that a small number of cases are also forwarded between local ombudsmen; for instance, the offices in both Belgrade neighbourhoods of Voždovac and Vračar claim to have forwarded an undefined number of cases to the ombudsman of the City of Belgrade in 2011 (Gojković 2012: 6; Runić 2012: 7).

Institutionalised interaction in terms of workload transfer also takes place between the Provincial Ombudsman of Vojvodina on the one hand and ombudsman offices at the national and local levels on the other. The total number of cases forwarded is shown in the following table:

¹¹⁰ As a consequence of inadequate information, no data is available to the public about the number of cases forwarded from the national Protector of Citizens to the Provincial Ombudsman of Vojvodina or the various local offices. Only the first annual report of the national ombudsman states clearly that seven complaints against local authorities were transferred to the respective local ombudsman offices (Janković 2008: 29).

Table 9. Transfer of cases from the Provincial Ombudsman of Vojvodina to the national Protector of Citizens and local ombudsman offices

	2005	2006	2007	2008	2009	2010	2011
Number of cases	25	15	91	63	45	18	26

Source: Data compiled by the author from the office's annual reports (Teofilović 2006: 76; Teofilović 2007: 115; Teofilović 2008: 124; Teofilović 2009: 130; Janča 2010: 142; Muškinja Hajnrih 2011: 137; Muškinja Hajnrih 2012: 119)

The annual reports of the Provincial Ombudsman of Vojvodina make no distinction between cases forwarded to the national Protector of Citizens and those forwarded to local ombudsmen, nevertheless it is expected that the office receives a considerable number of complaints against both local authorities and national bodies, as it represents a region which is administratively placed between local and national government. The following table summarises complaints submitted to the Provincial Ombudsman of Vojvodina according to level of government expressed as percentages.

Table 10. Complaints to the Provincial Ombudsman of Vojvodina according to level of government as percentages

	2005	2006	2007	2008	2009	2010	2011
National level	39%	42%	40%	41%	43%	37%	37%
Regional level	10%	7%	5%	7%	9%	10%	13%
Local level	34%	39%	40%	30%	35%	37%	33%
Other	17%	12%	15%	22%	13%	16%	17%

Source: Data compiled by the author from the office's annual reports (Teofilović 2006: 73; Teofilović 2007: 110; Teofilović 2008: 114; Teofilović 2009: 124; Janča 2010: 136; Muškinja Hajnrih 2011: 131; Muškinja Hajnrih 2012: 112)

The table shows that complaints against state authorities at the national and local levels make up the majority of the complaints submitted to the Provincial Ombudsman of Vojvodina since

2005. This finding indicates citizens' confusion regarding the boundaries between the jurisdictions of the ombudsman offices at the different levels of government. Bearing in mind though that the Provincial Ombudsman of Vojvodina receives hundreds of complaints on an annual basis (for more information, see table 11 in appendix D), it becomes clear from table 4.2 in this section that only a small percentage of these cases is finally forwarded to other ombudsmen. Given that filtering of submitted cases is a common practice among ombudsman offices, this thesis assumes that the Provincial Ombudsman of Vojvodina forwards to other ombudsmen only those cases which are explicitly covered by those offices' jurisdiction.

To sum up, the above statistical overview shows the regular transfer of workload between Serbian ombudsman institutions, particularly from peripheral offices at regional and local levels to the national Protector of Citizens. This institutionalised interaction indicates frequent communication and cooperation between ombudsman offices at different levels of government, however the small number of cases transferred relative to the total number of complaints submitted suggests that this kind of formal networking has a limited impact on ombudsman institutions as accounting actors. In other words, if we assume that the aforementioned transfer of workload is associated with the exchange of various resources (e.g. information, expertise, media coverage), the small number of cases transferred from one office to another argues for an accordingly limited involvement of ombudsman institutions in the investigation, exposure and denunciation of wrongdoings in the public sector.

Apart from institutionalised but occasional cooperation over transferred cases, ombudsman institutions in Serbia communicate and interact frequently at public events (e.g. roundtables, seminars, conferences) and over projects organised by individual offices, international organisations or NGOs. Before the establishment of the national Protector of Citizens in 2007, the Provincial Ombudsman of Vojvodina had a central role in linking existing offices by organising events and common activities. The topics of these events ranged from mediation (e.g. the project "The ombudsman as mediator") to children's and minority rights (e.g. a conference on "Network of children's ombudsmen in South-East Europe" or a roundtable on "The role of ombudsman in multi-ethnic local communities") and they were aimed not only at educating the staff of local offices on issues relevant to daily work practice but also at creating the conditions for the formation of a network of ombudsman offices within which they would share experiences, exchange information and cooperate over common projects (e.g. a seminar on "Capacity building of a local ombudsman network") (Teofilović 2007: 135-149). Similar initiatives were taken by local offices, such as the local

Ombudsman of Kragujevac who organised a conference in 2006 entitled “Establishment of a network among local ombudsman offices in Serbia” (Vuletić 2007: 17) and a roundtable on improving communication between interacting ombudsmen in Serbia two years later (Vuletić 2009: 21-22). In short, these public events show that the idea of reinforcing capacities through networking that has been earlier proposed by scholars like O’Donnell and Diamond is not new among ombudsman institutions in Serbia as it has been steadily promoted by both state and social actors.

International organisations have also been particularly active in linking ombudsman institutions with each other by assisting the harmonisation of working practices and promoting a community culture among offices through various events. This active involvement of international organisations indicates that networking and the potential emergence of social capital as an element that reinforces the sense of belonging to a community (e.g. Bourdieu 1986) is an idea partly conceived and implemented by policy-makers “from above”. For instance, in 2007 the CoE Office in Belgrade organised a study visit by local ombudsmen to the European Ombudsman Institute in Innsbruck, Austria, with the aim of familiarising participants with European standards (Teofilović 2008: 142-143; Vuletić 2008: 33). International organisations intensified their involvement and multiplied relevant activities after the establishment of the national Protector of Citizens in 2007. For example, in 2009 the national ombudsman co-organised a conference on prevention of torture with the OSCE Mission in Serbia, the CoE Office in Belgrade and CIDA (Marosiuk 2010: 14-15), and a year later presented the so called “Code of Good Governance” to the regional and local offices in cooperation with the European Ombudsman (Gojković 2011: 7; Runić 2011: 11; Zdravković 2011: 23). In conclusion, the above overview of public events summarises the formal occasions at which ombudsman offices at different levels of government communicate and interact. Networking as a means of sharing experiences, exchanging information and building capacities is embedded in many of these events and is promoted by the international community. However, varying attitudes and competing relations among ombudsman institutions undermine formal interactions and limit the opportunities of potential networking, as I explain below.

The above analysis shows that the annual reports of ombudsman institutions provide a factual overview of interactions between offices at different levels of government by illustrating quantitative data on cases transferred and listing events or activities in which offices participate. In other words, annual reports summarise formal contacts and institutionalised

interactions between ombudsman offices. However, the quantification of these interactions says arguably little about the actual content of communication and cooperation between actors, as well as the various factors (e.g. attitudes, motivations, expectations) which impact upon the interactions. As I explained in chapter 2 of this thesis, in theoretical terms networks are assessed according to various indicators ranging from intensity and density to durability and reciprocity. Originally, this terminology stems from social network analysis; however, it arguably applies to most types of networks, including the policy networks discussed in this thesis, as it illuminates the multifaceted nature of interactions between networking partners. As a consequence, frequent interactions, such as workload transfer or communication over public events is an inadequate indicator for assessing individual state and social actors and their impact on potential networks of public accountability in Serbia. Hence, in-depth semi-standardised interviews with representatives of ombudsman institutions are an appropriate method for this thesis to delineate opinions about potential networking, explore the incentives for Serbian ombudsman offices to take part in such activities and identify the expectations which they have of doing so. These attitudinal data are meant to reinforce argumentation by complementing the factual, empirical data from annual reports presented above.

At first glance, the majority of this research project's interviewees who represent ombudsman offices express no obvious discontent regarding their interaction with other offices, which therefore reflects the idealised impression of networking seen in the aforementioned annual reports. More precisely, they describe communication and cooperation as occasional – particularly in reference to public events and activities – and they attribute interaction to mutual initiatives (e.g. interviewee 27, interviewee 28, interviewee 36, local ombudsmen). In spite of praising overall networking as a means of reinforcing capacities through the exchange of resources (e.g. information, expertise) (interviewee 25, interviewee 33, local ombudsmen), it becomes clear from interviews that relations between ombudsman offices at different levels of government should be examined individually. For instance, local ombudsman offices appear to have closer relations with their counterparts at the local level, while the same can be argued for the Provincial Ombudsman and local offices in Vojvodina. This argument is reinforced by the two protocols of cooperation mentioned above, signed by local offices and ombudsman institutions in Vojvodina respectively. On the contrary, the relationship between the national Protector of Citizens and the remaining ombudsman offices is formally based on cooperation; however in practice it is less ideal than depicted in the annual reports.

As I explained in section 3.2 of this thesis, the allocation of jurisdiction among ombudsman institutions in Serbia is a source of tension between offices at different levels of government. An issue that has been brought to discussion by several of this research project's interviewees is the *de jure* absence of hierarchy among offices at the national, regional and local levels (e.g. interviewee 23, interviewee 24, interviewee 30, local ombudsmen). The promptness of peripheral offices to stress this absence of hierarchy is arguably correlated with the critique that existing legislation allocates jurisdiction in favour of the Protector of Citizens (e.g. interviewee 20, representative of international organisation, interviewee 21, academic, interviewee 25, local ombudsman, interviewee 26, local ombudsman, interviewee 33, local ombudsman). In short, the competition between peripheral ombudsman offices and the national Protector of Citizens is most apparent in the fact that hierarchy is not perceived in terms of a formal, systematic allocation of duties but as subordination to the Serbian ombudsman.

The empirical examination of jurisdiction as a fundamental aspect of institutional design in section 3.2 of this thesis showed that jurisdiction matters for ombudsman institutions not just in a strict formal sense as the legal authority to apply investigative and enforcement powers over a certain field of competence but also as a prerequisite for the occupation of a central position within potential networks of accounting actors. Despite the fact that there is no automatic link between wide jurisdiction and increased capacities or improved performance, empirical examination of the Serbian case shows that ombudsman offices with wide jurisdiction, such as the national Protector of Citizens, have a higher chance of interacting with various state and social actors, and therefore exchange a wide range of resources which can potentially reinforce the capacities of the office as an accounting actor. On the other hand, institutions with narrow jurisdiction, such as local ombudsmen in Serbia, are likely to be marginalised in nexuses of accounting actors as a consequence of their limited networking potential. Thus, by stressing their non-subordination to the national Protector of Citizens, peripheral ombudsman offices declare their utility to investigate, expose and correct wrongdoing in the public sector in post-transition Serbia.

From a policy network perspective, a certain degree of competition over resources or hierarchical ranking is common among networking partners as long as they acknowledge the necessity of maintaining such networks for the promotion of their interests and maximisation of their preferences (Holohan 2005: 18-19; Ohanyan 2008: 5). Kriesi, Adam and Jochum distinguish three forms of cooperation among actors in policy networks: predominance of

conflict/competition, bargaining and predominance of cooperation. They also suggest three pairs of power structures based on the distribution of power and the form of cooperation among networking partners. The first pair consists of challenge, which is a consequence of fragmented power and conflictual interactions, and dominance, a consequence of concentrated power and a conflictual mode of interaction. The second pair is symmetric or asymmetric bargaining, depending on the degree of concentration of power. Finally, in cases where interactions among networking partners are not conflictual, are two types of cooperation, one in which power is fragmented and the other where it is concentrated (2006: 342-343). The Serbian case, where relations among ombudsman offices at different levels of government are conflictual while power is distributed asymmetrically in favour of the national Protector of Citizens, argues for a dominant power structure in this potential policy network under examination.

Apart from competition over jurisdiction, distrust is another characteristic of relations between ombudsman institutions in Serbia. More precisely, peripheral ombudsmen acknowledge the necessity of cooperating with more central and powerful accounting actors like the national Protector of Citizens, yet they blame the Serbian ombudsman for underestimating their work and doubting their independence from local authorities (interviewee 24, interviewee 28, interviewee 33, local ombudsmen). This argument is partly confirmed by the issue of the renaming of local ombudsmen from “Građanski branioci – Ombudsmani” (Civil Advocates)¹¹¹ to “Zaštitnici građana” (Protectors of Citizens) in the amended Law on Local Self-Government¹¹² (interviewee 8, representative of international organisation, interviewee 35, academic). This law has been criticised by the national Protector of Citizens (Janković 2011: 35-36) and representatives of international organisations and civil society organisations as a potential source of confusion for citizens. Their scepticism derives from the dubious political and financial independence of peripheral ombudsman offices (e.g. interviewee 2, NGO activist, interviewee 3, NGO activist, interviewee 5, NGO activist, interviewee 6, NGO activist, interviewee 8, representative of international organisation, interviewee 15, academic, interviewee 37, academic), which matters in terms of reputation costs. In other words, the reputation of dependence on the state authorities reduces the networking potential of state and social accounting actors, as I explain

¹¹¹ Službeni glasnik Republike Srbije, 2002. Zakon o lokalnoj samoupravi, broj 9/2002.

¹¹² Službeni glasnik Republike Srbije, 2007. Zakon o lokalnoj samoupravi, broj 129/2007

<http://www.dils.gov.rs/documents/files/maj2010/Zakon%20o%20lokalnim%20samoupravama.pdf> [Accessed 27 July 2012]

in section 5.4 of this thesis. Overall, the reciprocal distrust of local offices towards the national Protector of Citizens constitutes the exact reverse of the relationship between ombudsman offices at the local level. More precisely, local ombudsmen praise networking with other peripheral offices as a way of exchanging information and sharing experiences, but also as an opportunity to participate in an informal network of understanding and trust among “equals” (interviewee 24, interviewee 27, interviewee 29, interviewee 33, local ombudsmen). Personal contacts play a particular role in this respect.¹¹³ Thus, reciprocal distrust between the national Protector of Citizens and local ombudsmen in Serbia reduces the chance of coordinated action by potential networks of state accounting institutions at different levels of government.

As I explained in the second chapter of this thesis, the concept of trust is closely associated with the potential emergence of social capital in policy networks. In other words, trust is perceived as a force that drives actors to participate in such networks, improves communication and the flow of resources among interacting partners and finally reinforces the feeling of belonging to a network community. Thus, social capital is the outcome of social relations embedded in trust. The aforementioned delineation of distrust between the national Protector of Citizens and local ombudsmen in Serbia indicates the limitations for the emergence of policy networks, consisting of such offices at different levels of government. On the contrary, the reverse condition of frequent and consistent relations among local ombudsmen embedded in trust signifies the formation of a parallel informal network that could potentially undermine the former one as a consequence of the competition and distrust discussed above. Even though there are currently no obvious indications to confirm this assumption, the struggle of various institutions and individuals to survive in a continuously transforming post-transition setting like that of contemporary Serbia argues for the probable realisation of this scenario in the foreseeable future.

In conclusion, this section focused on the interactions between ombudsman offices in Serbia at the national, regional and local levels with the aim of examining the impact of potential networking upon their performance as accounting actors. The first topic discussed in this section was the haphazard multiplication and proliferation of ombudsman institutions in Serbia as a consequence of individual elite decisions, institutional diffusion and transnational

¹¹³ While interviewing local ombudsmen in Serbia, I heard several anecdotal stories regarding their interpersonal relations with other offices. In all cases, these stories described regular communication based on friendship and mutual sympathy.

processes (e.g. Europeanisation). This Serbian particularity led to a multitude of laws, partly blurred boundaries of jurisdiction and varying expectations towards democratic reforms and the challenges of liberal governance that still impact upon interactions between ombudsman institutions. In terms of institutionalised networking, the number of cases regularly forwarded from one office to another is small enough to make no difference to their overall performance on an annual basis. Communication is more frequent through public events organised by individual offices, NGOs or international organisations. Despite various attempts to link ombudsman institutions at different levels of government, interaction in practice is limited to institutionalised workload transfer and participation in formal events.

The reasons explaining the rarity of interaction between ombudsman offices in Serbia are arguably competition and distrust. The former is mostly unilateral, directed from peripheral offices towards the national Protector of Citizens, and derives from the allocation of duties according to legally prescribed jurisdiction. Overall, local ombudsmen feel subordinated to the Serbian ombudsman in terms of jurisdiction which in turn reduces their capacity to network with other actors and exchange resources. On the other hand, distrust is reciprocal and derives from ombudsman offices' and their supporters' differing expectations of democratic reforms and their competing interests in the post-transition setting. These conflictual relations between ombudsman institutions at different levels of government reduce their capacity to network and become involved in the investigation, exposure and denunciation of wrongdoings in the Serbian public sector, therefore resulting in practice in a deconstruction of the idealised model of horizontal accountability.

4.3 Public accountability in the post-transition context: the case of independent oversight bodies in contemporary Serbia

The emergence of independent regulatory and oversight bodies dates back to the end of the nineteenth century when the first body for the regulation of the railways, the Interstate Commerce Commission, was established in the United States of America in 1887 (Radojević 2010b: 53-54). Over the course of the twentieth century, independent bodies with oversight functions, such as auditing offices, ombudsman institutions and anti-corruption agencies, mushroomed around the world, however the rationale behind their establishment, the control

of authorities by restricting their power, arguably originates from the principle of separation of powers conceptualised by theorists such as John Locke and Charles Montesquieu and later Thomas Jefferson and James Madison (Orlović 2010: 120). Montesquieu in particular argues for the necessity of so called “corps intermediaires” in his distinction between state and society which in Charles Taylor’s words are, “‘amphibious’ bodies that possess ‘a life’ both within and outside the state” (Merkel 2001: 97-98). In other words, these bodies are authorised to exert external control over the executive despite being part of the state apparatus, hence they are specially positioned in relation to the traditional branches of government (executive, legislature, judiciary). Montesquieu’s concept is obviously relevant to this chapter as it applies to accounting actors of horizontal accountability, including ombudsman institutions.

Considering the principle of separation of powers, O’Donnell distinguishes between traditional “balancing” and “appointed” institutions which correspond to new mechanisms of horizontal accountability (2006: 338). Appointed institutions include agencies (such as state auditors, electoral commissions, anti-corruption agencies, specialised courts, commissioners and ombudsman offices) which are established in order to complement rather than substitute balancing institutions in their work of exerting oversight over state authorities and public officials (Pegram 2008b: 10). In other words, the idea behind establishing independent oversight bodies is to make up for the weaknesses of traditional accounting mechanisms. Hence, Rose-Ackerman pinpoints that:

...proponents argue that insulation [of public administration from politics through oversight by independent bodies] will not be achieved simply by creating a professional cadre of bureaucrats but that it requires the creation of new institutions isolated from partisan influence (2005: 18).

In short, the main paradox of independent oversight bodies is as follows: on the one hand, they are established in order to exert independent control over state authorities and public officials, while on the other hand they are partly dependent – usually financially but sometimes also politically – on the authorities they are meant to control¹¹⁴. As a consequence, the theoretical examination of independent oversight bodies as actors of horizontal accountability differs significantly from the empirical assessment of their actual efficiency

¹¹⁴ Ozel describes accordingly a reverse trend of de-delegation in Turkey, namely the delegitimation of formerly mushrooming independent regulatory bodies as a consequence of their increasing manipulation by the executive (2012).

and performance. As I explain in detail in section 5.4 of this thesis, the paradox of independence is one of the reasons why independent oversight bodies need to network with social accounting actors. In other words, based on a popular preconceived distinction between dependent state institutions and independent social actors, state accounting actors which acknowledge the potential benefit of networking with their social interlocutors interact with civil society organisations and the media in order to improve their image as independent accounting actors.

This section focuses on selected independent oversight bodies in Serbia¹¹⁵ and their interactions with ombudsman offices at the national, regional and local levels with the aim to explore their involvement in public accountability as horizontal accounting actors through coordinated investigations, exposure and correction of cases of misconduct in the public sector. By overviewing their interactions and assessing their relations, this section aims to identify factors which facilitate or obstruct communication and cooperation between independent bodies as well as exploring the motivations of accounting actors in potential networks of horizontal accountability.

Before going into detail about the interactions of ombudsman institutions with independent oversight bodies, it is first necessary to say a few words about the institutions discussed in this section. The legal framework of independent bodies in Serbia is first and foremost defined by the Constitution (Article 137), the Law on Public Administration (Article 4) and the Law on Public Agencies (Radojević 2010b: 57) in addition to a series of specialised laws regulating the establishment and daily operation of individual offices.¹¹⁶ The cases examined in this thesis are products of post-transition institution building, as the relevant laws came into force after the change of regime in 2000. In general, the proliferation of oversight bodies has been associated with reforms in the name of deregulation and liberalisation, however

¹¹⁵ From a plethora of state accounting institutions in post-transition Serbia, this thesis examines the interactions of ombudsman offices with the Commissioner for Information of Public Importance and Personal Data Protection, the Commissioner for Protection of Equality and the Constitutional Court. The first two institutions are typical cases of independent oversight bodies with jurisdiction over the protection of human rights that interact on a regular basis with ombudsman institutions over common projects and individual cases. On the other hand, the Constitutional Court is a court independent from the judiciary that has a special role in judicial review hence it is examined separately in the last section of this chapter.

¹¹⁶ The Law on Public Procurement, 04.07.2002, 39/02; The Law on Financing Political Parties, 18.07.2003, 72/03; The Law on Preventing Conflict of Interest in the Course of Exercising Public Functions, 20.04.2004, 43/04; The Law on Amendments to the Law on Public Procurement, 21.05.2004, 55/04; The Law on Free Access to Information of Public Importance, 02.11.2004, 120/04; The Law on the Protection of Competition, 16.09.2005, 79/05; The Law on the Protector of Citizens, 16.09.2005, 79/05; The Law on the State Audit Institution, 14.11.2005, 101/05; The Law on the Anti-Corruption Agency, 23.10.2008, 97/08 (Orlović 2010: 116).

Rodoljub Šabić, the first Commissioner for Information of Public Importance and Personal Data Protection, argues that Serbia did not establish these bodies because their necessity was acknowledged, but as an obligation towards international organisations of which Serbia was already a member or aspired to join in the future (e.g. EU). As a consequence, state authorities and public officials tend to perceive these agencies as “foreign bodies” within Serbia’s public administration (2010b: 126). Notwithstanding this limited acceptance by the authorities, some of these oversight bodies managed to attract public attention within a short period of time, as I explain in more detail below.

One of the most prominent institutions of this kind is the aforementioned Commissioner for Information of Public Importance and Personal Data Protection, established in 2004. Although the right to information is explicitly acknowledged by Article 51 of the Serbian Constitution, free access to information of public importance and personal data protection are regulated by relevant laws from 2004¹¹⁷ and 2008¹¹⁸ respectively. The Commissioner is in charge of monitoring the implementation of these rights by state authorities, receiving relevant complaints from physical or legal entities in cases of violation, giving opinions on existing laws, proposing concrete measures in the direction of respecting these rights and informing the public accordingly.¹¹⁹ Similarly to the national Protector of Citizens, the Commissioner is elected by the National Assembly of Serbia by a majority vote and receives funding from the state budget, while the head of the office must have a law degree and must also be an expert in human rights protection as well as a recognised figure in the field (Milenković 2010: 155-158).

A recent addition to human rights institutions in Serbia is the Commissioner for Protection of Equality, established by the Law on Prohibition of Discrimination¹²⁰ in 2009. The Commissioner is an independent oversight body whose aim is the protection and promotion of gender equality by monitoring existing legislation and proposing appropriate amendments, examining individual cases of discrimination submitted by physical or legal entities and recommending corrective measures to the relevant authorities, as well as raising public

¹¹⁷ Službeni glasnik Republike Srbije, 2004. Zakon o slobodnom pristupu informacijama od javnog značaja, broj 120/2004, 54/2007, 104/2009, <http://www.mup.gov.rs/domino/mup.nsf/javniznacaj.pdf> [Accessed 03 August 2012]

¹¹⁸ Službeni glasnik Republike Srbije, 2008. Zakon o zaštiti podataka o ličnosti, broj 97/2008, 104/2009, <http://www.propisi.com/zakon-o-zastiti-podataka-o-licnosti.html> [Accessed 03 August 2012]

¹¹⁹ Poverenik za informacije od javnog značaja i zaštitu podataka o ličnosti, 2012. Nadležnost Poverenika, <http://www.poverenik.rs/yu/o-nama/nadleznost.html> [Accessed 04 August 2012]

¹²⁰ Službeni glasnik Republike Srbije, 2009. Zakon o zabrani diskriminacije, broj 22/2009, http://www.mojepravo.net/propisi/srbija/zakon_o_zabrani_diskriminacije.html [Accessed 04 August 2012]

awareness through the publication of reports and the organisation of relevant events. The funding for the head of office, the procedure for his/her election and the required professional qualifications coincide with those of the national Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection.¹²¹

Among the existing ombudsman offices in Serbia, the national Protector of Citizens unsurprisingly has the most frequent interaction with the aforementioned independent oversight bodies; in turn these bear significant resemblance to specialised ombudsmen in terms of jurisdiction.¹²² In other words, the availability of exchangeable resources and the proximity in jurisdiction explain this special relationship between the national ombudsman and other independent oversight bodies, as I explain in more detail below. More precisely, the interaction between the Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection is characterised by both offices as “particularly intensive” and “fruitful” (Janković 2010: 36; Šabić 2010a: 30). This public emphasis on the utility of such interaction indicates a rational calculation regarding this special relationship, as both offices expect to maximise their preferences and promote their interests. Apart from participating in common public events, exchanging information on various issues and forwarding cases to one another (Janković 2010: 20), the two institutions have cooperated on various occasions, such as drafting the Law on Personal Data Protection (Janković 2009: 61), proposing amendments to the Laws on Data Confidentiality and Free Access to Information of Public Importance (Janković 2010: 36) as well as questioning the constitutionality of the Law on Electronic Communications and the Law on the Military Security and Intelligence Agencies through the submission of a relevant request to the Constitutional Court (Janković 2011: 102; Šabić 2012: 42-43). Parallel to institutionalised cooperation, close personal contacts between Saša Janković and Rodoljub Šabić largely explain the maintenance of regular, informal channels of communication (interviewee 18, representative of state accounting institution, interviewee 31, local ombudsman). This trusting relationship, based on

¹²¹ Poverenik za zaštitu ravnopravnosti, 2012. O nama, <http://www.ravnopravnost.gov.rs/lat/oNama.php> [Accessed 04 August 2012]

¹²² Notwithstanding relatively good relations between the independent oversight bodies examined in this thesis, the national Protector of Citizens has publicly expressed his scepticism towards the proliferation of such offices in post-transition Serbia. More precisely, he notes in the office's 2010 annual report that “tendencies towards setting up of more new ‘independent regulatory bodies’, mostly just on paper, sometimes by means of the method of bad copying, implementation of ‘projects’, even factually incorrect reference to corresponding examples in other countries, are fitted to the matrix of the populist ‘protection’ of citizens’ rights, that is, of passing the responsibility of executive authorities, for the situation in their fields, to the bodies which are originally supervisory, without executive and legislative powers, as well as factual capacity to perform duties of those whom they supervise, nor is that their purpose” (Janković 2011: 10).

rational calculation and interpersonal relations, is arguably associated with the very nature and institutional position of these offices as accounting actors in public administration. In other words, the shared understanding of the risks and opportunities that emerge from the transforming post-transition setting in Serbia creates the conditions for intensive communication and coordinated actions, as I explain below.

A similar but less typical example of institutionalised cooperation concerns the occasional interaction of the Protector of Citizens with the Commissioner for Protection of Equality in terms of forwarding cases to one another and participating in common public events (e.g. roundtables and conferences on gender equality) (Petrušić 2011: 52-53), yet to a lesser extent than with the Commissioner for Information of Public Importance and Personal Data Protection, which was established earlier and has jurisdiction over a wider field of competence. However, this is expected to change in the future as a consequence of a legal arrangement concerning the allocation of duties between the Protector of Citizens and the Commissioner for Protection of Equality.¹²³ The arrangement aims at clarifying blurred boundaries of jurisdiction and facilitating the transfer of cases from one office to another. In any case, the two bodies have already cooperated over the elections for national councils of national minorities by pinpointing omissions in the procedure to the Ministry for Human and Minority Rights, initiating amendments to the relevant law and recommending concrete measures for the correction of these omissions to national councils (Janković 2011: 24; Petrušić 2011: 28). In conclusion, the above factual overview shows that the national Protector of Citizens maintains open communication with the two commissioners and cooperates mainly over individual cases and law amendments. As I explain below, this last competence of the Serbian ombudsman largely explains cooperation with the Commissioner for Information of Public Importance and Personal Data Protection. However, interpersonal relations and the amount of exchangeable resources explain the varying degrees of

¹²³ The newly established Commissioner for Protection of Equality does not replace the national ombudsman's deputy Protector of Citizens for Gender Equality and Persons with Disabilities. On the contrary, the latter complements the former as a second instance in the examination of human rights violations. More precisely, the 2010 annual report of the national ombudsman states that "the Protector of Citizens no longer instigates proceedings upon complaints of citizens concerning the discriminatory attitude of the public administration authorities, if, in accordance with the law, they have not used the available legal remedy and addressed the Commissioner for the Protection of Equality beforehand. Only if a citizen, even after the procedure before the Commissioner, makes substantiated claims about her/his rights and freedoms being violated by discriminatory actions of public administration authority, the Protector of Citizens may take such complaint into consideration. For reasons stipulated by the law, the Protector of Citizens may decide to consider citizens' complaints against discrimination by public administration authority even before all available legal remedies have been used. The Protector of Citizens informs the Commissioner for the Protection of Equality about these exceptional cases, in the spirit of the principle of cooperation between public authorities" (Janković 2011: 23). As a consequence, it is expected that an increasing number of cases will be forwarded from one to another in the future.

communication and cooperation between the national ombudsman and the two commissioners.

Compared to the national Protector of Citizens, cooperation between peripheral ombudsman offices and the aforementioned bodies is limited to the transfer of individual cases, largely because the former lack the authority to propose amendments to laws possessed by the national ombudsman. For example, the first instance of interaction between the Provincial Ombudsman of Vojvodina and the Commissioner for Information of Public Importance and Personal Data Protection concerns a petition submitted to the former by several citizens in 2006 regarding the publication of their personal data (names, income and workplaces) by a newspaper. The Provincial Ombudsman forwarded the case to the Commissioner who confirmed the violation of the right to personal data protection and recommended the initiation of legal proceedings (Teofilović 2007: 118). Four years later, the Provincial Ombudsman was consulted by the Commissioner about the disclosure of nationality in personal documents (Muškinja Hajnrih 2011: 26). A similar relationship of cooperation on an occasional basis has been established between the Provincial Ombudsman and the Commissioner for Protection of Equality. For instance, the two offices cooperated over a complaint regarding the National Employment Service's exclusion of an unemployed engineer from applying for gender-neutral jobs. The two offices sent a recommendation to the authority asking for the discrimination to be remedied, nevertheless the National Employment Service did not comply with their recommendation in the long run (Muškinja Hajnrih 2011: 47; Muškinja Hajnrih 2012: 99). Contrary to Diamond's belief that the promotion of public accountability is positively correlated with actors that 'interlock and overlap in a systemic fashion' (2008: 303), this last example shows that coordinated actions by state accounting institutions do not necessarily guarantee the answerability of authorities in practice. A potential explanation may be the limited availability to peripheral accounting actors like the Provincial Ombudsman of Vojvodina of resources associated with the enforcement of such decisions or recommendations in accountability processes (e.g. media exposure).

Finally, an even more typical example of the loose relationship between ombudsman institutions and independent oversight bodies is the occasional interaction, limited to participation in common public events, between the aforementioned commissioners and individual local ombudsman offices. This interaction indeed facilitates the transfer of certain exchangeable resources (e.g. information and expertise) from one accounting actor to another, but it arguably has limited potential in terms of improving or accelerating the

investigation, exposure and denunciation of wrongdoings in the public sector. For instance, the Ombudsman of Niš participated in a seminar entitled “Protection from discrimination in Serbia: the procedure before the Commissioner for Protection of Equality” (Zdravković 2012: 24) while the Ombudsman of Zrenjanin cooperated with the same office over the project “Mediation in cases of discrimination from the position of the Commissioner for Protection of Equality”, organised by the NGO “Partners for Democratic Change – Serbia” and financed by the EU (Radlovački Grozdanov 2012: 30). Interpersonal relations among individuals can again improve communication between different institutions,¹²⁴ yet, as long as other resources are missing they neither guarantee further cooperation nor reinforce the involvement of accounting actors in processes of public accountability. As a consequence, the first annual reports of the Commissioner for Protection of Equality show that a single complaint about gender discrimination was allegedly transferred from the local Ombudsman of Voždovac to the office in 2010 (Gojković 2011: 7). In conclusion, the summarised depiction of interactions between ombudsman institutions on the one hand and the two commissioners on the other makes a clear distinction between peripheral ombudsmen and the national Protector of Citizens. The former mostly communicate through public events and cooperate with independent oversight bodies over the transfer of individual cases from an ombudsman to a commissioner, hence interaction has limited effect on their performance as accounting actors. In other words, their current interaction does not reinforce their capacities through the exchange of resources, a major reason for the loose relationship between peripheral ombudsman offices and independent oversight bodies like the aforementioned commissioners.

This is not the case with the national Protector of Citizens, an office characterised by a diversity of exchangeable resources and high networking potential. First of all, the Serbian ombudsman is authorised to propose law amendments, a competence that largely determines potential networking among independent oversight bodies in Serbia. More precisely, this thesis argues that a significant aspect of the relationship between the national Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection is the ability of the former to propose amendments to laws, other regulations and legal documents (Article 18, paragraph 2 of the Law on the Protector of Citizens) as has been

¹²⁴ One of the anecdotal stories I heard during fieldwork in Serbia is that the local Ombudsman of Niš, Dobrila Zdravković, is a good friend and former colleague of the Niš native Commissioner for Protection of Equality, Nevena Petrušić. Mrs Zdravković implied that interpersonal relations can constitute the foundation for further cooperation between the two offices.

the case with the Draft Laws on Data Confidentiality and Free Access to Information of Public Importance (Janković 2010: 36). The Commissioner's 2010 annual report explicitly confirms that in the absence of any legal right to propose amendments to laws, the office initiates proceedings indirectly through the national Protector of Citizens (Šabić 2011: 42). As a consequence, interacting with the Serbian ombudsman provides the opportunity for the Commissioner to get indirectly involved in policy-making, therefore reinforcing the role of the office as a central accounting actor in potential policy networks.

Another crucial issue that has already been discussed in this thesis concerns ombudsman institutions' lack of coercive and enforcement powers, which arguably leads to the non-compliance of authorities with their opinions or recommendations. The same limitation concerns the two commissioners in this section. In his annual reports the Protector of Citizens criticises state authorities for generally neglecting the opinion of the Commissioner for Information of Public Importance and Personal Data Protection (Janković 2010: 38; Janković 2011: 50), however he claims to effectuate the recommendations of the latter through his involvement. The following example is indicative of this argument:

Convinced that his wife did not receive adequate medical treatment, a citizen filed a complaint against a health care centre which, despite the official decision issued by the Commissioner for Information of Public Importance, denied him a copy of his late wife's health records – patient's medical history. Bearing in mind the questions which were raised in this case, the Protector of Citizens met with the Health Minister and after that established the responsibility of the health care institution asking its managing director to act on the Commissioner's decision. The citizen was issued the requested documentation immediately (Janković 2010: 52).

The above case claims that the Protector of Citizens achieved the enforcement of the Commissioner's decision not through argumentation, i.e. by convincing the state department under scrutiny to accept it had done wrong, but by mobilising the political elites to intervene, therefore reinforcing the argument that the Protector of Citizens might have better access to the executive than the Commissioner or other independent oversight bodies. Based on this example, it is reasonable to argue that the networking capacity of the Serbian ombudsman motivates institutions like the Commissioner to seek support, as the effects of potential networking can make up for the institutional limitations of offices, such as the lack of enforcement powers. This example confirms the argument that power in policy networks is not an inherent property or attribute of participating individuals but a resource that derives

from actual or potential interactions between social actors (Kriesi, Adam & Jochum 2006: 342).

The Commissioner, on the other hand, does not explicitly confirm the utilisation of the Protector of Citizens in this respect but underlines the increased publicity around the national Protector of Citizens, implying that the threat of public exposure is an effective means of exerting pressure on state authorities (Šabić 2010a: 41-42). Even though the Commissioner, Rodoljub Šabić, is widely perceived as being as attractive to the media as Saša Janković, the Serbian ombudsman, (interviewee 20, representative of international organisation, interviewee 22, journalist, interviewee 38, employee of state accounting institution), the emphasis on publicity echoes the argument which has already been discussed in this thesis that the more actors are involved in the exposure of wrongdoings in public sector, the more pressure will be exerted on state authorities and public officials to account for their decisions or actions. In short, mediatisation is a useful strategy for independent oversight bodies to compensate for their limited enforcement powers through the threat of public exposure.

Last but not least, the national Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection have in the past occasionally used the explicit support of international organisations in order to create an informal coalition of independent oversight bodies and defend their interests before the state. For example, in 2010 the National Assembly changed the Rules of Procedure of the Serbian parliament, introducing the possibility of rejecting the annual reports of independent oversight bodies and dismissing their heads of offices. The amendment was harshly criticised by the Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection for attempting to manipulate independent oversight bodies and ultimately it was not implemented after the active involvement of the EC (Janković 2011: 35). As I explained at the beginning of this section, international organisations like the CoE and the EU have been actively involved in the promotion of independent oversight bodies in Serbia as part of post-transition institution building in the name of democratisation. The above example of an informal front with the explicit support of the international community arguably indicates not only a trusting relationship between these two offices but also acknowledgment of the risks that independent oversight bodies face in a post-transition setting. This shared sense of belonging to the same group of state accounting actors creates bonds and increases the chances for potential networking in the future.

The relationship between the national Protector of Citizens and the Commissioner for Protection of Equality differs from that with the Commissioner for Information of Public Importance and Personal Data Protection in that it is not yet based on interpersonal relations, while few and rather insignificant resources have been exchanged between the offices. First of all, there is no adequate information regarding the impact of the national Protector of Citizens on the Commissioner for Protection of Equality and vice versa due to the recent establishment of the latter. The two institutions have not yet cooperated over law amendments, however the Serbian ombudsman has already assisted the newly-established commissioner with resources, ranging from staff specialised in gender equality to information on discrimination from research conducted, as well as workload in the form of transferred cases (Petrušić 2011: 13, 28, 46). Overall, the Protector of Citizens has wider jurisdiction, extensive investigative powers and ample financial and human resources compared to the Commissioner for Protection of Equality, leading to an asymmetrical relationship between the two institutions. In other words, the newly-established commissioner for the time being has more to expect from the well-networked and capacity-rich ombudsman than vice versa.

In conclusion, the above overview of interactions between ombudsman institutions and selected independent oversight bodies in Serbia depicts a rather loose relationship, resulting from a lack of strategic calculation and limited exchange of resources. Communication and cooperation between the two commissioners and ombudsman offices are mostly limited to participation in public events and the transfer of cases for investigation from one office to another hence interaction between the aforementioned institutions has practically no effect on their performance as accounting actors. In other words, the limited exchange of resources reduces their chances of becoming involved in each individual stage of public accountability and therefore has an impact upon the investigation, exposure, denunciation and finally correction of wrongdoings in the public sector. The only exception is the national Protector of Citizens, for a series of reasons: in contrast to peripheral offices, the national ombudsman has wide jurisdiction, extensive powers, ample human and financial resources as well as a significant degree of public attractiveness. These features potentially reinforce interaction between the Serbian ombudsman and other actors, as they are correlated with a series of material and non-material resources. This is the case for instance with the Commissioner for Information of Public Importance and Personal Data Protection's utilisation of the ombudsman in terms of proposing law amendments. On the other hand, the Serbian ombudsman mostly profits from the commissioners' expertise over a certain field of

competence (e.g. data protection), hence institutionalised cooperation is mostly concentrated around the transfer of individual cases. In other words, the acknowledgment by both the national Protector of Citizens and independent oversight bodies like the Commissioner for Information of Public Importance and Personal Data Protector that they can reinforce their capacities through the exchange of resources largely explains their interactions until now.

However, the shared limitations of ombudsman offices and other independent oversight bodies in terms of institutional design (e.g. comparable investigative powers, lacking coercive and enforcement powers) reduce the potential for networking between each other as the chances for actors to compensate for their institutional deficiencies with exchanged resources are limited. In other words, their limited exchangeable resources largely explain the weak involvement of these offices in processes of public accountability. In addition, the paradox of independence, i.e. their partial dependence on the authorities they are meant to control, arguably has a detrimental effect on their networking potential as horizontal accounting actors. Hence, social actors such as civil society organisations and the media offer potentially diversified resources as well as an improved public image of independence, as I explain in the following chapter of this thesis.

4.4 Arbitration and mediation through coercion? Ombudsman institutions and the judiciary

Independent oversight bodies such as ombudsman institutions are often praised by their proponents for promoting a consensual culture of dispute resolution, particularly in post-conflict and post-transition states. However, their inability to enforce decisions in practice arguably signifies the actual limits of arbitration and mediation. This intrinsic particularity or – for some others – weakness that characterises the majority of independent oversight bodies necessitates the involvement of accounting partners with coercive or enforcement powers, such as courts. O’Donnell explains in this respect that:

...effective horizontal accountability is not the product of isolated agencies but of networks of agencies that include at their top – because that is where a constitutional legal system “closes” by means of ultimate decisions – courts (including the highest ones) committed to such accountability (1999: 39).

In other words, according to this approach the judiciary has a special role in processes of horizontal accountability, not just in terms of hierarchical superiority but also in terms of prescribed authority to take ultimate decisions. However, courts are not meant to overshadow independent oversight bodies through the initiation of legal actions but to reinforce them when all other means are exhausted, as I explain in more detail below.

The enforcement of recommendations through the imposition of legal sanctions is arguably not the only reason why in some instances independent oversight bodies decide to forward a case of misconduct or violation of rights to the judiciary. Inspired by the idea of social accountability in Latin America, Peruzzotti and Smulovitz argue that when it comes to important public issues, actors such as civic associations and NGOs transform social demands into legal claims by activating courts, a process they call “judicialisation” (2006a: 19-20). According to the authors, the main aim of judicialisation is not necessarily the imposition of legal sanctions but to increase reputation costs through the exposure and denunciation of wrongdoings; hence judicialisation is, along with mediatisation and social mobilisation, one of the three strategies which social actors in Latin America use to hold public officials and state authorities accountable for their decisions or actions (*ibid.*). As I show below in this section, public condemnation rather than legal punishment of wrongdoings in the public sector explains the activation of the judiciary in horizontal networks of public accountability in Serbia.

In short, this section focuses on the interactions between ombudsman institutions and the Constitutional Court of Serbia, a body that is formally independent from the judiciary but has an important role in judicial review. Initially, I discuss the increasing trend of judicialisation worldwide with the aim of exploring the motivations and expectations of state and social actors behind the initiation of judicial proceedings. Then, I explore the relationship between independent oversight bodies (and ombudsman institutions in particular) and the judiciary in Serbia. Particularly interactions between the national Protector of Citizens and the Constitutional Court lie at the centre of this analysis, therefore I present individual cases of judicialisation which have been initiated by the former alone or jointly with other independent oversight bodies, like the Commissioner for Information of Public Importance and Personal Data Protection. Based on empirical findings, this section argues that ombudsman institutions do not activate the Constitutional Court in order to enforce decisions (judicialisation strategy) but to attract attention around public issues and accordingly mobilise various state and social accounting actors (mediatisation and social mobilisation strategies).

To begin with, in the literature the concept of judicialisation refers either to the expansion of the judiciary at the expense of politicians and administrators in terms of decision-making rights or to the spread of adjudication methods in a manner such that decision-making resembles a judicial process (Vallinder 1994: 91). Among various interpretations regarding the increasing judicialisation of politics worldwide, Shapiro echoes the notion of horizontal accountability by attributing this trend to the emergence and proliferation of semi-autonomous administrative and regulatory state agencies that stimulate the judiciary to get involved in monitoring public administration (2002: 48-49). As a consequence, courts are increasingly expected to adjudicate conflicts of a political nature. Hirschl, on the other hand, attributes judicialisation to the executive and politicians in general who choose to abdicate responsibility from sensitive issues by addressing moral predicaments, public policy questions and political controversies to courts (2008: 94). This is particularly observed in Germany and Israel where the Federal Constitutional Court and the Supreme Court respectively often have the final word in hot debates on the political agenda (ibid.). Apart from the potential impact of independent state agencies and politicians on judicialisation, Randeria observes that:

...citizens are increasingly using courts at all levels rather than elections to render governments accountable. Many of the new social movements, be they national or transnational, or at both scales simultaneously or in succession, are concerned with surveillance and judgement rather than with issues of legitimacy, participation and representation (2007: 39).

In other words, the resort to courts is perceived as a symptom of the declining legitimacy of elected institutions, hence Randeria wonders whether the progressive judicialisation of politics signifies the de-politicisation of democracy (ibid.). In conclusion, the above approaches interpret the increasing role of the judiciary in decision-making as a consequence of horizontalisation of public accountability, the executive's fear of political cost and delegitimisation of traditional accountability processes.

Among the above interpretations of judicialisation, this section examines the hypothetical stimulation of courts by independent oversight bodies, such as ombudsman institutions. The theoretical model of triadic dispute resolution arguably has the potential to illuminate the motivations of the latter in this respect. As I explained briefly in the introductory chapter of this thesis, a triad is a nexus between two disputants and a dispute resolver who is the guarantor of reciprocity (Stone Sweet 1999: 149). In other words, the third party aims to

ensure that a dispute is resolved upon reciprocal communication and interaction. Shapiro distinguishes between consensual and compulsory triadic dispute resolution; the former refers to a triad in which disputants agree to authorise a third party to resolve the dispute, while the latter describes the initiation of this process by one party against the will of the other. According to the author, courts are a typical resolver of compulsory triadic dispute resolution (Shapiro 1980: 8). The same can be argued for ombudsman institutions given that proceedings are usually initiated after the submission of complaints against public authorities or on the initiative of ombudsman institutions themselves. In any case, various modes ranging from mediation to adjudication are used to resolve a dispute (Stone Sweet 1999: 156) hence triadic dispute resolution is an appropriate theoretical model to explore independent oversight bodies as accounting actors.

Regarding interaction between independent oversight bodies and the judiciary, the transfer of cases from one to another signifies the transformation of triadic into semi-triadic or tetradic dispute resolution since the original nexus expands to include four parties: the disputants, the initial dispute resolver and a successor who is delegated to resolve the conflict. The latter is necessary to dispute resolution due to the inability of the initial resolver to guarantee reciprocity between the disputants. As I have previously explained in this thesis, independent oversight bodies have limited formal powers to enforce recommendations; hence they cooperate with other accounting actors which are legally authorised to take binding decisions. As a consequence, disputes are finally resolved authoritatively by the latter through adjudication. However, the empirical findings of this research project show that independent oversight bodies in Serbia interact with a special type of court, the Constitutional Court, primarily with the aim of increasing reputation costs through the involvement of a central state institution rather than compensating for their lack of coercive powers. By attracting attention around public issues (mediatisation) and accordingly mobilising various state and social actors (social mobilisation), this section argues below that publicity is used as a means of implementing reciprocity between disputants.

Despite the argument that independent oversight bodies cooperate with the judiciary in order to make up for their deficient coercive powers, in practice only few European ombudsman institutions are authorised to bring a complaint for maladministration or violation of rights before the courts (Austria, Bosnia and Herzegovina, Latvia, Lithuania, Moldova, Poland, Romania and Russia), thus acting as an attorney for the complainant (Kucsko-Stadlmayer 2008a: 53-55). As I explain below, this limitation of ombudsman institutions is associated

with the notion of dispute resolution in terms of arbitration and mediation rather than coercion. In Serbia, on the other hand, both the national Protector of Citizens (Article 20 of the Law on the Protector of Citizens)¹²⁵ and the Provincial Ombudsman of Vojvodina (Article 35 of the Provincial Assembly Decision on the Provincial Ombudsman)¹²⁶ are authorised to initiate disciplinary or even criminal proceedings against public officials by forwarding cases to the appropriate coercive institutions, such as the courts or the public prosecutor. The same right is assigned to local ombudsman offices (e.g. Article 8 of the Decision on the Protector of Citizens in Vračar).¹²⁷ In short, legislation in Serbia prescribes the ombudsman institutions' right to compensate for their lack of coercive and enforcement powers through the activation of other horizontal accounting actors.

However, several ombudsman institutions around the world, including those in Serbia, rarely make use of this right in practice as a consequence of the following paradox: on the one hand, they perceive limited coercive and enforcement powers as a major weakness of their institutional design, on the other hand, they are opposed to penalisation in principle. The relevant literature interprets this contradiction normatively, arguing that the aim of ombudsman institutions is not the substitution of coercive bodies but the improvement of conflict resolution through arbitration and mediation (e.g. Friedmann 1977; Gadlin 2000; Vangansuren 2002; Ambrož 2005; Christopoulos & Hormovitis eds. 2005; Pegram 2008b; Van Roosbroek & Van de Walle 2008; Pegram 2010). However, it is reasonable to argue that ombudsman institutions avoid penalising cases of wrongdoing in the public sector as this would diminish their ability to produce mediated agreements, if they were to be seen as dependent on the courts for their powers. In any case, this research project's empirical findings show that judicialisation is partly viewed by ombudsman institutions as "outdated" in comparison to mediation (interviewee 31, local ombudsman), while citizens in new democracies like Serbia should arguably understand that sanctioning is not the only way to enforce decisions or regulations, as the authority of ombudsman institutions lies in argumentation rather than in coercive powers (interviewee 33, local ombudsman). In conclusion, judicialisation is a strategic option for horizontal accountability actors, however

¹²⁵ Službeni glasnik Republike Srbije, 2007. Zakon o zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 14 August 2012]

¹²⁶ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 14 August 2012]

¹²⁷ Skupština gradske opštine Vračar, 2008. Odluka o Zaštitniku/Zaštitnici građana/građanki gradske opštine Vračar, broj 96-69/2008-VIII/3.

the example of ombudsman offices shows that the activation of coercive institutions is generally not preferred as it arguably undermines their image as consensual, independent accounting actors.

Another reason for the limitations of judicialisation as a public accountability strategy is related to the very nature of the judiciary in post-transition Serbia. More precisely, the courts are widely criticised for lengthy judicial proceedings, while the judiciary as a whole is criticised for doubtful political and financial independence from the executive (e.g. interviewee 2, NGO activist, interviewee 18, representative of state accounting institution, interviewee 24, local ombudsman, interviewee 26, local ombudsman, interviewee 28, local ombudsman). Generally, reforming the judiciary has long been a top issue on the democratisation agenda of post-transition Serbia, and international organisations such as the CoE or the OSCE have accordingly been involved by recommending or implementing relevant projects.¹²⁸ Despite the reforms of the past decade, the Serbian judiciary still faces a series of challenges, ranging from extensive corruption and persistent politicisation to weak professionalization (e.g. Đajić 2007; McMahon & Forsythe 2008), while the existence of a political culture in which citizens rely more on “good connections” than the courts arguably undermines any attempt at judicial reform (Cohen 2010: 32). In such a politicised setting, cooperating with institutions which are widely perceived as dependent on the executive can have a detrimental effect on one’s own reputation. By criticising such intrinsic weaknesses of the judiciary, ombudsman institutions in Serbia thus arguably attempt to disassociate themselves from the state and declare their own independence and autonomy.

In particular among existing courts in Serbia, the Constitutional Court has a special relationship with ombudsman institutions, as prescribed by legislation. More precisely, national (Article 19 of the Law on the Protector of Citizens), regional (Article 14 of the Provincial Assembly Decision on the Provincial Ombudsman of Vojvodina) and local ombudsman offices (e.g. Article 7 of the Decision on the Protector of Citizens in Vračar) are authorised to initiate proceedings before the court in order to review the constitutionality and legality of laws, regulations and other legal acts (ibid.). This right constitutes oversight over laws rather than over the activity of state institutions. Interestingly, regional and local ombudsmen in Serbia are the only peripheral offices in Europe, apart from the ombudsman of

¹²⁸ For example, an ongoing USAID project for the period 2011-2016 focuses on “Judicial reform and government accountability”. USAID, 2012. Judicial Reform and Government Accountability, <http://serbia.usaid.gov/usaid-programs/sectors/strengthening-democratic-structures/judicial-reform-and-government-accountability.1030.html> [Accessed 17 August 2012]

the Austrian federal state of Vorarlberg, which are assigned this right (Kucsko-Stadlmayer 2008a: 51). In addition, they can file a constitutional appeal on behalf of any person who thinks that her/his constitutionally guaranteed rights and liberties have been violated by a decision or action of a state authority or public official (Article 83 of the Law on the Constitutional Court).¹²⁹ These regulations redefine judicialisation as a strategy by ombudsman institutions for exerting pressure on state authorities and public officials.

Before discussing the relationship between ombudsman institutions and the Constitutional Court, it is useful to first say a few words about the jurisdiction and competences of the latter. More precisely, the Constitutional Court was established by the 1963 SFRY Constitution as a guarantor of constitutional principles (Article 241)¹³⁰ and was redefined as an autonomous and independent state body for the protection of constitutionality, legality and human rights by the 2006 Constitution of the Republic of Serbia (Article 166);¹³¹ thus, the Constitutional Court of Serbia is independent from the judiciary despite having a central role in judicial review. A unique characteristic of the Constitutional Court is the ability to enforce decisions *erga omnes* as they are according to Constitution “final, enforceable and universally binding”. As a consequence, any act or regulation that is found unconstitutional or unlawful has no effect after a relevant decision is published by the court (Tripković 2011: 742). In addition, the Constitutional Court is authorised to impose fines ranging from 50,000 to 1,000,000 dinars if state authorities or organisations fail to provide the necessary data and information for the conduct of a constitutionality assessment procedure (Article 110 of the Law on the Constitutional Court).¹³²

Given the authority of the court to assess the constitutionality of existing and proposed legislation, Serbian ombudsman institutions have the potential to get indirectly involved in policy-making by bringing laws relevant to their jurisdiction before the Constitutional Court. The same applies to other independent oversight bodies such as the Commissioner for

¹²⁹ Službeni glasnik Republike Srbije, 2007. Zakon o ustavnom sudu, broj 109/2007 i 99/2011 <http://www.ustavni.sud.rs/page/view/141-100030/zakon-o-ustavnom-sudu> [Accessed 17 August 2012]

¹³⁰ Službeni list Socijalističke Federativne Republike Jugoslavije, 1963. Ustav Socijalističke Federativne Republike Jugoslavije, broj 14/1963 http://www.pravo.unizg.hr/download/repository/Ustav_SFRJ-1963.g.doc [Accessed 17 August 2012]

¹³¹ Narodna biblioteka Srbije, 2006. Ustav Republike Srbije, broj 37/2006 http://www.nb.rs/view_file.php?file_id=1975 [Accessed 17 August 2012]

¹³² Službeni glasnik Republike Srbije, 2007. Zakon o ustavnom sudu, broj 109/2007 i 99/2011 <http://www.ustavni.sud.rs/page/view/141-100030/zakon-o-ustavnom-sudu> [Accessed 18 August 2012]

Information of Public Importance and Personal Data Protection which, as I explained previously in this chapter, do not have the right to bring a law before the Constitutional Court but can challenge legislation through the national Protector of Citizens. In any case, independent oversight bodies formally have the option of making up for their deficient enforcement powers through legally binding decisions by the Constitutional Court, albeit proactively by amending proposed or existing laws.

Acknowledging the aforementioned limitations of judicialisation which partly concern the Constitutional Court of Serbia too (e.g. political dependence on the Milošević regime in the 1990s) (Tripković 2011: 744), Peruzzotti and Smulovitz argue through their study on Latin America that state accounting institutions interact with actors such as constitutional courts in order to attract public attention to social issues rather than to enforce judgements. In their words:

the expansion of the use of traditional legal resources [...] is not necessarily linked to their effectiveness. It is worth mentioning that growth in legal petitioning parallels growth in scepticism about the performance of the judicial power. Therefore, it is possible to speculate that the increased use might be associated with the expressive needs of the actors involved rather than with a pragmatic search for solutions (Peruzzotti & Smulovitz 2006a: 20).

The Serbian case seems to confirm this argument as the national Protector of Citizens mobilises various actors, ranging from other independent oversight bodies to international organisations and the Constitutional Court, in order to increase the visibility of public issues, attract publicity and exert pressure on the executive or public administration. Tripković's observation that the Constitutional Court of Serbia has been particularly active in the protection of human rights when under pressure by the international community (2011: 758-760), i.e. when external accounting actors like international organisations were involved in the exposure and rectification of wrongdoing in the public sector, reinforces the argument that mediatisation, social mobilisation and judicialisation are mutually reinforcing strategies of state and social accounting actors. The following paragraphs summarise the interactions between the Constitutional Court and ombudsman institutions and discuss the limitations of judicialisation in contemporary Serbia as a prerequisite for understanding the strategies of mediatisation and social mobilisation in chapter 5 of this thesis.

Being well-networked with various state and social accounting actors, the national Protector of Citizens is the ombudsman office which interacts most frequently with the Constitutional Court of Serbia. Interaction is initiated either by individual requests or joint proposals questioning the constitutionality or legality of laws. Overall, the national Protector of Citizens received 7, 11 and 20 requests by natural persons and legal entities throughout 2008, 2009 and 2010 respectively regarding the initiation of proceedings for the assessment of constitutionality and legality of laws and regulations before the Constitutional Court. The requests concerned possible violations of constitutionally guaranteed rights and freedoms, such as the rights to property, employment and pension insurance, legal security, prohibition of discrimination, freedom of association and scientific and artistic creation etc. (Janković 2009: 59-60; Janković 2010: 88). The gradual increase of requests over time probably indicates the increasing awareness of citizens regarding the ombudsman's authority to bring a case before the Constitutional Court. Nevertheless, annual reports provide no explicit information about the outcome of these cases, an omission that indicates the limitations of judicialisation in Serbia, as I explain below.

More important for this research project is the Serbian ombudsman's option to question the constitutionality or legality of laws jointly with other state and social accounting actors, as this illuminates the complementary relationship between mediatisation, social mobilisation and judicialisation strategies. More precisely, the national Protector of Citizens has recently cooperated on two occasions with various state and social actors to challenge the constitutionality of proposed or existing laws. The first occasion concerned amendments to the Law on Informing the Public that were perceived as potentially threatening to the freedom of the media. The Protector of Citizens initiated a constitutionality assessment procedure before the Constitutional Court on the initiative of journalists' associations and the request was approved a year later by the court (Janković 2010: 38; Janković 2011: 8). Similarly, upon the request of a considerable number of civic associations and NGOs,¹³³ the national

¹³³ The number and diversity of organisations involved indicates the extent of publicity about the issue and the subsequent mobilisation in that direction: the Bar Association of Serbia, the Belgrade Centre for Security Policy, the Belgrade Centre for Human Rights, Civic Initiatives, the Youth Initiative for Human Rights, the NGO Women in Black, the Coalition for Free Access to Information, YUCOM, Transparency Serbia, the Independent Journalists Association of Serbia, the Association of Journalists of Serbia, the Judges' Association of Serbia, the Fund for an Open Society, the Helsinki Committee for Human Rights in Serbia, the Centre for Non-Profit Development, the Centre for Regionalism, the Queeria Centre, the Civil Association of Hungarians in Serbia "Argus", the Centre for Democracy and Human Rights in Toplica, Resource Centre Negotin, the Civil Council of Kraljevo municipality, the People's Parliament Leskovac, Forum IURUS Novi Sad, the Fund for an Open Society – Serbia, the Citizens' Association Sretenje Pozega, the Centre for Advancement of Legal Studies, the

ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection initiated a constitutionality assessment procedure in 2010 regarding individual articles of the Law on Electronic Communications and the Law on the Military Security and Intelligence Agencies which attracted wide public attention (Janković 2011: 102). However, the Constitutional Court has not decided on this matter as of August 2012. Even though joint involvement does not guarantee the answerability of the Constitutional Court, the insistence of the Protector of Citizens on interacting with the court while mobilising various actors indicates that mediatisation and social mobilisation are in practice more important for state accounting institutions than the enforcement of individual judgements by the courts. As I explain in more detail in chapter 5 of this thesis, ombudsman institutions in Serbia increasingly interact with social actors in order to make up for the limitations of institutionalised interaction between state bodies through informal interactions and enriched resources (e.g. publicity).

The limited response by the Serbian Constitutional Court to the requests of ombudsman institutions is more obvious in the case of peripheral offices, as the examples of the Provincial Ombudsman of Vojvodina and the local Ombudsman of Zrenjanin indicate. In August 2008 the former challenged the constitutionality of an article from the Law on Telecommunications, arguing that it undermines the secrecy of correspondence (Teofilović 2009: 2). Two years later, the Provincial Ombudsman, acting on behalf of the Association of Vojvodinian Farmers, questioned an act by the public water management company “Vode Vojvodine” which prohibited compensation for excessive fees for drainage of agricultural land (Muškinja Hajnrih 2011: 123-124), while in 2011 the office filed an appeal before the Constitutional Court questioning the constitutionality of the Law on Financial Support of Families with Children (Muškinja Hajnrih 2012: 94-95). In all three cases, there is no information available about the court’s decisions as of August 2012. Similarly, in February 2009 the local Ombudsman of Zrenjanin submitted a constitutionality assessment request about provisions of the Law on Amendments and Supplements to the Law on Citizenship of the Republic of Serbia (Radlovački Grozdanov 2012: 18). Nevertheless, the Constitutional Court has not issued any decision as of August 2012. The above examples of non-responsiveness abolish in practice the right of ombudsman institutions to question the constitutionality or legality of legislation before the court, an observation that reinforces the

Centre for Civil Education in Vršac, the Centre for Peace and Democracy, the Regional Centre for Minorities, and a number of citizens (Janković 2011: 102).

argument that enforcement of judgements is not the main reason which motivates ombudsman institutions to interact with the Constitutional Court. However, in contrast to peripheral ombudsman offices, the ability of the national Protector of Citizens to mobilise civil society and attract publicity around social issues explains why judicialisation is a more relevant strategy for accounting actors with diverse exchangeable resources and high networking potential.

In conclusion, this section has examined the interactions between ombudsman institutions and the Constitutional Court of Serbia in order to explore potential networks of state accounting actors from the perspective of judicialisation, i.e. the activation of courts by independent oversight bodies. From the perspective of triadic dispute resolution, courts are delegated by state accounting institutions to enforce judgments on their behalf. However, ombudsman institutions are commonly characterised by a paradox: on the one hand, they acknowledge the consequences of their limited enforcement powers; on the other hand, they are hesitant to use penalisation through the courts. In Serbia, ombudsman institutions are authorised to question the constitutionality or legality of legislation before a state accounting actor with legally binding decisions, the Constitutional Court. Despite of lengthy judicial proceedings and non-responsiveness on behalf of the court, ombudsman institutions – particularly the national Protector of Citizens – insist on forwarding cases jointly with other state and social accounting actors. The examination of individual cases in Serbia confirms Peruzzotti and Smulovitz’s argument that mediatisation and social mobilisation complement the judicialisation strategy. In other words, ombudsman institutions interact with the Constitutional Court in order to attract publicity about social issues and accordingly mobilise various actors rather than enforce judgements in a strictly formal process of judicialisation. The following chapter explains how strategies of mediatisation and social mobilisation enrich triadic dispute resolution through informality and non-institutionalisation.

4.5 Conclusions

This chapter has examined the relations between Serbian ombudsman offices at the national, regional and local levels and their interactions with selected independent oversight bodies and the Constitutional Court with the aim of exploring potential horizontal networks of

accounting actors in post-transition Serbia. These actors occasionally communicate and cooperate by forwarding cases to one another, implementing projects and participating in events related to the promotion of human rights and the combat of maladministration in the public sector. Institutionalised cooperation is formally defined by legislation, but the relationship between local ombudsmen or independent oversight bodies shows that cooperation depends largely in practice on interpersonal relations embedded in trust. In any case, state accounting actors acknowledge the necessity of interacting as a means of making up for the deficiencies of institutional design, but only those with adequate resources, multiple interactions and support from international, state or social actors, like the national Protector of Citizens, have an increased chance of accomplishing their goals through potential networking. From a policy network perspective, the availability of diverse exchangeable resources and the ability to interact with other independent oversight bodies explains the emphasis of this chapter on the national Protector of Citizens.

Nevertheless, a series of factors in post-transition Serbia impede the realisation of Diamond's idealised model of public accountability according to which:

...integrity and transparency in government are best achieved when state agencies of horizontal accountability interlock and overlap in a systemic fashion (2008: 303).

First of all, competition over resources and allocated duties as well as distrust characterise the relationship between peripheral ombudsmen and the national Protector of Citizens. On the other hand, the chances of independent oversight bodies reinforcing their capacities through potential networking with each other are limited as a consequence of comparable qualifications, competences and resources. Last but not least, the Constitutional Court, the only accounting actor in this thesis which can make legally binding decisions, is characterised by lengthy judicial procedures and plays a reactive rather than a proactive role in the protection of constitutionally guaranteed rights, unless it is under pressure from the international community, a coordinated network of state and social accounting actors or the public. From the perspective of triadic dispute resolution, ombudsman institutions fail to reinforce their position as dispute resolvers given the limited benefit of institutionalised interactions with other state accounting actors. The aforementioned limitations are arguably typical of transforming post-transition settings like that of Serbia. Individuals representing old and new elites and institutions compete over resources in order to secure their position in a new political, financial and social reality, while the international community occasionally

exerts pressure “from the outside” when there is domestic reluctance or resistance to post-transition institution building reforms in the name of democratisation. In any case, the combination of competitive relations and distrust among state accounting actors reduces the impact of their involvement in stages of public accountability. In other words, occasional communication and cooperation over the transfer of cases numerically limits the investigation of wrongdoings in the public sector and the respective provision of information and justification by accountable parties, while the absence of coercive powers in correlation with the aforementioned limitations of judicialisation reduce the chance that the decisions or actions of state accounting actors like ombudsman institutions will be enforced.

The intrinsic weaknesses and limitations of potential horizontal networks of accounting actors explain why independent oversight bodies in Serbia increasingly interact with social actors such as civil society organisations and the media. This argument particularly concerns institutions with diversified resources and networking potential, such as the national Protector of Citizens or the Commissioner for Information of Public Importance and Personal Data Protection. By cooperating with social actors, state accounting institutions reinforce capacities through non-institutionalised mediatisation and social mobilisation, while they build up an “independent” public image by interacting with non-state actors, as I explain in the following chapter of this thesis.

Chapter 5

Public accountability from below: civil society and the media as accounting actors

5.1 Introduction

5.2 Reapproaching the “evil” state: civil society organisations’ motivations for and expectations from networking with ombudsman institutions

5.3 “Big mouth but very short hands”: ombudsman institutions, media and the consequences of publicity

5.4 The perception of independence as a resource among interacting accounting actors

5.5 Conclusions

5.1 Introduction

The recent proliferation of independent oversight bodies worldwide arguably indicates an increasing interest in additional mechanisms of public accountability not only in former communist states like Serbia as part of post-transition institution building but also in the older democracies of North America and Western Europe as an intrastate supplement of legislative checks and balances. These institutions are established with the aim of reinforcing accountability “from within” as part of the state apparatus. However, according to liberal democratic scholars public accountability is meaningless without the conscious involvement of active citizens (e.g. O’Donnell 1998; Schedler 1999a; Morlino 2004; Schmitter 2004; Diamond 2008). Arato, for example, argues that

on the level of institutional design, accountability should be complemented by institutions of deliberation, constitutionalism, and descriptive representation. But for accountability to really work, the self-activity of citizens in democratic public and civil society remains the most important precondition (2006: 322).

In short, the author pinpoints that public accountability is formally defined by state accounting institutions that are legally authorised to hold state authorities and public officials accountable for their decisions or actions, however the existence of democratically conscious citizens eventually substantiates the notion of public accountability. Arato’s argument echoes

the Putnamean notion of civic community, according to which individuals are conceptualised as conscious citizens who have a genuine interest in public issues and define self-interests in tune with broader public needs (Putnam 1993: 88). Notwithstanding normative connotations, the intrinsically public character of accountability in the context of the liberal democratic paradigm underlines the need to examine this phenomenon “from below”.

In any case, the public element is arguably the common denominator of accountability “from within” and “from below”. More precisely, as I explained in the introductory chapter of this thesis, two factors determine the public nature of accountability. On the one hand, account is in principle open to the general public, which means that the latter shall be informed about an actor’s conduct and the final judgement. On the other hand, public accountability is not necessarily restricted to public organisations, but can extend to private bodies that deal with matters of public interest. In other words, the above concept concerns accountability “in and about the public domain” (Bovens 2006: 11-12). Overall, even though they reflect elements of democracy, republicanism and liberalism as theoretical traditions to differing degrees (e.g. O’Donnell 1999; Schmitter 2004), cases of accountability both “from within” and “from below” are perceived in this research project as subtypes of public accountability.

Particularly, by embracing the idea of civic engagement, Peruzzotti and Smulovitz’s concept of social accountability arguably corresponds to the latter notion: “from below”. More precisely, social accountability refers to

a non-electoral yet vertical mechanism of control of political authorities that rests on the actions of an array of citizens’ associations and movements and the media. The actions of these groups monitor public officials, expose governmental wrongdoing, and can activate the operation of horizontal agencies. Social accountability employs both institutional and non-institutional tools. The activation of legal actions or claims before oversight agencies is an example of an institutionally channelled action; social mobilisations and media exposés are examples of non-institutional ones (2006a: 10).

According to this approach, citizens are actively or reactively involved in public accountability through civil society and the media. More precisely, the concept of social accountability assumes that the exposure of wrongdoing by the media mobilises civil society organisations to react (or vice versa) in a way which means that coordinated actions exert public pressure on the state authorities to account for their decisions or actions. In contrast to judicialisation, discussed in section 4.4 of this thesis, mediatisation and social mobilisation

are non-institutionalised strategies of social accounting actors. A prerequisite of both strategies is the reactive (to the media) or active (through civil society organisations) involvement of citizens in the exposure and denunciation of wrongdoings. In any case, the concept of social accountability as a subtype of public accountability argues that social actors such as civil society organisations and media have the potential, with the aid of citizens, to hold state authorities accountable through non-institutionalised strategies.

Several scholars pinpoint the possibility of interdependence between different types of public accountability (e.g. O'Donnell 1998; Mainwaring 2003; Michels & Meijer 2008; Sperling 2009) and Peruzzotti and Smulovitz make no exception to this rule, arguing that social accountability can accomplish its goals through the employment of institutional tools such as judicialisation and the subsequent activation of state accounting actors. Inspired by this suggested complementarity between horizontal and social accountability, this research project explores the role of ombudsman institutions as accounting actors in Serbia by examining their interactions with other state and social actors. The analysis of potential networking between ombudsman institutions, independent oversight bodies and the Constitutional Court in Serbia in the previous chapter of this thesis showed that the idealised model of horizontal accountability in which state accounting institutions “interlock and overlap in a systemic fashion” (Diamond 2008: 303) is problematic in practice as a consequence of competition between interacting partners, restricted resources and the intrinsic limitations of judicialisation (e.g. longstanding judicial proceedings). Based on empirical findings that show increasing interaction between state and social accounting actors in post-transition Serbia, this chapter focuses on the interactions between ombudsman institutions, civil society organisations and the media with the aim of examining the assumption that social accounting actors and their resources make up for the deficiencies of horizontal accountability, therefore improving the involvement of state accounting actors in the investigation, exposure, denunciation and perhaps correction of wrongdoings in the public sector.

In short, this chapter focuses on social accounting actors complementarily to the analysis of horizontal accountability in the previous chapter of this thesis. The first section examines civil society by looking at various civic associations and NGOs that communicate and cooperate to differing degrees with ombudsman institutions and exchange a wide range of material and non-material resources. This research shows that several civil society organisations in Serbia acknowledge the opportunities for networking with some of these institutions (e.g. the national Protector of Citizens), nevertheless they are partly sceptical

about cooperation with the state as a consequence of their traumatic relationship in the 1990s. From a policy network perspective, the rational calculation of benefit maximisation is undermined by longstanding distrust and competitive relations between interacting actors. The next social accounting actor examined in this chapter is the media. This thesis delineates the interactions between Belgrade-based or peripheral media and ombudsman institutions, and lays particular emphasis on publicity as a resource that can be used in all three major strategies of social accounting actors: mediatisation, social mobilisation and judicialisation. However, the media's widespread dependence on political and business interests in correlation with the general absence of investigative journalism in contemporary Serbia reduces the potential impact of publicity as a crucial resource for accounting actors. Last but not least, this chapter discusses the controversial issue of independence from the executive and concludes that state institutions with diversifying resources, networking potential and international support, such as the national Protector of Citizens and the Commissioner for Information of Public Importance and Personal Data Protection, interact strategically with social stakeholders in order to reinforce their "independent" public image by interacting with non-state actors. In other words, they consciously choose to utilise this relationship, even in cases when they might be partly distrustful towards certain social actors. Overall, this chapter argues that potential networking with social actors can reinforce the position of ombudsman institutions in triadic dispute resolution through non-institutionalised actions of mediatisation and social mobilisation; however the model of social accountability in practice pays limited attention to distrust and competitive relations among accounting actors and the existence of disenchanting and apathetic citizens in Serbia, as I explain in the conclusions of this thesis.

5.2 Reapproaching the "evil" state: civil society organisations' motivations for and expectations from networking with ombudsman institutions

In two decades of post-communist studies, few concepts have swayed between unconditional praise and scathing criticism to a greater extent than civil society. One reason explaining this polarisation is the discrepancy between the expectations before and during regime change and the results delivered, or the role of civil society in the post-transition setting. In short, in

principle the debate concerns the relationship between civil society and democratisation.¹³⁴ Influenced by diverse approaches such as Almond and Verba's, Putnam's and Linz and Stepan's path-breaking research on civic culture, social capital and democratic consolidation respectively, several scholars see a strong correlation between civil society and democracy (Howard 2003: 32; 44, Brown 2009: 7). Their opponents, on the other hand, use various examples from Central and Eastern Europe in order to argue that a "strong" – in quantitative terms – civil society is not automatically correlated with successful democratisation or vice versa (White 2004: 11; Taras 2005: 33-34; Grødeland 2006: 222), while they criticise the perception that civil society organisations are by definition good for democracy as they can also represent illiberal or "uncivil" interests (Kopecký & Mudde 2003: 11; Cohen & Lampe 2011: 169).

The conviction that a vibrant civil society has a reinforcing effect on democracy dates back to Locke, Montesquieu and Tocqueville (Merkel 2001: 97). Although the Romans spoke of "*societas civilis*", civil society is a product of the Enlightenment, prior to which the conceptual boundaries between state and society were blurred (Bachmueller 1999: 27-28). Nowadays the term refers to

an intermediate associational realm between state and family populated by organisations which are separate from the state, enjoy autonomy in relation to the state and are formed voluntarily by members of society to protect or extend their interests or values (White 2004: 10).

This minimalist and rather descriptive definition of civil society attempts to avert the normative and positivist assumptions that characterise most related conceptualisations in the literature (Bachmueller 1999: 26-27; Baker 2004: 43). Diamond, for example, emphasises the virtues of civil society, outlining ten democratic functions: 1) monitoring and restraining the power of the state, 2) stimulating political participation, 3) developing a culture of tolerance, moderation and compromise, 4) creating alternative channels for the articulation, aggregation and representation of interests other than political parties, 5) mitigating cross-cutting cleavages, 6) recruiting and training new political leaders, 7) improving the functioning of democratic institutions, 8) disseminating information to citizens who wish to defend their

¹³⁴ Scholars tend to look mainly at the impact of civil society on democratisation and not vice versa, underestimating the complex processes that shape civil society in a transition or post-transition setting. Hence, Milton argues that "the process of democratisation both encourages and discourages the advancement of civil society by empowering political actors to participate, but, also use or exploit state and civil society institutions to advance particularistic claims that can sometimes undermine both democracy and civil society" (2005: 12).

interests and values, 9) accelerating economic reform, and 10) legitimising the democratic state through the promotion of accountability, responsiveness, inclusiveness and effectiveness (1994: 7-11). Many of these functions reflect theories with a long tradition in political philosophy such as the protection of private sphere from the state (Locke), the monitoring and control of state power (Montesquieu), the political socialisation of citizens and recruitment of democratic elites (Tocqueville) or the creation of channels for the generation, aggregation and articulation of interests (Habermas) (Merkel 2001: 97-100, 107-110).

In the first years of post-communist regimes, the aforementioned normative and positivist assumptions had a decisive impact upon the perspective of the international community, donor governments and policy-makers who viewed civil society as a solution to a range of problems ranging from disenchantment with politics and lack of accountability to maladministration (Matveeva 2008: 3). However, the intrinsic weaknesses of civil society in post-communist Europe, such as significantly lower participation in voluntary organisations than in other post-authoritarian countries, widespread distrust towards civil and political institutions or the undemocratic elements present in certain civil societies, most notably in the Balkans and the former Soviet Union (Howard 2003: 63; Kopecký & Mudde 2003:1-2), underline the need to reconsider the analytical depth of the concept and the actual role of civil society in democratisation processes. As a consequence, various scholars criticise the literature's orthodox view of civil society as a panacea (White 2004: 6, Brown 2009: 6), while Merkel argues that, "while a strong civil society is almost unthinkable without a solid civic culture, stable representative democracies can exist without a strong civil society, though not without a sufficiently well-rooted civic culture" (2001: 101), thus disassociating the existence of a vibrant civil society from democratic consolidation.

Two other characteristics of civil society that have been widely criticised during the last two decades of post-communist studies are donor dependence and politicisation. The former refers to the financial dependence of several civil society organisations on international organisations and donors or even the state, which has a decisive impact upon the intentions and actual content of their work. Brown criticises the category of civil society organisations that "build their reputation on their ability to write good applications and disburse funds on time" (2009: 13), while Grødeland concludes by referring to her research in the Western Balkans that NGO projects are designed and implemented according to the priorities of donors rather than local needs, which in turn has the consequence that civil society

organisations end up being accountable to those funding their projects rather than the general public (2010: 177, 183-184).

The occasional financial dependence of NGOs on national governments arguably undermines the Lockean distinction between state and society as the latter loses part of its autonomy. In the case of Central and Eastern Europe, financial dependence on the state is often combined with the politicisation of civil society, particularly during and after regime change. Kopecký and Mudde note the blurred boundaries between political parties, civil society and the state in the region and explain that

historically, political parties have been seen as part of civil society. In contrast, contemporary political parties are seen as primarily part of the state, while their ties with civil society are considered to be largely eroded. In all likelihood, they have always been part of both, with a primary focus on either civil society or the state being more or less pronounced in different historical periods (2003: 5).

There are various reasons for the, albeit partial, post-transition fusion of civil society with political parties or even the state. On the one hand, civil society organisations seek new sources of funding, especially in countries like Serbia where international donors retreated after the change of regime (Stewart 2009: 804), while on the other hand NGO activists frequently have political or simply professional aspirations, hence they aim to take up posts in the state apparatus (Vetta 2009: 31). However, Grødeland shows through her research on Serbia that the politicisation of NGOs is one reason for citizens' widespread distrust of civil society (2006: 234).

Despite the aforementioned critique deriving from the disparity between the idealised conceptualisation of civil society and its actual implementation in practice, the normative assumptions of the concept arguably still remain unchallenged. Baker, for example, criticises prominent scholars of democratisation studies such as O'Donnell, Schmitter, Diamond and Valenzuela for understanding democracy in a strictly institutionalist way, as a means by which to control the state, de-politicising civil society and supporting "hierarchism" by focusing exclusively on "the formal institutions of the state as the sphere of politics and democracy 'proper'" (2004: 47, 54-64). As a consequence, civil society is deprived of its radical dimension (ibid: 65) and is redefined to serve liberal democratic values (Dahrendorf 1990: 15-16). Other scholars defend the liberal democratic origins of civil society, arguing that the concept is an intrinsically Western product which arose out of the Enlightenment, a

distinct historical experience, hence its potential transfer elsewhere may have positive or negative outcomes (Bachmueller 1999: 31; Howard 2003: 49; May 2005: 8).

With regards to this research project, I acknowledge the aforementioned normative and positivist assumptions of the relevant literature but I argue that it is unrealistic and equally biased to detach the concept of civil society from its liberal democratic origins, as with post-transition institution building and democratisation in general. The same argument concerns ombudsman institutions and their impact on public accountability. Hence, this thesis focuses on state and social accounting actors in Serbia within the liberal democratic post-transition context as it is influenced by political elites and international policy-makers. In spite of partial donor dependence and politicisation, civil society is conceptualised as a social actor which has the potential to monitor and restrain the state as well as to stimulate political socialisation, on condition that it communicates and interacts with other accounting actors for legitimacy and resources. Thus, networking is a prerequisite for the fulfilment of civil society's anticipated functions.

Historically, the concept of civil society dates back to the first political thinkers of modernity, but it was revived in the 1980s in order to describe social movements in Central and Eastern Europe, such as *Solidarność* in Poland, which dynamically questioned the communist regimes of that time. The confrontation between these social movements and the collapsing regimes reinforced the Manichean distinction between state and society. White notes on the revival of civil society that

the idea became embroiled in a demonology of the state, functioning often as an idealised counter-image, an embodiment of social virtue confronting political vice: the realm of freedom versus the realm of coercion, of participation versus hierarchy, pluralism versus conformity, spontaneity versus manipulation, purity versus corruption (2004: 7).

However, the gradual rise of nationalist anti-communist movements at the end of the 1980s and the beginning of the 1990s in the Baltic States, Yugoslavia and elsewhere undermined the widespread idea of civil society as inherently good. Contrary to scholars and policy-makers who still perceive these “uncivil” movements as an anomaly, Kopecký and Mudde argue that they are more authentic representatives of civil society in post-communist Europe compared to standard elite-driven NGOs which are detached from society (2003: 4). On the other hand, Kostovicova perceives the emergence of civil – uncivil movements as a reaction to the respective regimes of each era; for instance, civil society in Serbia did not express

uncivil tendencies in the 1990s by being opposed to Milošević's inherently uncivil regime (2006: 27). In any case, civil and uncivil movements challenged the existing status quo and predetermined the development of civil societies in the post-transition setting. In Central Europe (e.g. Czech Republic, Poland and Hungary), the leaders of anti-communist movements came to power and their organisations were integrated into the new system, while in Eastern Europe, particularly in countries that emerged from the Soviet Union, civil society was excluded from power, hence it maintained a role of opposition to the state authorities (May 2005: 6).

Surely, the examination of civil society in post-communist Europe is incomplete without any reference to the involvement of the international community. Throughout the 1990s, several international organisations, foundations and national governments represented by development aid agencies, invested significant funds in the implementation of numerous projects ranging from humanitarian aid to the promotion of human rights and institution building. In spite of their longstanding presence and multi-faceted activities in the region, they have been widely criticised for (among other reasons) paying no attention to sustainability beyond project completion dates (Mertus 1999: 128), bypassing the state and its institutions (Matveeva 2008: 4) and alienating NGOs from local communities (Kopecký & Mudde 2003: 5). As a consequence, Grødeland shows through her research in the Western Balkans that

NGOs were seen as biased (all the countries), as not trustworthy organisations (Serbia and Bosnia), as organisations failing to give sufficient attention and consideration to local needs (Serbia), and as organisations promoting a Western agenda (Macedonia) (2006: 235-236).

Many of these problems derive from the aforementioned financial dependence of civil society organisations on international donors. In other words, funding arguably explains why several NGOs in the region designed projects that did not necessarily correspond to the needs of the local community but met the expectations of international donors (Grødeland 2010: 183-184).

The region of former Yugoslavia is a unique case for the examination of civil society in post-communist Europe due to the rise of nationalism and the Yugoslav Wars, which dictated an anomalous development for the first local civil society organisations. For several decades of communist rule, Yugoslavia was politically and culturally one of the most liberal states in Central and Eastern Europe, as its "non-aligned" foreign policy in correlation with the proclaimed ideology of "self-management" and successive waves of cultural liberalisation led

to the emergence of “narrow, scattered, and mutually isolated spaces of free and autonomous social organising” (Spasić 2006: 205-206). However, until Tito’s death the concept of civil society remained non-existent in Marxist vocabulary (Savic 2004: 76), and only a few alternative movements in Slovenia from the 1980s on arguably count as the predecessors of civil society in the region in terms of exerting pressure on official policy (Golubovic 2004: 88). However, according to Spasić the Yugoslav paradox lies in the fact that the “soft” system of self-management was influential enough to blur the boundaries between the state and society, preventing Yugoslav civil society from emerging at the time conditions were conducive in the 1980s (2006:206). Furthermore, the political vacuum after Tito’s death created space for the rise of nationalism which found solid ground in a traditionalist society with strong collectivist and anti-individualist tendencies (Golubovic 2004: 89, 96; Cohen & Lampe 2011: 186). As a consequence, the disintegration of Yugoslavia took place in a particularly unfavourable political and cultural context for the emergence of a post-communist civil society in the region.

The history of Serbian civil society in the 1990s is closely associated with the general opposition movement against Milošević’s regime. In spite of the existence of limited space for pluralism which permitted the emergence of the first genuine post-communist civic associations and NGOs, the ruling party used legal (e.g. lack of a clear legal framework for civil society activities), paralegal (e.g. police raids, detentions, financial controls) and ideological methods (e.g. accusations through the regime-controlled mass media) to repress these segments of civil society (Spasić 2006: 207-208). In particular, the impact of the regime-controlled media on the reputation of NGOs was detrimental given the dominance of the former in public discourse. In addition, the opposition failed several times throughout the 1990s to create a broad anti-regime coalition due to a series of structural weaknesses: high fragmentation, lack of internal democracy, inconsistency in terms of cooperating with Milošević’s regime, polarisation due to the “national question” as expressed through the involvement of Serbia in the Yugoslav Wars and lack of political experience, at least until the first victory of the opposition in the 1996 local elections (Bieber 2003: 79-82).

Among several waves of significant protests during the 1990s, the daily demonstrations in winter 1996/7 arguably had the most decisive impact upon the development of Serbian civil society; on the one hand, the protests gave the opportunity to a wide array of opposition parties, civil groups and independent individuals to communicate and interact systematically over a long period in Belgrade, a city that embodied the urban, anti-nationalist reaction to

Milošević's regime (Gordy 1999: 13; Jansen 2000: 38), while on the other hand the break-up of the opposition coalition *Zajedno* disillusioned several politically active citizens who searched for an alternative in civil society (Bieber 2003: 84). As a consequence, the following years leading up to the regime change in 2000 were characterised not just by the enlargement of civil society but also by a general improvement in terms of infrastructure, professionalisation, acquisition of management skills by the staff, cooperation between civil groups and coordination, which constituted in turn the foundation for the 2000 election and post-election campaigns which removed Milošević from power (Spasić 2006: 208-210).

In spite of the highly anticipated change of regime, civil society in Serbia faced a series of post-transition problems and challenges. First of all, for several civic associations and NGOs the end of Milošević's regime signified the obsolescence of their *raison d'être* (Bieber 2003: 87), leading some of their international supporters to withdraw just after the main goal of Milošević's removal from power was accomplished (Stewart 2009: 810-811). After the turbulent 1990s, the EU transformed gradually into the main donor of civil society organisations in the Western Balkans (Fagan 2006: 120). The subsequent loss of international funding became an important reason for a number of civil organisations to reconsider their anti-statist biases and re-approach the state for financial and other resources (Kostovicova 2006: 23; Vetta 2009: 36). Paradoxically, the post-transition circumstances blurred the boundaries between state and civil society as influential social movements like *Otpor* transformed into political parties (ibid.: 32) and prominent NGO activists took up political posts (Stewart 2009: 808; Cohen & Lampe 2011: 173). The politicisation of civil society through its gradual fusion with political parties and the state apparatus arguably explains the widespread distrust of citizens towards civic associations and NGOs (Grødeland 2006: 234). Last but not least, the financial difficulties in correlation with an obsolete legal framework dating back to the communist era (Law on Public and Social Organisations and Citizens' Associations from 1982 and Law on the Affiliation of Citizens in Associations, Public and Political Organisations from 1990) decisively restrict the activities of civil society organisations in the post-transition political context (Spasić 2006: 212; Fagan 2010: 140).

This chapter looks at the interactions between ombudsman institutions and civil society organisations in Serbia¹³⁵ since the establishment of the first ombudsman office in 2002 in

¹³⁵ This research project is based on interviews that I conducted during fieldwork in Serbia with representatives of the following NGOs: Civic Initiatives, Belgrade Centre for Human Rights, Democratic Transition Initiative, Veliki Mali, Centre for Youth Integration, IAN, Transparency Serbia, UNIFEM, YUCOM, Labris, Iz kruga,

Bačka Topola. Based on Peruzzotti & Smulovitz's concept of social accountability, this analysis focuses on the involvement of civil society in potential networks of accounting actors through the implementation of institutional (judicialisation) and non-institutional strategies (mediatisation and social mobilisation). As I explained at the beginning of this section, various democratic functions have been attributed to civil society, ranging from control of state power and interest aggregation and articulation to public dissemination of information and promotion of civic culture (Diamond 1994: 7-11). By exploring incentives and expectations, the aim of this section is to examine the assumption that ombudsman institutions and civil society organisations communicate and cooperate with each other in order to reinforce their role as accounting actors through the exchange of material and non-material resources, therefore improving their involvement in the investigation, exposure, denunciation and possibly correction of wrongdoings in the public sector. In view of the aforementioned institutional (judicialisation) and non-institutional (mediatisation and social mobilisation) strategies and their consequent resources, civil society is thus conceived in this research project as a heterogeneous group of civic associations and non-governmental organisations that arguably has the potential to monitor and restrain the state in cases of misconduct in the public sector by interacting with other state and social accounting actors.

In theory, the relationship between ombudsman institutions and civil society is defined by their alleged commitment to human rights protection. The first annual report of the Serbian Protector of Citizens notes that

considering the nature of ombudsman institution and the significance of the non-governmental sector for the development of democracy, especially for the protection and promotion of human and minority rights in the Republic [of Serbia], cooperation with organisations of civil society and especially with non-governmental organisations is one of the fundamental strategic elements of the Protector of Citizens (Janković 2008: 45).

This statement echoes a normative assumption popular in the relevant literature that ombudsman institutions and civil society organisations are by definition beneficial to democracy through the protection and promotion of human rights; hence, cooperation is the natural outcome of a shared commitment to liberal democratic ideals. On the other hand, the

Centre for Civil-Military Relations and Helsinki Committee for Human Rights in Serbia. The sample was selected on grounds of previous interaction with the national Protector of Citizens as it was summarised in the annual reports of the latter from 2007 to 2010 (Janković 2008; 2009; 2010; 2011).

reference to a strategy implies that the national Protector of Citizens expects to accomplish its goals by profiting from this interaction. As I explain later in this section, strategic calculation is arguably a motivating factor that explains the attitude of ombudsman institutions towards civil society. In any case, the positive attitude of the national ombudsman indicates a general shift from contentious discourse and antagonism to a “normalised” relationship of potential cooperation between state agencies and civil society that has been observed in most South-East European states during the last decade (Cohen & Lampe 2011: 182).

In practice, the aforementioned emphasis of the national Protector of Citizens on civil society is articulated through consistent communication and cooperation with a wide range of civic associations and NGOs. The first meeting between the national ombudsman and directors of civil society organisations took place in October 2007 soon after the establishment of the former¹³⁶ and aimed at identifying the possibilities for further cooperation. Some of the topics discussed at that meeting were the role of civil society organisations in the field of human rights protection but also the compliance of their operations with the Serbian Constitution and European standards. On the other hand, the Protector of Citizens declared his commitment to support civil society organisations when needed (Janković 2011: 111-112). In other words, the national ombudsman aims to take advantage of the expertise that civil society organisations have in the field of human rights while indirectly regulating their activities through the implementation of international standards. However, the profit from this interaction is potentially mutual as civil society organisations secure an ally in the state apparatus than can defend them in case of potential threats from hostile state institutions.

In short, the national Protector of Citizens has maintained regular communication with civil society organisations by participating in numerous conferences, seminars, roundtables, workshops and other meetings organised by both sides, often under the auspices of international organisations¹³⁷ (for detailed information, see appendix E). Apart from

¹³⁶ The relationship between the national Protector of Citizens and civil society in Serbia was not always smooth. Many NGOs were initially opposed to the candidacy of Saša Janković for the position of the first ombudsman as he was perceived to be a political appointee. However, their relationship improved in the course of time as a consequence of gradual approximation between the ombudsman as a person and institution and civil society organisations. The same reaction was observed a few years later with the election of Nevena Petrušić as the first Commissioner for Gender Equality (interviewee 20, representative of international organisation, interviewee 22, journalist, interviewee 35, academic).

¹³⁷ The active involvement of international organisations in linking ombudsman institutions and civil society organisations arguably indicates a new, non-confrontational understanding of the relationship between state and civil society in the post-transition context. The promotion of civil society complementary to institution building echoes the argument that civil society in new democracies needs a functioning state against which it can define itself (Matveeva 2008: 6).

cooperating occasionally over individual complaints of maladministration or violation of rights, the national Protector of Citizens has also established advisory bodies for a range of issues ranging from minority rights to gender equality and LGBT rights, in which specialised NGO staff and academics participate (Janković 2010: 64-65). In addition, the national ombudsman technically and financially assists projects by civil society organisations related to the office's jurisdiction, such as IAN's three-year "Torture Prevention and Rehabilitation Programme" under the auspices of the EU and UNVFVT¹³⁸ or the regional project "Prevention of Exploitation of Children in South-East Europe" in cooperation with the NGO Save the Children and the Centre for Youth Integration.¹³⁹ Support is to a certain extent reciprocal given that individual NGOs actively promote the ombudsman concept through the implementation of relevant projects or the organisation of public events. For instance, the Democratic Transition Initiative implemented a project promoting the establishment of student ombudsmen at schools in Zrenjanin and Sombor with funds from CIDA,¹⁴⁰ while YUCOM, the Belgrade Centre for Human Rights and USAID launched a project entitled "Reinforcing the Role of Ombudsman in the Republic of Serbia" in March 2012.¹⁴¹

With the exception of the Provincial Ombudsman of Vojvodina, which maintains consistent communication and cooperation with numerous civil society organisations as does the national Protector of Citizens, ombudsman offices at the local level are generally less interconnected with civil society (interviewee 24, interviewee 33, interviewee 36, local ombudsmen). Their annual reports show that interaction with civic associations and NGOs is in most cases restricted to participation in common public events, such as conferences, seminars and roundtables which are mainly organised by international organisations, Belgrade-based civil society organisations or the national Protector of Citizens and the Provincial Ombudsman of Vojvodina. In spite of their potential to interact with organisations in their region, peripheral ombudsman offices rarely implement projects in cooperation with local NGOs (for detailed information, see appendix E). As a consequence, the scarcity of relevant initiatives indicates that the majority of local ombudsman offices are linked

¹³⁸ IAN, 2010. Program prevencije torture i rehabilitacije žrtava, <http://www.ian.org.rs/PrevReh/index.htm> [Accessed 05 October 2012]

¹³⁹ Centar za integraciju mladih, 2011. Dečje Prosjačenje u Republici Srbiji, <http://www.cim.org.rs/projekti/decje-prosjacenje-u-republici-srbiji/> [Accessed 05 October 2012]

¹⁴⁰ Danas, 2007. Zrenjanin dobio prvog đaćkog ombudsmana u Srbiji, http://www.danas.rs/vesti/hronika/patrijarhat_jos_trajje.3.html?news_id=106753 [Accessed 13 October 2012]

¹⁴¹ Beogradski centar za ljudska prava, 2012. Jačanje uloge ombudsmana u Republici Srbiji, http://www.bgcentar.org.rs/index.php?option=com_content&view=article&id=959:jaanje-uloge-omudsmana-&catid=83 [Accessed 13 October 2012]

reactively to civil society. The explicit preference for the media rather than civil society organisations, which I discuss below, arguably shows a lack of interest on behalf of local ombudsmen.

The sporadic and inconsistent interaction between peripheral ombudsman offices and civil society organisations is interpreted in various ways. First of all, the centralisation of civil sector in Serbia arguably affects civil initiatives beyond Belgrade. A local ombudsman of a rural municipality notes that the presence of civic associations and NGOs in his region is so scarce and weak that only Belgrade-based organisations have the expertise and other resources to organise public events and implement projects for the promotion and protection of human rights (interviewee 27). Thus, civil society in Serbia arguably suffers from “brain drain” as a consequence of a centre-periphery cleavage (interviewee 4, NGO activist); in other words, the concentration of civil society organisations in Belgrade deprives the rest of the country of vital human capital. Overall, this geographic disparity between centre and periphery derives from unequal networking opportunities and transferrable resources, a consequence of which is the asymmetrical positioning of the national Protector of Citizens and peripheral ombudsman offices in potential networks of accounting actors in Serbia, as has been variously discussed throughout this thesis.

However, the argument of incomplete decentralisation neglects the attitudes, motivations and expectations of ombudsman offices and civil society organisations as interacting partners. More precisely, the majority of interviewees in this thesis that represent local ombudsman offices acknowledge in theory the importance of potential networking with civil society organisations, nevertheless they eventually prefer the media when it comes to actual cooperation given that the latter are widely perceived as more efficient and influential (e.g. interviewee 28, interviewee 30, interviewee 36, local ombudsmen). From a network perspective, this preference for the media rather than civil society indicates that accounting actors such as ombudsman institutions select their potential networking partners on the grounds of resources and competences. As a consequence, weak actors (e.g. local ombudsmen, small NGOs) have a higher probability of being marginalised within a network than their stronger and resource-rich counterparts. As I explain in more detail below, the same benefit-oriented calculation concerns civic associations and NGOs when it comes to interaction with other social or state accounting actors. In other words, this research shows that civil society organisations conceive of networking as an opportunity to make up for their deficiencies through the exchange of a wide range of material and non-material resources,

hence they deliberately prefer to communicate and cooperate with central and resource-rich actors such as the national Protector of Citizens or the Provincial Ombudsman of Vojvodina rather than peripheral ombudsman offices.

This research project focuses on the occasions of communication and cooperation between ombudsman institutions and civil society with the aim of identifying the motivations and expectations behind this interaction. Overall, the majority of interviewees in this thesis who represent civil society organisations describe communication with the national Protector of Citizens as “occasional” but “open and honest” (e.g. interviewee 1, interviewee 5, interviewee 7, interviewee 10, NGO activists). NGOs are often in contact with the national ombudsman through mailing lists but the main occasions for interaction are public events, such as conferences, seminars and roundtables, which are also an opportunity for networking; as a matter of fact, certain interviewees noted that cooperation with the national Protector of Citizens over individual projects was agreed at events like the aforementioned, as the personnel of the ombudsman office has been “open, proactive, responsive and supportive” to initiatives and proposals (interviewee 4, interviewee 9, NGO activists). In other words, this research confirms the reciprocal interest of both sides in communication and cooperation.

Notwithstanding the overall satisfaction with the existing degree of interaction, certain interviewees from civil society argue that increasingly institutionalised communication with the national Protector of Citizens would not necessarily be beneficial to their organisations (interviewee 5, interviewee 13, NGO activists). This critical viewpoint does not imply that they are opposed to further communication and cooperation but that they are sceptical about a more formalised relationship; in fact, this research shows that interaction between civil society organisations and the national ombudsman office has been largely informal as a consequence of personal contacts. The employee of a Belgrade-based NGO explains that, “we have quite good cooperation with the ombudsman; the ombudsman personally and the ombudsman as an institution” (interviewee 13, NGO activist), similarly to another NGO activist who claims that his director knows Saša Janković in person hence they communicate “more informally than formally” (interviewee 2). In short, informality is implicitly correlated with efficiency and speed, which is why institutionalisation is perceived by a number of interviewees as a restraining factor in the relationship between civil society and ombudsman institutions.

The importance of personal contacts for the intensification of cooperation and consolidation of trust among network participants is particularly apparent when it comes to the deputies of the national Protector of Citizens. Tamara Lukšić-Orlandić, deputy ombudsman for children's rights, and Zorica Mršević, former deputy ombudsman for gender equality and persons with disabilities, were actively engaged in civic associations and NGOs for several years before moving to the public sector, hence they are widely perceived in civil society as "their people" with a good knowledge of human rights (interviewee 2, interviewee 4, interviewee 11, NGO activists). Similarly to the two deputies, it is common for employees of state accounting institutions to have worked previously for civil society organisations. As a consequence, this research on the national ombudsman and other state bodies shows that the proliferation of personal contacts as a consequence of staff mobility between the civil sector and state institutions has the potential to facilitate communication and cooperation, albeit informally (interviewee 6, interviewee 13, NGO activists). Overall, the examination in this thesis of interpersonal relations among individuals representing state and social accounting actors argues that informal communication embedded in trust increases the chances for institutionalised cooperation, an observation which is particularly important for the formation and maintenance of potential policy networks in highly fragmented and polarised cases like Serbia. In other words, small-scale interaction between individuals arguably reflects primary elements of social capital and counterbalances the widely competitive and distrustful relations between state and social actors at the meso-level, potentially improving the latter's involvement in the investigation, exposure, denunciation or even correction of wrongdoings in the public sector through interlocking strategies, coordinated actions and combined resources.

Informal interpersonal relations appear to be the norm in small-scale environments like the field of human rights protection in Serbia due to the regular circulation of people from one sector to another, however they do not necessarily improve communication and cooperation in practice. On the one hand, individual interpersonal relations do not always overlap with good institutional relations. For example, an interviewee from civil society praised the deputy ombudsman, Zorica Mršević, for her cooperation but harshly criticised the ombudsman office, partly in an attempt to declare the autonomy and independence of her NGO from state institutions (interviewee 12, NGO activist). On the other hand, a local ombudsman claims that "in Serbia, everything depends on individuals which is not good but this is how things work" (interviewee 31), implying that the achievement of a goal largely depends on the

appropriate people at the right time. This argument relates to the scepticism of an interviewee in this thesis about over-reliance on personal contacts as the occasional replacement of key people can have the reverse effect if the new appointee has an argument with networking partners or sets different priorities (interviewee 9, NGO activist). In conclusion, interpersonal relations like the aforementioned have the potential to improve and accelerate communication and cooperation between interacting partners. However, the effect is reversed from a certain point onwards, as individuals commonly represent competing interests and strive for the same resources in transforming environments like post-transition settings. Hence, informal interpersonal relations should ideally complement but not substitute institutionalised interaction when it comes to the coordinated promotion of public accountability by potential policy networks of state and social accounting actors.

In the third chapter of this thesis, I examined the interactions between ombudsman institutions on the one hand and other state and social accounting actors on the other according to five interrelated aspects of institutional design (1) width of jurisdiction, 2) extent and adequacy of investigative, coercive and enforcement powers, 3) procedural and physical accessibility, 4) operational efficiency in terms of financial and human resources and 5) public dissemination of work) and I showed with the aid of concrete examples that ombudsman institutions interact in order to make up for their institutional deficiencies through the exchange of transferrable resources. The same finding appears to be confirmed in the case of civil society organisations. The examination and analysis of their interactions with ombudsman institutions shows that benefit maximisation rather than a vague commitment to public accountability and human rights protection is the main motivation which explains the eagerness of civil society organisations to interact with state accounting institutions in post-transition Serbia.

Depending on the field of competence and the overall position of each individual civic association or NGO in civil society, exchangeable resources vary from case to case; nevertheless, the majority of interviewees agree that the primary resource civil society organisations have to share with state bodies is information (e.g. interviewee 2, interviewee 4, interviewee 6, interviewee 11, interviewee 12, NGO activists). NGOs are often proud of their expertise in a certain field, particularly when it derives from fieldwork research. The representative of a Belgrade-based NGO comments respectively that “we are present in the field, present in the streets and we work with one of the most vulnerable, most marginalised groups in Serbia, so I think that our involvement and good relationship with beneficiaries

allow us to know from close and much better the actual situation and the overall conditions” (interviewee 5, NGO activist), implying therefore that state institutions are by nature distant from social reality. As a consequence, according to civil society, state bodies such as ombudsman institutions obtain not only information and expertise through their interaction with civic associations and NGOs but also an unofficial authorisation to get indirectly involved in actual social issues.

On the other hand, civil society organisations can arguably profit in various ways from their interaction with state institutions, particularly when the latter are rich in resources like the national Protector of Citizens or to a lesser extent the Provincial Ombudsman of Vojvodina. As I discussed in the third chapter of this thesis, the subsequent exchangeable resources for civil society organisations vary from access to premises (e.g. prisons, detention centres), financial support for their projects and legal aid to recognition of their work, legitimacy and publicity (e.g. interviewee 3, interviewee 11, NGO activists). Overall, several interviewees argue that networking with the national Protector of Citizens has made their work visible to the wider public and attracted the media, which would otherwise not be genuinely interested in the activities of civil society (e.g. interviewee 6, interviewee 9, interviewee 14, NGO activists). Thus, ombudsman offices with dense interactions with civil society organisations and a concrete media strategy such as the national Protector of Citizens or the Provincial Ombudsman of Vojvodina arguably play a central role in interlinking civil society and the media.

Publicity is widely perceived by this research project’s interviewees as the most effective means of exerting pressure on state authorities and accomplishing goals in post-transition Serbia. Regarding state institutions with a high public profile such as the national ombudsman, publicity is conceived as the outcome of institutional authority. For instance, the employee of a NGO argues that

the support of the ombudsman to our activities gives us greater visibility and all this credibility. It is enough to have a person from the ombudsman office sitting behind you and everything will be different (interviewee 4).

The interviewee does not refer to the credibility of the national ombudsman as such but to the authority of a state institution with a high public profile that affects the visibility of any civil society organisation. Another interviewee from civil society explains that

the civil sector in Serbia is so stigmatised that it is easier to work with someone who is somehow connected with the state. Even the beneficiaries themselves accept you easier if you say that you are implementing the project with the ombudsman than on your own (interviewee 2, NGO activist).

In a similar fashion to the previous comment, state institutions do not necessarily enjoy a better reputation than civil society organisations but they dispose a certain degree of authority which is essential for the attraction of publicity. This statement also indicates the centrality of the state in the field of human rights protection in post-transition Serbia. The following example is indicative of this argument. In 2010, Labris, a Belgrade-based organisation for lesbian rights, received a phone call from a mother who had contacted Halobeba, a helpline for young parents, to seek advice. She was disturbed by the helpline's homophobic remarks and so she asked the organisation to intervene. In turn, Labris asked the Serbian ombudsman to investigate the incident. Halobeba not only apologised for the remarks, but also agreed that employees would be educated by Labris about the rights of LGBT persons (Janković 2011: 70). In conclusion, several of this research project's interviewees emphasise the national ombudsman in terms of attracting the media to the activities of civil society as they expect that publicity increases the chances of responsiveness and accountability on behalf of the public authorities (interviewee 2, interviewee 4, interviewee 5, interviewee 13 NGO activists).

Overall, the aforementioned exchangeable resources possessed by ombudsman institutions and civil society organisations are linked in practice to the individual stages of public accountability (investigation, provision of information and justification, imposition of sanctions), as the latter is operationalised in this thesis for the purposes of this research project. More precisely, information is the primary exchangeable resource between state and social accounting actors that enables the launching of investigations in the public sector. During this stage, civil society organisations have the opportunity to access premises and documents indirectly through authorised institutions while enjoying free legal aid for the cases under investigation. On the other hand, ombudsman offices take advantage of civil society's fieldwork expertise in order to thoroughly investigate cases of misconduct in the public sector and eventually initiate penal proceedings, when needed. However, publicity is the main resource that is widely associated with the exposure, denunciation and even correction of wrongdoings in the public sector, as both state and social accounting actors expect that public exposure has the potential to increase the responsiveness of the

accountable party in terms of providing information and justifying its own decisions or actions, as I discuss more thoroughly in the following section of this chapter. Last but not least, the vague concept of legitimacy as the outcome of the recognition of one's own work may not be directly associated with the individual stages of public accountability, yet it functions as a prerequisite for the systematic exchange of resources between interacting actors. In other words, the good reputation of a state or social accounting actor is positively correlated with higher networking potential and therefore increased exchange of resources.

In any case, the increasing importance of a newly-established state institution like the ombudsman for civil society organisations is arguably correlated with the weak state and fragmentation of civil society in post-transition Serbia as well as the subsequent emergence of the state as a central actor in the field of human rights protection. Indeed, several of this research project's interviewees that represent NGOs criticise other civil society organisations for being politicised, suffering from personal vanities, betraying their ideals and principles and implementing projects solely according to the instructions of donors (e.g. interviewee 3, interviewee 10, interviewee 14, NGO activists). For example, an interviewee criticises the financial dependence of certain NGOs on international organisations and the subsequent implementation of projects according to the expectations of policy-makers and donors rather than social reality and argues that their bad practices have a detrimental effect on civil society as a whole (interviewee 5, NGO activist). The lack of solidarity among civic associations and NGOs indicates the fragmentation of civil society in post-transition Serbia, which in turn derives, among other reasons, from continuous competition between organisations over resources.

Thus, the partial withdrawal of international donors from Serbia after the change of regime in 2000 and the increasing promotion of state bodies such as ombudsman institutions by the international community as central actors in the field of human rights protection led civil society organisations to reconsider their anti-statist biases and re-approach the "evil" state in search of resources. In the past, it was a taboo for civil society organisations to cooperate with the state as this would signify – at least symbolically – the loss of their independence (interviewee 35, academic); nevertheless many organisations are nowadays increasingly open towards such a perspective due to the urgent need for financial and other resources. Yet, a certain degree of scepticism is still apparent; one of this research project's interviewees fears that the state will overshadow civil society, arguing that

the danger still exists that the ombudsman might take over most of the projects in which civil society is engaged as a consequence of the ever-expanding state. Whether it is a real danger or a trend, I don't know... In Serbia, the EU focuses on the state because it's so weak and fragile but we (the civil society) are also fragile. If you don't have support, you can't do anything (interviewee 14, NGO activist).

Despite the gradual rise of state institutions at the expense of a fading civil society, the current socio-political context in Serbia is arguably more favourable for strategically planned interactions than in the polarised 1990s, hence interaction such as the aforementioned is often a priority for state institutions and civil society organisations.

Among the existing ombudsman offices in Serbia, the national Protector of Citizens undoubtedly places the most emphasis on communicating and cooperating with civil society. As I explained earlier in this chapter, the majority of peripheral ombudsman offices interact sporadically with civic associations and NGOs, partly because of a lack of interest. Overall, local offices are vaguely positive towards civil society but they tend to show an asymmetrical relationship towards civil society organisations, arguing that the latter are more dependent on their resources than vice versa (interviewee 25, interviewee 26, local ombudsmen). Similarly, media are frequently prioritised as potential networking partners in comparison with civic associations and NGOs on the grounds of publicity, which is in turn perceived as a panacea for public accountability by various state and social accounting actors (e.g. interviewee 28, interviewee 36, local ombudsmen). This is not the case, however, with the national Protector of Citizens, who tries to maintain dense interactions with various civil society organisations parallel to a close relationship with the media. Stating that “we are like a roof or umbrella for the activities of civil society”, the deputy ombudsman for children's rights, Tamara Lukšić-Orlandić, acknowledges the centrality of her institution but also the need to coordinate a series of actors who play a great or small role in the field of human rights protection in Serbia.

In conclusion, communication and to a lesser extent cooperation are nowadays regular practice between civil society organisations and state bodies such as ombudsman institutions, as the current socio-political context in Serbia is dramatically different to that in the 1990s or early 2000s. The diminishing interest of international donors in civil society projects and the increasing institutionalisation of human rights protection with the establishment of relevant state institutions have led civic associations and NGOs to re-approach the state in search of financial and other resources. In spite of close interpersonal relations between individuals

with a professional background in various sectors (e.g. civil society, state apparatus, academia), civil society organisations are still largely competitive and distrustful towards state institutions; however the aforementioned post-transition challenges dictate a reconsideration of their strategies. On the other hand, ombudsman offices obtain valuable information from fieldwork research and utilise their relationship with civil society organisations in order to prove their proximity to social reality and their autonomy from the state. However, this mostly concerns offices such as the national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina which are largely accountable to the international community and place particular emphasis on publicity. Hence, the option of networking between ombudsman institutions and civil society organisations or the media is closely related to the reputation of independence, as I explain in the last section of this chapter.

5.3 “Big mouth but very short hands”: ombudsman institutions, media and the consequences of publicity

Your old friend, Mr Jefferson, still lives, and will close his illustrious career by bequeathing to his Country a magnificent Institute for the advancement and diffusion of knowledge; which is the only Guardian of true liberty, the great cause to which his life has been devoted.

This wrote James Madison to George Thomson in 1825.¹⁴² As in the case of civil society, the debate on the relationship between the media and democracy dates back to the establishment of the first modern states, but its revival at the end of the twentieth century is among other reasons associated with the challenges to both consolidated and new democracies in an increasingly mediatised world. More precisely, the Edmund Burke-attributed notion of media as the “fourth branch of government” indicates the normative expectation that providers of mass communication have a duty to inform citizens about the affairs of a polity and complement the institutionalised checks and balances through an external, independent means of oversight (Donohue, Tichenor & Olien 1995: 118). However, the overflow of

¹⁴² Madison, J. 1867. Letters and other writings of James Madison, fourth President of the United States, in four volumes. Published by Order of Congress. Volume 3 (1816-1828): 492. Philadelphia: J. B. Lippincott & Co. <http://archive.org/details/letterswritings03madi/riich> [Accessed 24 October 2012]

information in the last couple of decades in correlation with the increasing fetishisation of publicity and the vulnerability of a number of journalists and enterprises of mass communication to political and financial interests question anew the role of the media in democratic regimes.

Among the various scholars of political theory and communication who have explored the relationship between media and democracy, Jürgen Habermas is arguably one of the most influential figures, due to his research on the relevant concept of the public sphere. Habermas conceptualises the post-Enlightenment bourgeois public sphere as

[...] the sphere of private people come together as a public; they soon claimed the public sphere regulated from above against the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically privatised but publicly relevant sphere of commodity exchange and social labour. The medium of this political confrontation was peculiar and without historical precedent: people's public use of their reason (*öffentliches Raisonement*) (1989: 27)

In short, he describes the emergence of a critical mass consisting of well-informed and civically engaged individuals who monitor the authorities in public through rational argumentation.

This normative and idealised understanding of the citizenry affects in turn the way in which the relationship between media and democracy is conceptualised. More precisely, Habermas summarises, in accordance with other theorists of communication, the anticipated duties of the media in democratic regimes as follows: 1) monitoring the socio-political environment with the aim of detecting potential threats to citizens, 2) setting a meaningful public agenda, 3) illuminating advocacy by politicians and spokespersons for interest groups, 4) promoting dialogue across a diverse range of views, including state authorities and the public, 5) holding officials accountable for their decisions or actions through oversight and exposure, 6) engaging citizens in public affairs through provision of ample information, 7) preserving their independence from external interests, and 8) respecting the audience (Jakubowicz 2011: 28-29). In conclusion, the media are perceived as potentially beneficial to democracy because—among other reasons— they promote the pluralism of views and ideas, monitor the authorities in case of misconduct or violation of rights, raise public awareness and exert pressure by means of publicity; however, this idealised scenario is subject to a series of crucial

prerequisites, such as a certain degree of media freedom, the existence of an active citizenry and the commitment of the media to democratic principles.

The conceptualisation of social accountability by Peruzzotti and Smulovitz, upon which this research project is based, is theoretically embedded in the aforementioned understanding of the public sphere. The authors focus primarily on the watchdog function of the media in democratic regimes, arguing that the latter can play a significant role in promoting public accountability by exposing and denouncing wrongdoings as part of a mediatisation strategy which is in turn combined with social mobilisation and judicialisation (2006a: 19-25). In other words, Peruzzotti and Smulovitz assume that the media can increase the responsiveness and accountability of public officials and state authorities by means of publicity in two ways: either by informing and then engaging civil society in the exposure and denunciation of wrongdoings or by the activation of institutional mechanisms of oversight and control through state accounting actors. In spite of the implicit emphasis on publicity as a resource of major importance to processes of social accountability, the authors explain that there are higher chances of accountability on behalf of the state when

the three strategies (mediatisation, social mobilisation and judicialisation) coexist, each one controls the other and compels its consideration (Smulovitz & Peruzzotti 2003: 327).

Hence, the theoretical model of social accountability presupposes a synergy of various social and state accounting actors that are committed to democratic principles and exchange a series of resources through networking in order to reinforce their capacities and increase the pressure exerted on public officials or state authorities under scrutiny.

Thus, after exploring the relationship between civil society organisations and ombudsman institutions in Serbia, this section looks at the media, the other major social accounting actor, with a particular emphasis on publicity as their main exchangeable resource. Based on the idea of complementarity among different types of public accountability (e.g. O'Donnell 2006; Diamond 2008), the aim of this section is to examine the assumption that ombudsman institutions cooperate with the media in order to make up for the limitations that characterise their interactions with other state accounting institutions and civil society organisations. The feature which distinguishes between these actors and the media is publicity. More precisely, I explained in the introductory chapter of this thesis that a typical characteristic of ombudsman institutions worldwide is their lack of enforcement powers and their subsequent use of publicity as an indirect means of pressure, for which reason Elcock describes them as “a big

mouth but (with) very short hands” (1997: 376). Similarly, the difficulties for ombudsman institutions in institutionally enforcing their recommendations or judgements by cooperating with other independent oversight bodies and the Constitutional Court drives them to interact with civil society organisations in order to enrich their resources and improve communication and cooperation through informality and personal contacts. However, publicity is perceived by various interviewees in this thesis as one of the most influential resources, as it is correlated with all three strategies of social accountability (mediatisation, social mobilisation and judicialisation); hence, this section focuses on the involvement of the media in potential networks of accounting actors.

Any examination of the contemporary media landscape in Eastern Europe is bound to take into account the legacies of communism and the “wild” first years after regime change as they are specific to the region and still seem to influence nowadays the actual nature of the media and the way people perceive them. In the communist era, the production and distribution of information was largely controlled by the Communist Party. In spite of proclaimed media freedom, dissident viewpoints were systematically suppressed as the regimes had developed elaborate mechanisms of censorship and propaganda. The aim was not just the suppression of pluralism through the control of public opinion but also the promotion of the “new socialist man” through mass communication (Curry 2005: 143-144). However, the upheavals which took place in the 1970s, mainly in the countries of Central Europe (e.g. Poland, Czechoslovakia), created the conditions for the emergence of underground or alternative media which opposed the communist regimes. These dissident media were not always committed to democratic principles but in a way liberalised the system “from within” in the last years of communist rule (Gross 2002: 124-126).

The political and economic transitions of the late 1980s / early 1990s unsurprisingly had a decisive impact upon the media landscape in Eastern Europe as a consequence of increased media freedom, improved access to alternative sources of information and the rapid multiplication and proliferation of mass communication providers in the region. The former communist media now had to compete with the aforementioned dissident outlets which had transformed into “mainstream” media as well as new indigenous or foreign-owned players (ibid.: 129). Initially, the privatisation of media demonstrated the end of communist rule but in the course of time it became apparent that the retreat of the state did not automatically lead to the emergence of an independent media (Curry 2005: 150-151). On the contrary, the post-

communist media became increasingly subordinate or answerable to political and commercial interests (Gross 2002: 136). Jakubowicz notes that

in the general view of journalists from the region, the time immediately after transition was the only time when they felt really free: the old controls were no longer effective and the new ones had not yet been put into place (2011: 36).

Overall, the East European media faced a series of challenges in the 1990s as a consequence of the simultaneous economic, ideological, legal and professional transitions they went through; financial constraints, politicisation, insufficient legislation and a lack of technical or professional training had a detrimental effect on the reputation of the post-communist media (Curry 2005: 150-160). Thus, despite the pluralistic atmosphere of the new era, the media failed to educate, socialise and mobilise citizens in the process of democratic transformation as earlier anticipated (Gross 2002: 141).

By way of exception, the media in Serbia diverted from the aforementioned East European trajectory as it emerged from a relatively liberal Yugoslav context, regressed into promoting nationalistic propaganda in the 1990s and finally went through a process of “normalisation” after the overthrow of Milošević from power. More precisely, the media in Yugoslavia were arguably “more abundant, varied and unconstrained than in any other communist state” (Thompson 1994: 5). Overall, the media landscape was decentralised as was the federation itself, while ethnic communities were enjoying a certain degree of freedom of speech. In spite of the absence of direct state control seen in other East European countries, the Yugoslav media were still subject to censorship by party cadres in influential cultural institutions which imbued public opinion with traditionalism, thereby slowing down the gradual yet profound process of modernisation in former Yugoslavia (Golubovic 2004: 92). In addition, media freedom in Yugoslav times was regulated by a particularly constraining legislation which prosecuted any opinion opposed to the principles of self-management (e.g. Article 203 of the 1974 Constitution or Article 133 of the Federal Criminal Code) (Thompson 1994: 8-10). Hence, the media in communist Yugoslavia were from a contemporary point of view not free from state control, albeit to a greater extent than elsewhere.

In contrast to the opening media landscape in most East European countries in the 1990s, the Serbian media became actively involved in the Yugoslav wars as a consequence of the erosive nationalism that Milošević’s regime cultivated over time through the marginalisation of dissident voices and the development of elaborate mechanisms of propaganda (Thompson

1994: 52-53). In spite of the partial privatisation of the sector, a significant part of Serbian media in the 1990s did not oppose the regime due to political opportunism, financial dependence on political elites and commercial interests or a lack of commitment to liberal democratic principles (Radojković 1999: 217-219). However, Gordy notes that

the story of the politics of information in the Milošević regime is paradoxical. Although the regime made many efforts to strengthen its control over information media and to weaken or destroy independent media, it did not succeed in establishing a complete monopoly over information – at least not in Belgrade. At the same time that regime-controlled media presented a decidedly one-sided and propagandistic view of local and international events, several independent media outlets also offered information and interpretations that constituted a real and consistent alternative to the official line (1999: 101).

Indeed, in spite of the hegemony of regime-controlled media which consistently promoted the narrative of nationalist authoritarianism, independent media in Belgrade (e.g. *Naša borba*, *Vreme*, B92) and individual cities across Serbia (e.g. Radio Pančevo, Radio Smederevo) created a parallel space for public opinion which was addressed to a small part of the population but occasionally played a noteworthy role in anti-war and anti-regime protests throughout the 1990s (Thompson 1994: 119-121; Gordy 1999: 70).

After the overthrow of Milošević from power in 2000, the media landscape in Serbia progressed slowly in the direction taken by other East European countries with the putting into force of laws (e.g. Law on Telecommunications, Broadcasting Law, Law on Free Access to Information of Public Importance, Journalist Code), the establishment of bodies for the regulation of the sector (e.g. Press Council) and the acceleration of the privatisation process which remained incomplete in the 1990s (Cohen & Lampe 2011: 210). International organisations such as the CoE, the OSCE and the EU continued to assist selected media in Serbia in both financial and technical terms, yet no longer with the aim of reinforcing them in order to survive or to bring political change, as was the case in the 1990s, but to create the conditions for a new post-transition media landscape. However, this – largely conditionality-dictated – reform process has not been smooth, as various actors, ranging from business groups to courts and non-governmental organisations, on various occasions influenced the preparation, adoption or even obstruction of media laws in Serbia (Davor 2013: 14-15, 20-21). This observation indicates that media reforms have been subject to diverse and often competing interests in post-transition Serbia.

Overall, three types of media owners coexist in Serbia nowadays: local businessmen (e.g. Željko Mitrović of RTV Pink), foreign media outlets (e.g. WAZ – owner of Politika, Ringier – owner of Blic) and groups of shareholders (e.g. B92, Danas). In spite of increased media freedom compared to the 1990s, it is yet doubtful whether the gradual privatisation of the sector had a positive impact on the multiplication of independent media outlets. Đoković argues respectively that

media freedom is no longer endangered by political projects but by business interests.

Freedom of speech is not succumbing to ideology, but to profit (2004: 426).

In spite of the implicit demonisation of commercialisation, a common target for normative, idealistic, Marxist and other critiques (Gross 2002: 150), Đoković's argument successfully describes the Serbian case, as the media prefer to emphasise sensationalism and trivialisation rather than promote pluralism of ideas and opinions in a post-transition society, reinforcing Davor's opinion that elites like the above "define what public interest is" (2013:51). Similarly, Ršumović underlines the intrinsic limitations of investigative journalism in Serbia, i.e. the "systematic, in-depth, and original research and reporting, often involving the unearthing of secrets", as a consequence of small and financially weak media markets, low professional standards in journalism, political and economic pressures on the media, threats against journalists and problems in the application of relevant legislation (2013: 8, 18-22). This poor state of investigative journalism in Serbia arguably inevitably affects the interaction between independent oversight bodies such as ombudsman institutions and the media, as I explain below.

Among the aforementioned weaknesses of the media in post-transition Serbia, widespread politicisation stems not only from the blurred boundaries between commercial and political elites as a consequence of the proximity between certain private media owners and politicians (Davor 2013: 16), but also from direct or indirect state involvement in media affairs. For example, a report from the Anti-Corruption Council, a governmental body, shows that approximately one quarter of media income in Serbia came from state institutions in 2010 (ibid.). This financial dependence on the state budget inevitably allows the state to interfere in the media's work. However, in his research on public broadcasting in South-East Europe Thompson blames not only the political elites but also journalists and the majority of citizens for being indifferent to the gradual politicisation of public media in the region (2013: 25-26).

As a consequence, media politicisation is perceived as a typical post-transition challenge for which both elites and ordinary citizens bear responsibility.

In conclusion, the above brief overview of the media landscape in Serbia has discussed some major post-transition challenges that are relevant to this research project, such as the vulnerability of the Serbian media to political and business interests, the intrinsic limitations of investigative journalism and finally the commercialisation of the private media in the direction of “tabloidization”, as expressed through sensationalism and trivialisation of information. In spite of considerable media reforms throughout the first post-transition decade, media freedom in Serbia is still described as “fragile and unconsolidated” (Cohen & Lampe 2011: 209). This argument is relevant to the debate on classifying Serbia as a “hybrid regime” between autocracies and fully consolidated democracies on the grounds that “it has the form (laws, institutions, procedures, party pluralism etc.) but lacks the substance of a meaningful democratic political culture” (Davor 2013: 12). Similarly, although the media landscape in Serbia is being gradually transformed in tune with international standards, the legacies of the autocratic past in combination with the aforementioned challenges of the post-transition present decisively affect the media and the exercise of publicity in contemporary Serbia.

As I explained in the previous section of this chapter, ombudsman institutions and civil society organisations acknowledge the importance of networking for maximising their preferences and achieving their goals by exchanging a vast array of resources among which publicity has a central position. This overemphasis derives from the conviction that state mechanisms of public accountability are inefficient and social actors such as civil society organisations are weak and fragmented. In short, public exposure and denunciation of wrongdoings is widely perceived as the ultimate weapon for holding public officials and state authorities accountable for their decisions or actions in contemporary Serbia. Particularly actors with a high public profile like the national Protector of Citizens are of major importance in this process for two reasons: on the one hand, they can attract and accumulate publicity around certain issues, on the other hand they appear to play an active role in linking actors like civil society organisations and the media that would otherwise avoid cooperation as a consequence of competition and distrust. Hence, the following section expands the analysis to the interactions between ombudsman institutions, civil society organisations and the media with the aim of exploring the actual and potential impact of publicity on accountability.

The relationship between ombudsman institutions and the media is largely defined by the dependence of the former on publicity. As I explained earlier in this thesis, ombudsman institutions conceive of publicity as a substitute to their limited coercive or enforcement powers, expecting that public exposure and denunciation of wrongdoings will increase the chance that public officials or state authorities under scrutiny are accountable (e.g. Hansen 1972; Schedler, Diamond & Plattner eds. 1999; Bovens 2006; Peruzzotti & Smulovitz eds. 2006a; Kucsko-Stadlmayer ed. 2008). In Serbia, the understanding of reporting as a power is embedded in the relevant legislation (e.g. Article 31 of the Law on the Protector of Citizens¹⁴³ and Article 13 of the Provincial Assembly Decision on the Provincial Ombudsman¹⁴⁴), while the explicit emphasis of ombudsman institutions on publicity is clearly articulated in the latest annual report of the local Ombudsman of Zrenjanin where media are illustrated as

an “ally” in the fight for citizens' rights since the office [of the local ombudsman] cannot achieve its goals without publicly disseminating its activities. Publicity plays a crucial role for the performance of the office as infringements of citizens' rights become visible, citizens are mobilised through media and officials in public sector account for their actions by accepting recommendations and acting accordingly. Hence, publicity enforces the decisions of this office (Radlovački Grozdanov 2012: 26).

In terms of social accountability strategies, the local ombudsman acknowledges the limitations of judicialisation as a consequence of the lack of enforcement powers and focuses instead on mediatization of public issues and the subsequent mobilisation of citizens in order to hold authorities accountable for their decisions or actions. Thus, publicity is conceived as a resource that can substantiate the *raison d'être* of ombudsman institutions.

In practice though, the overview of annual reports published by Serbian ombudsman institutions from 2004 onwards shows that only a few offices, in particular the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, maintain constructive communication and cooperation with the media over time.¹⁴⁵ As I discuss in more detail

¹⁴³ Službeni glasnik Republike Srbije, 2007. Zakon o Zaštitniku građana, broj 79/2005 i 54/2007 http://www.ombudsman.rs/index.php/lang-sr_YU/o-nama/normativni-okvir-za-rad/126-2008-04-21-07-39-21 [Accessed 27 October 2012]

¹⁴⁴ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmanu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 27 October 2012]

¹⁴⁵ The only exception among the existing peripheral offices is the local Ombudsman of Kragujevac which frequently interacts with several local printed and electronic media due to consistent implementation of a media strategy.

below, two reasons arguably explain the distinction between central and peripheral offices in this respect: on the one hand, the former have developed an elaborate media strategy that enables consistent public dissemination of their activities, on the other hand the media appear to be attracted primarily to institutions that provide ample information on various issues and maintain a relatively high public profile. In other words, the close relationship between central ombudsman offices and the media derives from reciprocal interest based on the potential opportunity to maximise their preferences and promote their interests through the exchange of resources.

Since the establishment of the Provincial Ombudsman of Vojvodina and the national Protector of Citizens in 2004 and 2007 respectively, the two offices have appointed specialised staff for the development and implementation of a consistent media strategy with the aim of improving communication with the public and facilitating public dissemination of their activities. For instance, the former has two employees in charge of maintaining regular contact with the media, providing information about the activities of the office and organising events for the promotion of the Provincial Ombudsman (Muškinja Hajnrih 2012: 143). Overall, both offices have managed to be fairly present in the media by organising press conferences on a regular basis, participating in TV shows and public debates, giving interviews to national and local newspapers, TV and radio stations as well as commenting frequently on various public issues. The following two tables illustrate the presence of the two offices in printed and electronic media by number of references (e.g. articles, interviews, statements, reports etc.):

Table 11. Number of references to ombudsman offices on printed media

	2005	2006	2007	2008	2009	2010	2011
Protector of Citizens			87	481	879	924	726
Provincial Ombudsman of Vojvodina	124	116	152	168	159	326	418

Source: Data compiled by the author from the offices' annual reports (Teofilović 2006: 186-187; Teofilović 2007: 159; Janković 2008: 58; Teofilović 2008: 165; Janković 2009: 72; Teofilović 2009: 187; Janča 2010: 169; Janković 2010: 96; Janković 2011: 104; Muškinja Hajnrih 2011: 141; Janković 2012: 152; Muškinja Hajnrih 2012: 142)

Table 12. Number of references to ombudsman offices in electronic media (television, radio, World Wide Web)

	2005	2006	2007	2008	2009	2010	2011
Protector of Citizens			38	86	207	280	283
Provincial Ombudsman of Vojvodina	66	186	183	172	171	235	412

Source: Data compiled by the author from the offices' annual reports (Teofilović 2006: 186-187; Teofilović 2007: 159; Janković 2008: 58; Teofilović 2008: 165; Janković 2009: 72; Teofilović 2009: 187; Janča 2010: 169; Janković 2010: 96; Janković 2011: 104; Muškinja Hajnrih 2011: 141; Janković 2012: 152; Muškinja Hajnrih 2012: 142)

The increasing number of references in printed and electronic media¹⁴⁶ arguably indicates the improved visibility of both offices over time. In absolute numbers, these data might not be comparable as there is no information as to whether the two offices use the same methods of data collection; nevertheless an upward trend is observed in both cases. The increasing importance of electronic media as a percentage of the total number of references can be attributed to the recent expansion of internet usage in Serbia and the subsequent proliferation of websites, forums, blogs etc. which reproduce articles related to the activities of ombudsman institutions. This hypothesis is confirmed in the case of the Provincial Ombudsman of Vojvodina as 149 out of 412 references to the office in electronic media in 2011 were published online (Muškinja Hajnrih 2012: 142).

Apart from quantifiable data, a closer look at the annual reports of the offices shows an expected, yet substantial difference between the national Protector of Citizens and the Provincial Ombudsman of Vojvodina; the former is particularly present in the national printed (e.g. Politika, Danas, Blic) and electronic media (e.g. RTS, B92) (Janković 2011: 104; Janković 2012: 152) while the latter predominates in local outlets (e.g. RTV Vojvodina, Dnevnik, Mađar So) (Teofilović 2008: 165; Muškinja Hajnrih 2012: 136-137) (for detailed information, see appendix F). Despite the fact that the national Protector of Citizens attempts

¹⁴⁶ The only exception is the reduction of 20% in references to the national Protector of Citizens in printed media between 2010 and 2011 for which the latest annual report of the office provides no relevant explanation (Janković 2012: 152).

to avoid distinguishing between national and local media (Janković 2012: 153), it is reasonable to assume that the former might be preferred over the latter due to their larger impact on the wider public. In other words, networking partners are often selected on the grounds of resources, as I explain below in more detail while discussing the tripartite relationship between ombudsman institutions, civil society organisations and the media. On the other hand, the Provincial Ombudsman of Vojvodina appears to be well connected with the local media in the region, partly because of frequent press releases throughout the year on individuals cases or public issues which concern the region of Vojvodina (Muškinja Hajnrih 2012: 122-124). This example shows that the proliferation of ombudsman institutions at different levels of government partly explains the variation in networking potential between individual offices.

Finally, the majority of local ombudsmen examined in this thesis interact rather rarely with mostly peripheral media in spite of the general emphasis they place on publicity as a means of raising public awareness and increasing the accountability of officials and authorities under scrutiny. The only exceptions are the local Ombudsman of Kragujevac and to a lesser extent the office in Niš which are located in large cities at the Serbian periphery and interact systematically with local media in their regions (e.g. Radio Kragujevac, Televizija K9 and Televizija IN in Kragujevac as well as NTV, TV5, Belami, Zona and Kopernikus in Niš) (Vuletić 2011: 29, Zdravković 2012: 23) (for detailed information, see appendix F). As I discuss below, the reasons explaining the looser relationship between local ombudsman institutions and the media vary from the absence of a media strategy of the former to a lacking of interest by the latter.

Interestingly, the majority of interviewees in this thesis which represent local ombudsman offices illustrate an idealised relationship of frequent, intense and constructive communication and cooperation with the media that does not correspond to the scarcity of interactions summarised in their annual reports. This relationship is described as superior to that with civic associations and NGOs, deriving from an “open and sincere dialogue” but based mostly on the media’s initiatives (interviewee 26, interviewee 27, interviewee 28, interviewee 29, interviewee 33, local ombudsmen). The implicit attempt by interviewees to present the media as being more dependent on their offices than vice versa differs significantly from the pragmatic approach of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, according to which both sides are interdependent on the grounds of mutual interest. A hypothesis that potentially explains this attitude is that local

ombudsman offices refuse to acknowledge their asymmetrical relationship with the media in public. In other words, by accepting that they are more dependent on publicity than the media are on their resources, they would indirectly acknowledge their marginal role in potential networks of public accountability.

The asymmetrical relationship between the media and local ombudsman offices is further confirmed by the explicit emphasis of the former on the national Protector of Citizens.¹⁴⁷ The office and Saša Janković himself appear to maintain informal and formal communication with selected media on a regular basis, while the initiatives for cooperation are usually reciprocal (interviewee 22, interviewee 34, interviewee 39, journalists). The primary reason explaining the interest of the media in the national ombudsman is related to the abundance and diversity of information that the office produces as a consequence of its jurisdiction over a wide range of public issues and in-depth research on individual cases of maladministration and violations of rights; however the emphasis on the authority of the office as a state institution in correlation with the attractiveness of Saša Janković as a public figure (interviewee 22, interviewee 34, journalists) imply that the media also expect to profit from the subsequent increase of publicity. The statement of a journalist that “the ombudsman is very important because he has some kind of power just like the media” (interviewee 22) indicates that actors with ample resources prefer to interact with other powerful actors. Hence, the limited interaction between the media and local ombudsman offices can, in contrast to the national ombudsman, be interpreted in terms of asymmetrical resources.

The attractiveness of the Serbian media to ombudsman institutions, in particular to those like the national Protector of Citizens and the Provincial Ombudsman of Vojvodina that implement consistent media strategies over time, appears to contradict the discussion at the beginning of this section on the intrinsic limitations of the public and private media in post-transition Serbia. In other words, the aforementioned commercialisation, politicisation and lack of investigative journalism would be expected to prevent ombudsman institutions from cooperating with the Serbian media for fear of subsequent reputation costs. However, the above examination of annual reports and analysis of attitudes underlines the importance of publicity as a transferrable resource and thus shows that ombudsman institutions have a deep interest in interacting with the media. More precisely, ombudsman institutions acknowledge

¹⁴⁷ This analysis mostly concerns the national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina due to the fact that the journalists I interviewed for this research project represent Belgrade-based media with nationwide coverage which maintain closer contacts with the national ombudsman.

the utility of publicity as a means of raising public awareness around their activities and therefore mobilising other actors to interact with them. In addition, publicity compensates for the limited, if not practically non-existent, coercive and enforcement powers of ombudsman institutions, as I explained in chapter 3 of this thesis. Hence, ombudsman institutions' expectation of reinforced capacities as a consequence of increased exchangeable resources dissipates the fear of reputation costs as long as the accusation of politicisation remains vague and meaningless in public discourse, that is if criticism of dependence on political or business interests does not explicitly target a single media actor interacting with ombudsman institutions, for example through a scandal.

In any case, the capability of central institutions like the national Protector of Citizens to attract publicity indirectly affects also the attitude of civic associations and NGOs towards the media. Overall, the viewpoint of civil society organisations is contradictory; on the one hand, they criticise the media for lacking values and misusing their power by not realising their role in a transitional society (interviewee 4, interviewee 6, interviewee 9, interviewee 14, NGO activists), on the other, they stress the importance of the mass media in raising public awareness and perceive publicity as the main weapon for accountability in Serbia through the exposure and denunciation of wrongdoings (interviewee 2, interviewee 3, NGO activists). Thus, an interviewee from civil society argues that

if there were no media, we wouldn't exist and none of our programmes (interviewee 5, NGO activist).

Nevertheless, several interviewees from civil society attribute the scarce interactions between their organisations and the media to a lack of interest and a general propensity to sensationalism of the latter (interviewee 1, interviewee 2, interviewee 4, interviewee 9, NGO activists). The media do not necessarily agree with this viewpoint as communication is arguably the outcome of reciprocal interaction (interviewee 34, journalist); in other words, both sides bear responsibility to a certain extent for the frequency and content of their relations. Indeed, one of the interpretations regarding the aforementioned scarce relations concerns the absent or inconsistent media strategy of civil society organisations (interviewee 6, interviewee 11, interviewee 12, NGO activists). However, as I explained in the previous section of this chapter, several interviewees from civil society argue that the presence or involvement of the national Protector of Citizens in their activities attracts publicity due to the state authority and high public profile of the office. Hence, the national Protector of

Citizens arguably plays a decisive role in linking civil society organisations to the media and vice versa (interviewee 6, interviewee 11, interviewee 13, NGO activists).

The examination of the tripartite relationship between ombudsman institutions, civil society organisations and the media confirms the assumption that actors aim to increase their resources by interacting with other state and social actors. Whilst the exchange of resources between interacting partners is often asymmetrical, the profit is usually reciprocal. As I discussed above, the main resource that ombudsman institutions and civil society organisations expect from the media is publicity since it signifies the recognition of their work and can in turn attract other resources. For example, the employee of a Belgrade-based NGO explained in an interview that several citizens offered clothes and food to the organisation after a TV channel broadcasted a report on one of their office's projects (interviewee 5, NGO activist). In any case, the overemphasis on publicity derives from the conviction that public exposure and denunciation of wrongdoings is the ultimate way to promote accountability in contemporary Serbia, as it is expected that the public officials or state authorities under scrutiny will increasingly account for their decisions or actions in view of high reputation costs (mediatisation), public outcry (social mobilisation) or the potential activation of penal proceedings (judicialisation).

The media, on the other hand, are particularly attracted to central actors like the national Protector of Citizens for two reasons: firstly, they are an ample source of information for a wide range of public issues, and secondly they attract publicity as a consequence of their public authority (interviewee 34, interviewee 39, journalists). Meanwhile, some ombudsman offices, like the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, acknowledge the dependence of the media on information, hence they pay consistent attention to updating their websites on daily basis. As a consequence, the media disregard ombudsman offices and civil society organisations with an inconsistent media strategy and a marginal role in the production of information as it is the case of local ombudsmen or weak civil society organisations.

In conclusion, the Serbian media are commonly perceived as “a very interesting beast” (interviewee 17, academic); on the one hand, civil society organisations and ombudsman offices criticise them for being dependent on political and commercial interests and not realising their impact on democratisation (interviewee 6, NGO activist, interviewee 27, local ombudsman) while on the other hand, they seem to adopt a pragmatic approach and

cooperate with them on the grounds of publicity (interviewee 2, NGO activist, interviewee 28, local ombudsman). In other words, the rational calculation of potential benefit maximisation dissipates ombudsman institutions' fear that interaction with the media might harm their reputation as independent actors. However, the implicit distrust of ombudsman institutions and civil society organisations for the media remains, and the competition between them depends largely on the degree of asymmetry that characterises their exchangeable resources. In short, the more reciprocal the profit between the two sides is the less competitive their relationship will be, as the cases of the national and regional ombudsman indicate. Similarly, the media choose to interact with civil society organisations and state institutions such as ombudsman offices on grounds of information and publicity. As a consequence, small NGOs and local ombudsman offices have less chance of attracting the attention of the media.

Overall, analysis of interactions from a policy network perspective shows that both ombudsman institutions and the media acknowledge the necessity of interacting with each other as a way of reinforcing their capacities through the exchange of resources. In spite of the currently weak state of investigative journalism in Serbia, which reduces ombudsman institutions' chances of investigating cases of misconduct in the public sector in cooperation with the media, information is the main reciprocal resource that can be used by potential networks of state and social accounting actors. However, publicity is the reason that ombudsman institutions interact with the media, given that it is the main resource that both state and social accounting actors associate with all three strategies of public accountability: mediatisation, social mobilisation and judicialisation. In other words, publicity arguably has the potential to improve and accelerate the investigation, exposure, denunciation or even correction of wrongdoings in the public sector by exerting pressure on the public officials or state authorities under scrutiny. As I explain in the following section of this thesis, a reputation for independence, a prerequisite for increased interactions with other state and social accounting actors, is closely associated with publicity in terms of disseminating an "independent" image in public.

5.4 The perception of independence as a resource among interacting accounting actors

The public discourse on the challenges of accountability in various countries around the world indicates that the aversion of state authorities to being controlled and forced to account for their decisions or actions is not necessarily only a characteristic of authoritarian regimes. However, the more authoritarian a state is, the more likely it is that the regime will attempt to deprive accounting actors of independence and turn them into a façade for abuses or neglect (Uggla 2004: 427). Indeed, several examples from Latin America confirm the vulnerable independence of state accounting institutions as a consequence of systematic state interference (Dodson & Jackson 2004). Influenced by the respective emphasis of several academics on this issue (e.g. Frank 1970; Friedmann 1977; Gadlin 2000; Vangansuren 2002; Morlino 2004; Diamond 2008), Kucsko-Stadlmayer argues that

the principle of independence is the leading thought for the effectiveness of ombudsman institutions (2008a: 10).

In other words, if they are to deliver results, they must be independent from the actors or agencies they hold accountable “in all decisions that concern their field of competence” (Schedler 1999a: 24).

The literature on ombudsman institutions discusses various factors that arguably impact upon the independence of state accounting actors, ranging from legal status to the personality of the head of office or the adequacy of financial resources (Vangansuren 2002: 25). These aspects characterise the formal or *de jure* independence of such offices, yet they stem from the idea that they ultimately affect the actual or *de facto* independence of state accounting actors (Hanretty & Koop 2012: 199). Reif analyses the former concept, distinguishing between institutional, personal and functional independence (2004: 399). The first type concerns, among other things, the independence of state accounting actors from the executive as prescribed by the legal status (e.g. constitutionally embedded) and the appointment of the head of the office by the legislature (Gottehrer & Hostina 2000: 403-404). Personal independence is related to the security of tenure, meaning that the head of the office cannot be removed unless for exceptional reasons, as well as that s/he has immunity from criminal and civil actions for fulfilling his/her official functions (Diamond 2008: 309), while functional independence refers to the uninterrupted exercise of duties without being subject to

any external influences. This latter type of independence concerns among other things the freedom of an office to conduct investigations and reach its own conclusions, which is in turn secured by the extent and adequacy of powers and the sufficiency of financial resources (Reif 2004: 400).

In this section, I overview the legislation and annual reports of ombudsman institutions in Serbia in order to examine the aforementioned aspects of institutional, personal and functional independence and assess their implications in practice. Based on the conclusion from several interviews with stakeholders that state institutions in Serbia are by definition perceived as dependent on the executive due to the widespread politicisation of the public sector, the aim is to examine the assumption that state accounting actors with networking potential and diversifying resources such as the national Protector of Citizens or the Commissioner for Information of Public Importance and Personal Data Protection enrich their interacting partners with social actors such as civil society organisations and the media in order to build up an “independent” public image. If verified, this hypothesis reinforces the argument of complementarity between horizontal and social accountability, i.e. that ombudsman institutions interact with social actors in order to make up for the weaknesses of institutionalised interaction with state accounting actors.

For reasons of coherence and brevity, I focus below on two aspects of each of the above types of *de jure* independence: establishment of the office by the constitution or other relevant law and appointment of the head of office by a super majority of a legislative body (institutional independence), immunity of the head of office from liability and criminal prosecution for acts performed under the law and dismissal by a super majority of the appointing entity (personal independence), abstinence from political affiliation or professional activity that is incompatible with the office and adequacy of financial resources (functional independence) (Gottelhrer & Hostina 2000: 403-406; Reif 2004: 400). The following table summarises these aspects of formal independence according to the respective legislation:

Table 13. Formal independence of Serbian ombudsman institutions

	National Protector of Citizens	Provincial Ombudsman of Vojvodina	Local ombudsman offices¹⁴⁸
Establishment by the constitution or other law	Law on the Protector of Citizens / Constitution (art. 138 ¹⁴⁹)	Provincial Assembly Decision on the Provincial Ombudsman	Law on Local Self-Government / local decrees
Appointment by the majority of a legislative body	Majority of the National Assembly (art. 4)	Two-third majority of the Provincial Assembly (art. 5)	Majority of local assembly (art. 20)
Immunity from liability and criminal prosecution	Immunity like the members of the National Assembly (art. 10)	Immunity from liability and criminal prosecution (art. 8)	Immunity from liability and criminal prosecution (art. 27)
Dismissal by a majority of the appointing body	At least one-third of the National Assembly (art. 12)	At least one-third of the Provincial Assembly (art. 10)	At least one-third of the local assembly (art. 29)
Abstinance from political affiliation	Prohibition of party membership (art. 9)	Prohibition of party membership (art. 7)	Prohibition of party membership (art. 26)
Adequacy of financial resources	Yes ¹⁵⁰	Yes	Yes

Source: Data compiled by the author from legislation (Law on the Protector of Citizens, Provincial Assembly Decision on the Provincial Ombudsman, Decision on the Protector of Citizens of Vračar)

In short, the above table illustrates a legal framework which secures to a greater or lesser extent the formal independence of ombudsman institutions in Serbia. In all cases, the head of the office is appointed by a majority of the respective legislative body, enjoys immunity from liability and criminal prosecution for acts performed under the law and is forbidden to get

¹⁴⁸ The data derive from the local Decision on the Establishment of an Ombudsman Office in Vračar but apply to any other local office due to their common legal background.

¹⁴⁹ With the exception of a single reference to Constitution, all other articles in this table refer to the respective legislation on ombudsman institutions (see source).

¹⁵⁰ For detailed information on funding, see chapter 3.5.1 on financial resources.

involved in political activities while in office. In addition, the examination of financial resources in chapter 3.5.1 of this thesis shows that in spite of the overall dissatisfaction of interviewees, all ombudsman offices but Niš obtain increasing funding over time, which in the case of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina amounts to a sum which is continuously higher than their annual expenses. However, the two remaining aspects of the above table indicate potential breaches of the existing legislation; on the one hand, the head of the office can be dismissed by a minority of the appointing body while on the other hand, the regional and local decisions which established the respective offices can be more easily amended than the Constitution of Serbia. In any case, the overall conclusion that derives from the above overview is that the existing legislation provides sufficient formal independence to ombudsman institutions in Serbia.

However, the relative certainty that Serbian ombudsman institutions are legally protected from external pressures contradicts the widespread opinion of several interviewees in chapter 3 of this thesis that many of the existing offices, particularly those at the local level, are largely dependent on the authorities they are meant to control (e.g. interviewee 7, NGO activist, interviewee 8, representative of international organisation, interviewee 14, NGO activist, interviewee 37, academic). Indeed, without underestimating the necessity of the aforementioned legal aspects for the performance of ombudsman institutions, they arguably say little about the actual or *de facto* independence of the offices and their staff. For example, Article 7 of the Provincial Assembly Decision on the Provincial Ombudsman defines that the head of office is not allowed to be politically affiliated, adding that “as of the date of assuming the office of the ombudsman, all his/her other public offices and activities shall terminate, including membership in a political party or political organisation,¹⁵¹ as if political affiliation would cease to exist with the termination of party membership. This single example indicates that formal and actual independence are rarely coincidental due to various factors that are neglected by the relevant legislation.

In contrast to formal independence, which can be assessed according to a series of indicators like the aforementioned legal aspects, actual independence is a challenging, vague concept in both theoretical and methodological terms due to the diversity and complexity of factors that arguably impact upon the relationship between state institutions and the executive. This is

¹⁵¹ Skupština Vojvodine, 2009. Pokrajnska skupštinska odluka o pokrajnskom ombudsmenu, broj 23/2002, 5/2004, 16/2005 i 18/2009 <http://www.skupstinavojvodine.gov.rs/?s=aktAPV003&j=EN> [Accessed 04 November 2012]

particularly valid in countries like Serbia where the widespread politicisation of the public sector and the popularity of informal practices blur the boundaries between different institutions and actors. For reasons of conceptualisation and operationalisation, this thesis focuses on the relationship between ombudsman institutions and the authorities they control from the perspective of public opinion. By looking at the viewpoints of various stakeholders on this matter, independence is thus conceived as the reputation that ombudsman institutions have as accounting actors in public. The ultimate aim of this analysis is to explain that independence as reputation turns into an exchangeable resource between state institutions and social actors.

First of all, the issue of independence seems to divide ombudsman institutions in central and peripheral offices. More precisely, as I explained in the third chapter of this thesis, several interviewees from various sectors doubt the independence of local ombudsman offices, mostly due to the frequent interference of local authorities and the persistent inadequacy of financial resources (e.g. interviewee 2, NGO activist, interviewee 3, NGO activist, interviewee 5, NGO activist, interviewee 5, NGO activist, interviewee 8, representative of international organisation, interviewee 15, academic, interviewee 37, academic). Interestingly, the same doubt is openly expressed by some ombudsmen (e.g. interviewee 28, interviewee 30, ombudsman offices), probably in an attempt to declare the independence of their own offices. This observation partly indicates the distrustful and competitive nature of the relationship between ombudsman institutions in Serbia.

Criticism of local ombudsman offices for being politically and financially dependent on local authorities is reminiscent of the public scepticism towards the politicisation of the media in post-transition Serbia discussed in the previous section of this chapter. Despite the shared reputation of dubious independence from political and business interests, the majority of state and social accounting actors examined in this thesis are more willing to interact with the media than with ombudsman offices at the local level. This attitude is arguably correlated with the availability of resources and the networking opportunities that emerge from their exchange. Particularly in the case of media, state and social accounting actors' expectation that publicity has the potential to compensate for their institutional deficiencies and increase the accountability of state authorities and public officials for fear of denunciation (mediatisation), public outcry (social mobilisation) and initiation of penal proceedings (judicialisation) counterbalances the potential consequences of reputation costs and increases the chances of interaction with the media on the grounds of rational calculation.

The Serbian ombudsman differs from the above cases in that it combines a reputation for independence with the availability of exchangeable resources. More precisely, the national Protector of Citizens has arguably built a fairly independent public profile over time in contrast to the early years when the head of the office, Saša Janković, was perceived by a significant part of the civil society as a political appointee (interviewee 2, NGO activist, interviewee 22, journalist). Similar doubts were expressed by certain interviewees on Serbia's representation by the national Protector of Citizens in the 2010 Nobel Prize ceremony (interviewee 5, NGO activist, interviewee 20, representative of international organisation, interviewee 21, academic) (for more information, see chapter 3.6) in addition to occasional critique regarding the transparency of the acquisition of financial and human resources (interviewee 2, interviewee 6, NGO activists). However, a public survey that was conducted in summer 2011 showed that 41 % of participants think that the national Protector of Citizens is independent from the executive, a fairly high percentage for a state accounting institution in Serbia (Ipsos 2011: 28). Overall, Saša Janković is described as a person who places particular emphasis on the public image of his office, hence it is argued that he consciously tries to maintain some balance between presenting himself as independent by criticising the authorities and securing a privileged position for his office by systematically interacting with them (interviewee 10, NGO activist).

In short, what arguably distinguishes the national Protector of Citizens from peripheral ombudsman offices is not necessarily its degree of actual independence but the accountability of the office to the public (interviewee 1, NGO activist). In other words, ombudsman offices that attract publicity are under more pressure to present themselves as independent and account for their decisions or resources than peripheral offices. Similarly, an academic argues that "it is more difficult for local ombudsmen to achieve independence in small communities because they cannot count on the support of indigenous democratic structures, like media, local opposition and civil society" (interviewee 35), implying that social actors or the political opposition can protect local ombudsman offices by publicly exposing and denouncing any attempt at manipulation on the part of the authorities. However, this argument presupposes a certain degree of solidarity that derives from a shared commitment to democratic principles. In any case, the more interconnected an ombudsman office is, the more likely it is to account to other interacting partners in contrast to isolated, dependent offices.

In a society of widespread distrust and apathy towards institutions, what really matters is not who you are but who you claim to be. In Serbia, the partial osmosis between public administration and the executive in correlation with a general attitude of politicising every aspect of public life condemns state institutions to being perceived as dependent by nature on the authorities (interviewee 6, NGO activist, interviewee 13, NGO activist, interviewee 27, local ombudsman). Ombudsman offices with networking potential, like the national Protector of Citizens and the Provincial Ombudsman of Vojvodina, acknowledge this fact hence they lay particular emphasis on interacting with civil society organisations and the media in spite of frequently doubting the independence of the latter (interviews). The two types of social actors are useful to the “independent” public image of ombudsman institutions in different ways; civil society organisations are arguably closer to citizens and their actual problems as they implement projects in the field while the media can disseminate their image to the wider public. Particularly in the case of the media, ombudsman institutions’ overemphasis on publicity as a resource with the potential to increase their interactions with other state and social actors through mediatisation, social mobilisation and judicialisation dissipates the fear of reputation costs, as long as public criticism of politicised media does not explicitly target one of their interacting partners. To sum up, in spite of considerable public distrust in civil society and the media, it is preferable for ombudsman institutions to build their “independent” public image by interacting with social rather than state actors.

In conclusion, the reputation of independence legitimises the *raison d'être* of ombudsman institutions as accounting actors, even though a considerable number of scholars criticise the widespread overemphasis on independence as a panacea. Gross argues accordingly in his research on media that

not being controlled by the state or driven by the market may not in itself make the Eastern European media more effective components of civil society, democratisation, or democracy. The media’s autonomy and courage depend in large measure on ‘the state of morale and vigor of other bodies, from schools, trade unions, and churches to legislatures, governments and courts of justice’. Indeed, separating the Eastern European media from the very institutions that are facilitating, even if only unwittingly and indirectly, the consolidation of democracy is likely to be counterproductive (2002: 137).

In other words, the author criticises the obsession of scholars and policy-makers with independence as an ideal normative state for two reasons: firstly, there is no such a thing as a completely independent institution, and secondly there is little evidence that individually

independent institutions are positively correlated with democracy and its constitutive elements (ibid.: 138). Similarly, a reputation for independence appears to motivate ombudsman institutions in Serbia to interact with social actors and vice versa, but the analysis in this thesis concludes that the rational calculation of benefit maximisation through exchangeable resources counterbalances the fear of reputation costs in the case of dubious independence from political or business elites.

5.5 Conclusions

In this chapter, I examined and analysed the interactions between Serbian ombudsman institutions on the one hand and social actors such as civil society organisations and the media on the other with the aim of examining the assumption of complementarity between so called horizontal and social accountability. More precisely, as I explained in chapter 4 of this thesis, the horizontal promotion of public accountability through state accounting actors like ombudsman institutions, other independent oversight bodies and the Constitutional Court faces a series of challenges in contemporary Serbia; the persistent lack of resources and the intrinsic weaknesses of enforcement powers in correlation with widespread competition and distrust between interacting partners perplex any effort to promote accountability at the state level. All these challenges are typical of transforming post-transition settings like today's Serbia.

Based on the example of the national Protector of Citizens, a state institution with diversifying resources and networking potential, in this chapter I looked at the interactions between ombudsman institutions, civil society organisations and the media with the aim of examining the potential impact of social actors upon the aforementioned limitations of horizontal accountability. Regarding civil society, this research shows an improved environment for communication and cooperation with the state in comparison to the 1990s and 2000s, even though a certain degree of distrust persists over time. The majority of civil society organisations acknowledge the importance of potential networking with state institutions on the grounds of benefit maximisation, and facilitate interaction through informal, personal contacts. Similarly, the media are attracted to state institutions with a high public profile that produce ample information. As a consequence, both types of social actors

prefer to interact with central rather than peripheral state institutions on the grounds of exchangeable resources.

On the other hand, ombudsman institutions place particular emphasis on interacting with social actors such as civil society organisations and the media with the aim of obtaining among other things the reputation of independence from the state, which in turn legitimises their *raison d'être*. In spite of the fact that complete independence is an ideal, normative state and social actors also depend on various interests, ombudsman institutions, particularly those with a high public profile like the national Protector of Citizens, interact with social actors in order to show their proximity to people and actual public issues. Due to the centrality of publicity for the promotion of public accountability these days, the reputation of independence arguably has a decisive impact upon the networking potential of accounting actors. Furthermore, the non-institutionalised and largely informal character of interaction with social actors reinforces the involvement of ombudsman institutions in triadic dispute resolution through diversified exchangeable resources. Thus, informality compensates for the limitations of institutionalised interaction with state accounting actors.

Publicity is of crucial importance to the aforementioned actors due to the anticipated impact upon all three strategies of social accountability: judicialisation, mediatisation and social mobilisation. In a socio-political setting of limited trust in institutionalised accountability mechanisms, publicity is widely perceived as the ultimate means of exposing and denouncing wrongdoings in the public sector and holding officials and authorities accountable for their decisions or actions. However, this overemphasis on publicity presupposes the existence of an alert public sphere, ready to react in a coordinated way when a scandal becomes known to the public. As I discuss in the last section of this thesis, the lack of trust and the persistent competition among interacting partners in correlation with widespread public apathy and disenchantment, form obstacles to the promotion of public accountability based on a synergy of state and social accounting actors.

6. Conclusions

Any relationship of accountability consists of two parts: an accounting and an accountable party. Accountability thus presupposes the interaction between at least two parties. By focusing on state and social accounting actors in Serbia, this thesis acknowledged from the beginning the limitation that accountable parties are excluded from the scope of analysis. However, this research project stems from the observation that accountability is largely used in public discourse to refer primarily to those actors who account for their decisions or actions. For example, let us take war criminals from former Yugoslavia into account; public attention is mostly paid to the acknowledgement and assumption of responsibility by perpetrators rather than to the attitudes, motivations and expectations of accounting actors (the international community, citizens of the former Yugoslav states etc.) in this process. This is probably not surprising. However, given that accountability is an essentially dialectic relationship based on the response of one party to another (e.g. even the assumption of responsibility on one's own initiative is a conscious or unconscious response to one's self), the neglect of accounting actors by academics, policy-makers and the public arguably reduces the analytical capacity to explore accountability in theoretical and empirical terms.

In this thesis, I examined ombudsman institutions and their interactions with other state and social accounting actors in Serbia with the aim of illuminating the context in which state authorities and public officials potentially account for their decisions or actions. In other words, the exploration of dynamics among accounting actors is arguably a prerequisite for understanding the circumstances under which accountable parties acknowledge and assume responsibility. Overall, the existing literature on ombudsman institutions has been largely normative, deterministic and atheoretical. More precisely, several scholars and policy-makers detect a correlation between the establishment and proliferation of ombudsman institutions and the reinforcement of public accountability in old and new democracies, since bodies of this kind are widely perceived as inherently beneficial to democracy due to their position as an intermediary between the state and citizens. This determination regarding the role of ombudsman institutions as accounting actors derives from a largely descriptive and formalistic body of literature which exhausts analysis on institutional design without empirically examining theory-driven hypotheses. As a consequence, literature praises

ombudsman institutions and their potential impact on accountability without having adequate evidence about the behaviour of these institutions as accounting actors in practice.

This observation is particularly relevant to Serbia, a country where ombudsman institutions have been actively promoted by the international community as part of post-transition institution building. More precisely, international organisations such as the CoE, the OSCE and later the EU expected domestic elites to establish accounting mechanisms like the above as a way of reinforcing public accountability and protecting human rights. However, their involvement was largely normative and deterministic as they underestimated a series of post-transition challenges such as competition and distrust between domestic elites and institutions, the intrinsic weaknesses of civil society and the media and the widespread apathy of the Serbian populace. In addition, Serbia differs from other post-communist countries in Europe to the extent that public accountability is conceptualised not only in terms of establishing accounting mechanisms in the name of post-transition democratisation but also in terms of acknowledging and assuming responsibility for the nation's involvement in the Yugoslav Wars of the 1990s (*Vergangenheitsbewältigung*). The reluctance of domestic elites to cooperate with the ICTY in The Hague and contribute to a viable solution to the Kosovo issue indicates the complex pattern of Europeanisation in Serbia, as the past still undermines the country's European perspective.

Acknowledging the limitations of the literature, in this thesis I assessed empirically the role of ombudsman institutions as accounting actors in Serbia from a policy network perspective. More precisely, I operationalised public accountability as a process of successive stages (investigation, provision of information and justification, imposition of sanctions) in which ombudsman institutions get involved as legally authorised accounting actors. In terms of triadic dispute resolution (Shapiro & Stone Sweet 2002), ombudsman institutions mediate between citizens-complainants and state authorities or public officials. The processual understanding of public accountability corresponds to an "answerability-enforcement" pattern according to which the accountable party justifies her/his decisions or actions to the accounting party and faces consequences if wrongdoing is not corrected (Schedler 1999). In order to assess the involvement of ombudsman institutions at each individual stage of public accountability, in the methodology chapter of this thesis I developed a framework of indicators through which I assessed their performance as accounting actors. The indicators correspond to two arguably complementary factors of institutional effectiveness: institutional design and networking with other state and social actors. The framework is based on the

policy network assumption that for various reasons ombudsman institutions and other state and social actors in Serbia share an interest in exposing, denouncing and then correcting wrongdoings in the public sector. In addition, the idea of complementarity stems from the observation that ombudsman institutions interact with the media in order to compensate for their limited coercive and enforcement powers by means of publicity. The perception of networking as a method of substituting institutional deficiencies through the exchange of material and non-material resources justifies the selection of rational choice institutionalism as a theoretical approach for exploring the role of ombudsman institutions in potential networks of accounting actors. In other words, actors interact strategically with others in order to maximise their preferences (Kaiser 2001). Thus, this concluding chapter synthesises the empirical findings of my fieldwork in Serbia, discusses the theoretical implications of this research project for accountability and the ombudsman literature, argues for the policy relevance of key findings and makes recommendations for future research on aspects that have been not covered by this thesis.

The main body of this thesis consisted of three interrelated chapters. The first examined the institutional design of ombudsman institutions in Serbia according to five interdependent indicators (1) width of jurisdiction, 2) extent and adequacy of investigative and coercive/enforcement powers, 3) procedural and physical accessibility, 4) operational efficiency in terms of financial and human resources, and 5) public dissemination of work) while the others explored the interactions of ombudsman institutions with the state (other ombudsman offices, independent oversight bodies and the Constitutional Court) and social (civil society organisations and the media) accounting actors. Institutional design was examined first in this thesis for two reasons: on the one hand, the existing literature perceives formal design as the main factor impacting upon the role and performance of ombudsman institutions as accounting actors. By examining various aspects of their daily operation, I disproved through empirical findings the deterministic fallacy of the existing literature that powers, competences or resources alone automatically reinforce the impact of ombudsman institutions on public accountability. For example, local ombudsman offices are equipped by law with extensive investigative powers, nevertheless their role in holding local authorities accountable for their decisions or actions is widely perceived as marginal. On the other hand, this chapter examined, through the detection of institutional deficiencies, the argument of rational choice institutionalism that actors interact with others in order to maximise their preferences through exchanged resources. This argument was verified on various occasions,

such as the utilisation of ombudsmen's investigative powers by civil society organisations in order to gain access to detention centres or the emphasis of ombudsman institutions on publicity through the media as a means of exerting pressure on state authorities and public officials under scrutiny. Overall, this thesis detects a correlation between institutional design and networking in the sense that the more powers, competences and resources an ombudsman office has (e.g. the national Protector), the more likely it is to network with various state and social actors and increase capacities through diversified resources.

Based on the acknowledgement by ombudsman institutions that networking has the potential to compensate for their institutional deficiencies through the exchange of resources, the following chapters focused on the involvement of Serbian ombudsman institutions in two potential networks of accounting actors. The former is inspired by O'Donnell's concept of horizontal accountability (1998) and concerns state accounting institutions which, "interlocking and overlapping in a systemic fashion" (Diamond 2008: 303), arguably have the potential to exert coordinated pressure on state authorities and impose sanctions in case of non-correction. This network is largely formal and institutionalised and approaches public accountability "from within" since the state creates accounting mechanisms to monitor the executive or public administration. The empirical examination of interactions between ombudsman institutions, independent oversight bodies and the Constitutional Court in Serbia leads to diverse findings that disprove the relevant literature's idealised conceptualisation of horizontal accountability networks. Ombudsman institutions at different levels of government compete over resources, independent oversight bodies are equipped with comparable competences and powers, thus reducing the potential benefit from networking with each other, while the Constitutional Court, the only accounting actor in this research project with the power to make legally binding decisions, is only marginally active in terms of interacting systematically and strategically with other state accounting actors. Competition between institutions like the above and such unconsolidated relations of cooperation and coordination are arguably typical symptoms of post-transition agencification.

The limitations of networking between state accounting actors shifted the attention of this research project to the interactions between ombudsman institutions and social actors such as civil society organisations and the media which have self-interest in acting as accounting actors. As I have explained on various occasions in this thesis, this research project embraces the policy network assumption that for various reasons state and social accounting actors like the aforementioned share an interest in exposing, denouncing and correcting wrongdoings in

the public sector. This idea of a non-institutionalised and largely informal network of accounting actors corresponds to Peruzzotti and Smulovitz's concept of social accountability (2006) and approaches the phenomenon "from below" given that citizens have the potential to hold the authorities indirectly accountable for their decisions or actions through civil society organisations and the media. Overall, social accounting actors attempt to accomplish their goals according to institutionalised (judicialisation) and non-institutionalised strategies (mediatisation, social mobilisation). This study showed through empirical findings that social actors like the aforementioned interact with central ombudsman institutions (e.g. the national Protector of Citizens) and vice versa as they acknowledge the reciprocal benefit of interaction between them. Overall, they exchange various material and non-material resources but they place particular emphasis on publicity as a resource that can exert pressure on authorities through the threat of exposing and denouncing wrongdoings. Ombudsman institutions especially perceive publicity as a means of compensating for their lack of coercive and enforcement powers. In addition, interaction with social actors turns into an opportunity for ombudsman institutions to build up an "independent" public image. This is particularly important for both state and social accounting actors in Serbia as this research detected a correlation between an "independent" public image and networking potential. In other words, the more independent from political and other interests a state institution or social actor is perceived to be, the more likely it is to interact with other actors. Despite the advantages of non-institutionalised networking between ombudsman institutions and social actors, social accountability in post-transition Serbia faces a series of challenges; on the one hand, the relationship between civil society and the state is partly competitive and lacking in trust as a consequence of their past conflicts, on the other hand, the overemphasis on publicity as the ultimate weapon of public accountability is widely criticised for disregarding the existence of disenchanted citizens who remain apathetic towards the exposure and denunciation of wrongdoings. These challenges are typical of post-transition settings like that of Serbia.

In conclusion, the aforementioned sporadic interaction and widespread distrust arguably indicate that networks of state and social accounting actors in Serbia are still unconsolidated. Even though interacting partners acknowledge the potential benefits of networking, post-transition challenges such as competition over resources or the fluctuation of opportunities and constraints as a consequence of post-transition institution building undermine the emergence of clearly defined and stable policy networks of accounting actors. Overall, networks are largely conceived in this research project as a metaphor (Dowding 1995) to

describe potential nexuses of accounting actors. Hence, this thesis examines dyadic ties between interacting actors as the first step for the creation of policy networks. The exceptional cases of interaction embedded in trust, as in the case of the national ombudsman's deputies and individual civil society organisations, embody elements of social capital that could contribute to the consolidation of public accountability networks in the future.

Using the example of Serbia, the empirical findings of this study argue that the establishment and multiplication of state accounting agencies such as ombudsman institutions do not translate automatically into favourable conditions for public accountability. Ombudsman institutions are not inherently beneficial for democracy as policy-makers and a certain body of scholars believe they are, but they largely depend on a series of internal and external factors, ranging from operational efficiency to networking with other actors and independence from the executive. In practice, the availability of resources and the capability to use them accordingly defines the extent to which accounting actors like ombudsman institutions will investigate, expose, denounce and maybe correct wrongdoings in the public sector. The empirical findings of this study show that the combination of network theory with rational choice provides the appropriate tools for exploring the role of ombudsman institutions as accounting actors in both theoretical and empirical terms. Network theory sheds light on accounting actors in the context of dynamic interactions with others, while rational choice delineates their motivations for and expectations from potential networking. This approach seems to be particularly applicable to post-transition countries like Serbia where the fluctuating political, economic, social and cultural setting provides opportunities for and poses constraints on state and social actors.

The theoretical contribution of this thesis to the literature is the enrichment of triadic dispute resolution with non-institutionalisation and informality. More precisely, Shapiro and Stone Sweet's model of triadic dispute resolution describes a rigid triadic relationship between two disputants and a dispute resolver (2002: 57). The perception of networking as the substitution of institutional deficiencies through the exchange of resources expands this relationship to a semi-triadic or tetradic nexus. Applying this idea to this research project, ombudsman institutions reinforce their position as dispute resolvers between citizen-complainants and state authorities by engaging other accounting actors. The original triadic relationship is not dissolved since ombudsman institutions maintain their role as mediators between disputants; nevertheless, the option of networking reinforces their capacities for dispute resolution. The

increase of informality as a consequence of non-institutionalised interactions with mostly social accounting actors potentially improves the efficiency of triadic dispute resolution.

Regarding the policy implications of this research project, this thesis, through analysis of empirical findings about both institutional design and potential networking between accounting actors, has shown that Serbian ombudsman institutions are clearly divided into two groups: on the one hand, the national Protector of Citizens and to a lesser extent the Provincial Ombudsman of Vojvodina are characterised by wide jurisdiction and competences, ample resources and continuous presence in the public sphere in addition to consistent support from international organisations. Local ombudsmen, on the other hand, are largely marginalised as a consequence of institutional deficiencies and a reputation for political and financial dependence on local authorities. These factors decisively affect the networking potential of central and peripheral ombudsman offices in Serbia and question the haphazard proliferation of state accounting agencies at different levels of government. This observation reinforces the argument that resources and networking potential define the centrality of actors in policy networks. As a consequence, elites should reconsider, and harmonise the existing system of state accounting mechanisms with the actual needs of post-transition Serbia. In my opinion, the size of the country and the small-scale nature of interactions between state and social actors argue for fewer but stronger institutions at the national level. This not only concerns ombudsman institutions but independent oversight bodies in general.

Overall, this research project has explored the dynamics of interactions between state and social accounting actors with the aim of illuminating the context of public accountability in post-transition Serbia. However, as I explained at the beginning of this chapter, this study has deliberately excluded accountable parties from the scope of analysis in order to concentrate on the multitude of interactions between accounting actors. Being aware of the opportunities and constraints that characterise institutionalised and non-institutionalised interaction in Serbia, this study wishes to constitute the foundation for further research on the reaction of accountable parties (i.e. state authorities and public officials) to coordinated or uncoordinated networks of accounting actors. Analysis of their response is crucial for the examination of the assumptions in this thesis, such as the alleged pressure of publicity on the authorities, as well as for the delineation of factors which impact upon state responsiveness (e.g. individual decisions, pressure from above etc.). Furthermore, another aspect of this study that deserves to be researched separately is the informality of interactions between state and social

accounting actors at the micro-level. As I discussed in various sections of this thesis, the interviews in Serbia unveiled dense informal interactions between ombudsman offices, state accounting institutions, civil society organisations and the media which are often based on personal contacts. This parallel world of communication beyond institutionalisation has been widely criticised in various contexts for undermining formal practices and threatening the foundations of new democracies (Ledeneva 2006). However, in strictly rational terms this study argues, based on the examination of individual cases, that informality potentially improves the efficiency of networks through utilisation of small-scale interaction, an observation that is partly associated with the individual cases of relationships embedded in trust and the subsequent emergence of social capital. Thus, future research on this aspect will shift the focus of analysis from the meso- to the micro-level.

In conclusion, this thesis has examined ombudsman institutions and their interactions with other state and social actors in Serbia in order to illuminate the context in which state authorities and public officials account for their decisions or actions. By adopting a procedural and elite-centred approach, this research project has explored a highly ambiguous concept such as public accountability in empirical terms. However, promoting accountability from above presupposes coordinated actions along a shared vision as well as the existence of accounting actors and citizens willing to acknowledge and assume responsibility on their own. This is particularly important for a country like Serbia where public accountability is inevitably correlated not only with the establishment of effective accounting mechanisms as part of post-transition institution building in the name of Europeanisation, but also with the assumption of responsibility for the nation's involvement in the Yugoslav Wars of the 1990s by both the political and military elites and the Serbian public in general. Thus, public accountability can be reinforced only through the collective efforts of state and society.

References

Appendices

Appendix A: List of interviewees¹⁵²

1. Anonymous employees, Iz kruga
2. Antonijević Milan, YUCOM
3. Babić Duško, local Ombudsman of Belgrade
4. Beker Kosana, Commissioner for the Protection of Equality
5. Biserko Sonja, Helsinki Committee for Human Rights in Serbia
6. Bojković Vesna, local Ombudsman of Voždovac
7. Davinić Marko, Faculty of Law – University of Belgrade
8. Đorđević Katarina, Politika
9. Gliksmann Ivana, Civic Initiatives
10. Ignjatović Mihajlo, local Ombudsman of Kragujevac
11. Janjić Biljana, Veliki mali
12. Joksimović Vladan, CoE Office in Belgrade
13. Jovanović Zoran & Rapajić Milan, Faculty of Law – University of Kragujevac
14. Lukšić Orlandić Tamara, Ombudsman of the Republic of Serbia
15. Marosiuk Zlatko, local Ombudsman of Subotica
16. Milkov Dragan, Faculty of Law – University of Novi Sad
17. Milosavljević Bogoljub, Faculty of Law – University of Belgrade
18. Muskinja Hajnrih Aniko, Provincial Ombudsman of Vojvodina
19. Nenadić Nemanja, Transparency Serbia
20. Nešić Jelena, Democratic Transition Initiative
21. Nešić Miladin, local Ombudsman of Bačka Topola
22. Pavlou Miltos, Greek Ombudsman (Twinning Project)
23. Pavlović Ljubica, Constitutional Court

¹⁵² This list is in alphabetical order and does not correspond to the numbered interviews/ees of the thesis.

24. Radisavljević Irena, Blic
25. Radlovački Grozdanov Dragana, local Ombudsman of Zrenjanin
26. Radojević Miodrag, Institute for Political Studies
27. Radoman Jelena, Centre for Civil-Military Relations
28. Redžić Bratislav, OSCE mission to Serbia
29. Rešanović Aleksandar, Commissioner for Information of Public Importance and Personal Data Protection
30. Rikanović Milana, UNIFEM
31. Roknić Aleksandar, Danas
32. Runić Zorica, local Ombudsman of Vračar
33. Šijan Marko, Centre for Youth Integration
34. Špeh Vujadinović Sandrina, IAN
35. Todorović Jovanka, Labris
36. Tošković Sonja, Belgrade Centre for Human Rights
37. Tufegdžić Milan, local Ombudsman of Kraljevo
38. Vasilić Jelisaveta, Anti-Corruption Council
39. Zdravković Dobrila, local Ombudsman of Niš

Appendix B: Questionnaires (English version)

- *Ombudsman institutions*

1. Can you say a few words about your office? (e.g. year of establishment, premises, number of employees, number of complaints, reports)
2. How do you assess the institutional design of your office according to the following indicators?
 - a) Width of jurisdiction (e.g. diversity of complaint types)
 - b) Extent of investigative powers (e.g. access to documents, premises)
 - c) Extent of coercive and enforcement powers (e.g. sanctions, recommendations)
 - d) Procedural and physical accessibility of the office
 - e) Sufficiency of funding
 - f) Public dissemination of work (e.g. reports, public events)
3. Have you been in contact with a) other ombudsman offices, b) the civil society, c) the media, or d) other state institutions? How often? On which occasions?
4. Whose initiative was it?
5. Are you in regular or occasional contact with the aforementioned actors?
6. Why do you think that the aforementioned actors interact with the ombudsman institutions? Do they profit from this interaction? How about you?
7. What do you think about the multiplication of ombudsman offices in Serbia? Would you suggest any amendments?
8. Do you think that the ombudsman institutions may have an impact on public accountability in Serbia? Under what circumstances? What are the limitations?

- *State accounting institutions*

1. From your own experience and knowledge, do you think that the ombudsman institutions are widely known in Serbia?
2. How many times have you interacted with the ombudsman institutions in the last few years? Why? On which occasions? Could you give some examples?
3. Whose initiative was it?

4. Do you think that the ombudsman institutions have more extensive investigative powers? How about coercive or enforcement powers?
5. Do you think that yours and ombudsman's jurisdictions are overlapping?
6. Was your interaction always bilateral or multilateral? (For instance, through the involvement of civic associations and NGOs and the media) Could the ombudsman institutions work as a link between these actors and your office?
7. Are you in constant or occasional contact with the ombudsman institutions?
8. How do you assess your interaction with the ombudsman institutions? Do you think that you profited from it? How about the ombudsman institutions?
9. What do you expect from this interaction?
10. What do you think about the multiplication of ombudsman offices across the country?
11. Under what circumstances do you think that the ombudsman and you can reinforce public accountability? What are the limitations?

- *Civic associations / NGOs*

1. From your own experience and knowledge, do you think that the ombudsman institutions are widely known in Serbia?
2. Do you think that the ombudsman institutions are perceived by the public as independent?
3. How many times have you interacted with the ombudsman institutions in the last few years? Why? On which occasions? Could you give some examples? In case of a human rights abuse, would you contact the ombudsman or the courts?
4. Whose initiative was it?
5. Was your interaction always bilateral or were there other actors (e.g. state agencies or other civic associations/media) involved as well? Could ombudsman institutions work as a link between those actors and the civil society?
6. Are you in constant or occasional contact with the ombudsman institutions?
7. How do you assess the interaction with the ombudsman institutions? Do you think that you profited from it? How about the ombudsman institutions?
8. What do you expect from this interaction?

9. Currently, there are approximately 15 ombudsman offices in Serbia at national, regional and local levels. What do you think about the multiplication of ombudsman offices across the country?
10. Do you think that the ombudsman can hold public officials and state authorities accountable for their decisions or actions? Under what circumstances? What are the limitations?

- *Media*

1. From your own experience and knowledge, do you think that the ombudsman institutions are widely known in Serbia? What is the role of the media in this process?
2. Do you think that the ombudsman institutions are perceived by the public as independent?
3. How many times have you interacted with the ombudsman institutions in the last few years? Why? On which occasions? (e.g. public events, annual or special reports, individual cases, interviews)
4. Whose initiative was it?
5. Was your interaction always bilateral or were there other actors (either state agencies or civic associations/NGOs) involved as well? Could ombudsman institutions work as a link between these actors and the media?
6. Are you in constant or occasional communication with the ombudsman institutions?
7. Do you think that the media profit from this interaction? How about the ombudsman institutions?
8. What do you think about the multiplication of ombudsman offices across the country?
9. Do you think that the ombudsman institutions can hold public officials and state authorities accountable for their decisions or actions? Under what circumstances? What are the limitations?

- *International Organisations*

1. From your own experience and knowledge, do you think that the ombudsman institutions are widely known in Serbia?
2. Do you think that the ombudsman institutions are perceived by the public as independent?
3. Could you say a few words about your interaction with ombudsman institutions? When and how often have you been in contact in the last few years?
4. Why do you support the ombudsman notion? In other words, why do you think that these offices may be useful to Serbia?
5. How do you assess the ombudsman institutions in Serbia according to the following indicators?
 - a) Width of jurisdiction?
 - b) Extent and adequacy of investigative, coercive and enforcement powers?
 - c) Financial and human resources?
 - d) Public dissemination of work?
 - e) Accessibility?
6. How can the effectiveness of ombudsman institutions be increased?
7. Currently, there are approximately 15 ombudsman offices in Serbia at national, regional and local levels. What do you think about the multiplication of ombudsman offices across the country?
8. Do you think that the ombudsman institutions can hold public officials and state authorities accountable for their decisions or actions? Under what circumstances? What are the limitations?

- *Academics*

1. From your own experience and knowledge, do you think that the ombudsman institutions are widely known in Serbia?
2. Independence from the executive is a crucial aspect for ombudsman institutions. Do you think that the Serbian ombudsman is adequately independent? Do you have the same or different opinion with regards to regional and local ombudsman offices?

3. How do you assess the ombudsman institutions in Serbia according to the following indicators?
 - a) Width of jurisdiction
 - b) Adequacy of investigative, coercive and enforcement powers
 - c) Financial and human resources
 - d) Public dissemination of work (for example, through public reports)
 - e) And accessibility
4. What do you think about the interaction between the ombudsman institutions and 1) the civil society, 2) the media and 3) other accounting state institutions such as the Constitutional Court, the Anti-Corruption Council or the Commissioner for Information of Public Importance and Personal Data Protection?
5. Currently, Serbia has approximately 15 ombudsman-offices at national, regional and local levels. What do you think about the multiplication of ombudsman offices across the country?
6. How can the aforementioned institutions and agencies reinforce public accountability in Serbia? Under what circumstances? What are the limitations?

Appendix C: Website addresses of ombudsman offices in Serbia

National Protector of Citizens

<http://www.ombudsman.rs/> [Accessed 10 June 2012]

Provincial Ombudsman of Vojvodina

<http://www.ombudsmanapv.org/apvomb/> [Accessed 10 June 2012]

Protector of Citizens – Bačka Topola

<http://www.btopola.org.rs/> [Accessed 10 June 2012]

Protector of Citizens – Belgrade

<http://www.begrad.rs/cms/view.php?id=1249186> [Accessed 10 June 2012]

Protector of Citizens – Kragujevac

http://www.kragujevac.rs/Kancelarija_zastitnika_gradjana_-90-1 [Accessed 10 June 2012]

Protector of Citizens – Niš

<http://www.ni.rs/ombudsman.html> [Accessed 10 June 2012]

Protector of Citizens – Subotica

<http://www.subotica.rs/sr/3171/zastitnik-gradjana> [Accessed 10 June 2012]

Protector of Citizens – Voždovac

http://www.vozdovac.rs/index.php?option=com_content&task=view&id=258&Itemid=162
[Accessed 10 June 2012]

Protector of Citizens – Vračar

<http://www.vracar.org.rs/lat.php?s=/gradjani/zastitnik-gradjana.php> [Accessed 10 June 2012]

Appendix D: Statistical Overview of Annual Reports

Annual reports are the most extensive source of information on the activities of ombudsman institutions, hence they are widely perceived as an indicative reflection of their actual performance (e.g. Bexelius 1968; Milosavljević 2001; Vangansuren 2002; Abraham 2008c; Hossu & Carp 2011). Based on the argument that the frequency, intensity and content of interactions between an accounting actor and the accountable parties are useful indicators for the assessment of an accountability process (O’Loughlin 1990: 284-285), quantitative data in annual reports, such as the number of complaints submitted and investigations conducted or the degree of compliance with the recommendations of an accounting actor, depict trends over time and contribute to the formulation of hypotheses. For instance, a growing number of contacts with citizens over the years might indicate the increasing visibility of an ombudsman office within a certain community. As a consequence, annual reports matter in terms of delineating aspects of the relationship between accounting actors on the one hand and complainants and accountable parties on the other.

Nevertheless, annual reports generally lack the analytical depth required to explain the dynamics behind the interactions between these actors, hence they are useful only as a complementary source of information for the conduct of theory-driven research. For instance, annual reports say little in this research project about the impact of institutional design or networking on the role of Serbian ombudsman institutions as accounting actors. This argument is not shared by the employees of ombudsman offices, who perceive annual reports as a reflection of their activities and therefore as a justification of their *raison d’être*. In other words, the more active an office appears to be (based among other things on the number of complaints received and investigations conducted, presence in the media or participation in civil society events), the more justification there is for supporters of ombudsman institutions to believe that an office actually has a positive impact on public accountability. This invalid causation between the degree of activity and institutional performance is typical of the body of atheoretical literature on ombudsman institutions.

This appendix acknowledges the limitations of annual reports in terms of producing theory, but aims to complement the empirical findings of this research project with the aid of statistical data. Based on forty-one annual reports from ten ombudsman offices in Serbia at the national, regional and local levels,¹⁵³ in the tables below I present various dimensions of the relationship between these offices on the one hand and complainants or the authorities and officials under scrutiny on the other, through quantitative data about contacts with citizens, submitted and justified complaints, cases forwarded to other offices, compliance with the offices' recommendations, types of rights violated etc. In short, this comparative statistical overview shows the variation of Serbian ombudsman institutions in terms of systematisation of data and overall activity with the aim of providing through empirical evidence a better understanding of the issues discussed in the main body of this thesis.

The first observation concerns the considerable variation between ombudsman offices in Serbia in terms of adequacy and systematisation of data in their annual reports. In other words, offices in small or peripheral municipalities tend to be less consistent with data aggregation than ombudsman offices with comparatively advanced technical capacities and ample human and financial resources, such as the national Protector of Citizens or the Provincial Ombudsman of Vojvodina. For example, the following two tables clearly show that the annual reports of the ombudsman offices in Bačka Topola and Zrenjanin lack crucial quantifiable information about their overall oversight activities, as they are normally expressed through the number of complaints submitted and investigations conducted.

Table 14. Statistical overview of the local ombudsman office in Bačka Topola

	2009	2010	2011
Contacts with citizens	665	1065	1112

Source: Data compiled by the author from the office's annual reports (Nešić 2011: 7, Nešić 2012: 6)

¹⁵³ For the purposes of this research project, I use the annual reports of the following Serbian ombudsman offices: the national Protector of Citizens (2007-2011), the Provincial Ombudsman of Vojvodina (2004-2011), Bačka Topola (2010-2011), City of Belgrade (2010-2011), Kragujevac (2006-2011), Niš (2010-2011), Subotica (2006-2011), Voždovac (2010-2011), Vračar (2009-2011) and Zrenjanin (2004-2011).

Table 15. Statistical overview of the local ombudsman office in Zrenjanin

	2004	2005	2006	2007	2008	2009	2010	2011
Contacts with citizens	251	386	302	281	234	1092	1200	468
Complaints	29						57	42

Source: Data compiled by the author from the office's annual reports (Arsić 2005: 4, Arsić 2006: 2, Arsić 2007: 2, Arsić 2008: 1, Arsić 2009: 1, Arsić 2010: 2, Radlovački Grozdanov 2011: 4, Radlovački Grozdanov 2012: 2)

Similarly, the local offices in the City of Belgrade and the urban neighbourhoods of Voždovac and Vračar do not provide any explicit information about the outcome of investigations conducted, i.e. the degree of compliance or non-compliance by public officials and state authorities with their recommendations, as shown below.

Table 16. Statistical overview of the local ombudsman office in Voždovac

	2010	2011
Contacts with citizens	349	580
Complaints	118	121
Opinions	3	0
Recommendations	6	2
Mediation	2	5

Source: Data compiled by the author from the office's annual reports (Gojković 2011: 4, Gojković 2012: 3)

Table 17. Statistical overview of the local ombudsman office in Vračar

	2009	2010	2011
Total number of complaints	63	61	57
Complaints forwarded to other ombudsman offices	2	8	9
Recommendations	9	6	0

Source: Data compiled by the author from the office's annual reports (Runić 2010: 4, Runić 2011: 3, Runić 2012: 6)

Table 18. Statistical overview of the local ombudsman office in Belgrade

	2010	2011
Contacts with citizens	6.700	6.450
Complaints	666	503
Relevant complaints	216	271

Source: Data compiled by the author from the office's annual reports (Gaćeša 2011: 5, Gaćeša 2012: 6, 38)

An interesting finding from the above tables is the small number of investigations initiated and actions taken subsequently as expressed through opinions, recommendations or mediation, in comparison with the total number of complaints received. The local offices in Voždovac and Vračar in particular investigate less than 10% of the total number of complaints submitted. This apparent underperformance can be attributed to three possible

factors: insufficient powers and resources for investigating a large number of cases, exclusion of cases from the offices' jurisdiction or lack of political will. The second scenario is confirmed by the Belgrade ombudsman's annual report, according to which less than half of complaints submitted fall under the office's jurisdiction.

In addition, a question of data interpretation arises in the case of the local ombudsman in Subotica. More precisely, the office's annual reports for the years 2010 and 2011 show that all cases under investigation were resolved, without referring explicitly to the actual outcome of the proceedings. Given that it is common practice among ombudsman offices to count irrelevant complaints as finalised cases with the aim of counterbalancing the negative impression of underperformance, it becomes clear that it may be mistaken to interpret an allegedly high percentage of resolved cases as implying widespread accountability on behalf of public officials and state authorities.

Table 19. Statistical overview of the local ombudsman office in Subotica

	2006	2007	2008	2009	2010	2011
Contacts with citizens	712	2134	3586	4606	6418	7404
Cases concerning local authorities	52	88	116	76	50	54
Forwarded to the national ombudsman			5	7	3	6
Submitted complaints			28	76	50	54
Resolved cases			25	76	50	51
Mediation			4	5	4	1

Source: Data compiled by the author from the office's annual reports (Marosiuk 2007: 4, Marosiuk 2008: 4, Marosiuk 2009: 11, Marosiuk 2010: 18, Marosiuk 2011: 3-4, Marosiuk 2012: 23)

In contrast, the last two annual reports from the local ombudsman in Niš (2010-2011) present the outcomes of initiated proceedings in detail, distinguishing between resolved and rejected

cases, while the local Ombudsman of Kragujevac summarises the most common types of cases excluded from the office's jurisdiction in numerical terms, such as for instance complaints concerning judicial procedures or working relations. The former example in particular is a typical problem for most Serbian ombudsman offices at the national, regional and local levels and indicates the public's general confusion about the distinction between ombudsman offices and the courts.

Table 20. Statistical overview of the local ombudsman office in Niš

	2010	2011
Contacts with citizens	2029	2684
Complaints	172	279
Resolved	57	93
Rejected as groundless	54	84
Consultation	4	35
Withdrawn	2	7
Suspended	9	12
Recommendations	4	6
Opinions	13	7
Stands	2	3
Initiatives	8	5

Source: Data compiled by the author from the office's annual reports (Zdravković 2011: 20, Zdravković 2012:

6)

Table 21. Statistical overview of the local ombudsman office in Kragujevac

	2004/ 2005	2006	2007	2008	2009	2010	2011
Contacts with citizens		602	644	708	905	1215	1380
Forwarded to the national ombudsman					28	39	55
Not covered by jurisdiction		361	541	431	757	1020	1053
Complaints concerning judicial procedures	271	161	185	187	213	320	390
Complaints concerning working relations	199	123	125	193	208	265	305

Source: Data compiled by the author from the office's annual reports (Vuletić 2007: 11, Vuletić 2008: 17, Vuletić 2009: 12, Vuletić 2010: 7, Vuletić 2011: 9, Vuletić 2012: 7)

In contrast to the above local ombudsman offices, the annual reports of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina are consistent over time and include ample and systematic statistical data regarding their annual activities. More precisely, the gradual multiplication of contacts with citizens shows the increasing visibility of both offices in Serbian society, while the comparably smaller number of complaints submitted indicates that the majority of cases are filtered through personal consultation with specialised personnel at the offices. As a consequence, irrelevant and groundless complaints are proportionally less frequent in comparison to local ombudsman offices. Furthermore, both offices collect data on the degree of compliance of public officials and state authorities with their recommendations. Overall, the annual reports show that the national Protector of Citizens and the Provincial Ombudsman of Vojvodina make few recommendations in comparison to the total number of cases investigated but achieve increasing levels of compliance over time. Finally, the statistical overview of cases according to type of rights violated shows that both offices

receive a considerable number of complaints about maladministration, although less than the number of complaints about violations of rights.

Table 22. Statistical overview of the national Protector of Citizens

	2007	2008	2009	2010	2011
Contacts with citizens	2555	3787	7343	8553	12130
Complaints	406	1030	1765	2646	3642
Completed	401	1014	1691	2453	3073
Not covered by jurisdiction	189	234	366	463	
Rejected as groundless		40	178	574	502
Authorities eliminated irregularity		27	74	134	118
Withdrawn by complainant		9	51	39	65
Recommendations		37	126	152	214
Compliance with recommendations		32	100	112	153
Non-compliance with recommendations		5	26	30	61
Proposals for law amendments	2	38	31	15	40
Accepted proposals for law amendments	1	9	14	4	1
Rejected proposals for law amendments	1	29	17	6	37

Table 23. Types of complaints of rights violated (national Protector of Citizens)

	2007	2008	2009	2010	2011
Civil and political rights		209	306	893	903
Economic, social and cultural rights		416	642	971	1708
Minorities' rights	3	15	54	29	221
Children's rights	7	31	160	205	391

Rights of persons with disabilities	3	14	52	40	153
Persons deprived of liberty	12	67	81	78	384
Gender equality	1	6	40	28	34
Good governance	43	258	662	1328	1404

Source: Data compiled by the author from annual reports (Janković 2008: 25-27, Janković 2009: 54-57, Janković 2010: 69-70, 73, Janković 2011: 130, 135, Janković 2012: 154-155) and the statistics overview on the office's website (Retrieved 20 November 2012, from <http://www.ombudsman.rs/index.php/lang-sr/2012-04-27-13-07-11>)¹⁵⁴

Table 24. Statistical overview of the Provincial Ombudsman of Vojvodina

	2004	2005	2006	2007	2008	2009	2010	2011
Contacts with citizens		2300	1900	2200	2000	3000		
Proceedings initiated	265	623	457	605	597	730	866	1237
Not covered by jurisdiction	194	259	137	190	173	223	177	275
Resolved	188	202	148	322	315	379	302	362
Still processed		109	136	60	69	46	235	158
Recommendations, opinions		55	8	12	43	98	87	75
Compliance with recommendations		23	4	9	19	64	59	51
Non-compliance with recommendations		32	4	3	24	34	28	24

¹⁵⁴ The precise numerical data found in the annual reports differs slightly from that in the statistics overview on the office's website, probably due to revisions after the publication of the reports; however, this has no substantial impact upon the overall trends.

Table 25. Types of complaints or rights violated (Provincial Ombudsman of Vojvodina)

	2005	2006	2007	2008	2009	2010	2011
General complaints	566	385	353	524	644	720	1029
Children's rights	30	38	32	30	38	56	93
Minorities' rights	21	25	25	24	25	54	65
Gender equality	6	9	23	19	23	36	50

Source: Data compiled by the author from the the office's annual reports (Teofilović 2005: 62, Teofilović 2006: 72-78, Teofilović 2007: 108-115, Teofilović 2008: 112-118, Teofilović 2009: 116-124, Janča 2010: 134-141, Muškinja Hajnrh 2011: 128-137, Muškinja Hajnrh 2012: 109-118)

In conclusion, there is an obvious variation between the annual reports of ombudsman offices at the national, regional and local levels as the two main offices of the national Protector of Citizens and the Provincial Ombudsman of Vojvodina are significantly more consistent and systematic in terms of data aggregation than local offices. This discrepancy can be attributed to various potential factors, such as inadequate financial and human resources, lack of interest in the public dissemination of work or simply underperformance on an annual basis due to their small size or their peripheral role in accountability processes. All these factors largely depend on the institutional design of ombudsman offices and are therefore discussed in more detail in the third chapter of this thesis. Irrespective of the completeness or systematisation of quantitative data, the annual reports of all ombudsmen in Serbia are descriptive and lack the analytical depth necessary for theoretical explanation of the dialectic relationship between accounting and accountable actors. As a consequence, statistical data such as the above does not explain how factors like institutional design or networking impact upon the internal organisation and performance of ombudsman institutions as accounting actors. For this reason, annual reports are used as a source of information complementary to the interviews conducted with relevant stakeholders in Serbia.

Appendix E: Overview of communication and cooperation between ombudsman institutions and civil society¹⁵⁵

1. National Protector of Citizens

2007

- First meeting (October 2007) with the directors of the following civil society organisations: Centre for Civil-Military Relations, Belgrade Fund for Political Excellence, Helsinki Committee for Human Rights in Serbia, Fund for an Open Society, YUCOM, Civic Initiatives, Belgrade Centre for Human Rights, Balkan Trust for Democracy, Transparency Serbia, Youth Initiative for Human Rights, Centre for Cultural Decontamination, Judges' Association of Serbia, Forum for Ethnic Relations, European Movement in Serbia and Humanitarian Law Centre (Janković 2008: 45)
- Meeting on “how to provide safety to citizens”, co-organised by the Centre for Civil-Military Relations and the Committee for Civic Initiative on 12 October 2007 (Janković 2008: 54)
- Discussion on the experience of ombudsman institutions at the national, regional and local levels, organised by the Youth Initiative for Human Rights on 01 November 2007 (Janković 2008: 54)
- Meeting on “Implementing decisions of international bodies with special emphasis on the European Court for Human Rights”, organised by the Belgrade Centre for Human Rights in cooperation with the OSCE Mission in Serbia and the AIRE Centre, London, on 12 November 2007 (Janković 2008: 55)
- Meeting on “Democratic control measures and the use of special powers”, co-organised by the OSCE Mission in Serbia and the Centre for Civil-Military Relations on 14 November 2007 (Janković 2008: 55)

155 The appendix E delineates a wide range of activities, such as projects, conferences, seminars, workshops etc., in which the ombudsman offices in Serbia have been interacting with civil society organisations. Based on the annual reports of the former, this list indicates the frequency, intensity and content of formal communication and cooperation between state and social accounting actors. Similarly, the appendix F summarises the interactions among ombudsman institutions and the media. In short, these two appendices visualise the interactions between ombudsman institutions on the one hand and social accounting actors on the other.

- Roundtable entitled “Death penalty – never again!”, co-organised by the Centre for Peace and the Development of Democracy and the City Council of Belgrade on 30 November 2007 (Janković 2008: 55)
- Roundtable and press conference entitled “Ninth of December. International Anti-Corruption Day”, co-organised by Transparency Serbia and UNODC on 07 December 2007 (Janković 2008: 55)
- Project entitled “Ten schools reform the security sector”, organised by the Centre for International and Security Affairs on 13 December 2007 (Janković 2008: 55-56)
- Meeting entitled “Reparations – legal and moral obligation of the state to victims”, co-organised by the Humanitarian Law Centre and the International Centre for Transitional Justice on 14 December 2007 (Janković 2008: 56)

2008

- Roundtable on the evaluation of judges’ performance and judicial laws, organised by the Judges’ Association of Serbia (Janković 2009: 72)
- Roundtable entitled “Towards white Schengen list”, organised by Group 484 (Janković 2009: 72)
- Conference entitled “Four steps to equal opportunities”, organised by the Youth with Disabilities Forum (Janković 2009: 72)

2009

- Project “Children begging in Serbia” in cooperation with the Centre for Youth Integration (Janković 2010: 50)
- Conference on “Prevention of torture in Serbia”, co-organised by the national Protector of Citizens, the OSCE Mission in Serbia and the CoE Office in Belgrade on 23-24 March 2009 (Janković 2010: 94)
- Expert discussion on “Legal status of churches and religious communities and acquisition of legal personality”, co-organised by the national Protector of Citizens and the CoE (Janković 2010: 94)
- Roundtable on monitoring of rights of persons with mental disabilities, co-organised by the national Protector of Citizens and MDRI on 16 June 2009 (Janković 2010: 94)

- Roundtable on standards and methodology of monitoring institutions for persons deprived of liberties, co-organised by the national Protector of Citizens, the Belgrade Centre for Human Rights and the OSCE Mission in Serbia on 04 September 2009 (Janković 2010: 94)
- Roundtable on human rights in social welfare institutions in Serbia, co-organised by the national Protector of Citizens and the Helsinki Committee for Human Rights in Serbia on 16 December 2009 (Janković 2010: 95)

2010

- Roundtable on strengthening cooperation and networking regarding the promotion of minority rights, funded by the EU and co-organised by the national Protector of Citizens, the national ombudsman offices of Greece and the Netherlands and the European Public Law Centre on 24 March 2010 (Janković 2011: 109)
- Roundtable on “The role of institutions in establishing gender equality”, organised by the national Protector of Citizens on 20 May 2010 (Janković 2011: 110)
- Conference entitled “The right to make a decision – the issue of removal of legal capacity of persons with disabilities in Serbia”, co-organised by Veliki mali and the national Protector of Citizens on 10 June 2010 (Janković 2011: 110)
- Conference on the challenges in the implementation of the Law on Access to Information of Public Importance, the Law on Personal Data Protection and the Law on Data Confidentiality, organised by YUCOM with the support and cooperation of USAID and the Institute of Sustainable Communities on 24 October 2010 (Janković 2011: 111)
- Conference on “Safe childhood”, organised by the Children’s Rights Council of the Republic of Serbia on 20 November 2010 (Janković 2011: 111)

2011

- Consultation with the NGO Praxis on improving regulations regarding the right to legal personality and the right to housing (Janković 2012: 146)
- Cooperation with the Ethnicity Research Centre in terms of monitoring the work of the Council for Inter-Ethnic Relations in the field of minority rights (Janković 2012: 146)
- Consultation on human rights with the Centre for the Development of Civil Society in Zrenjanin (Janković 2012: 146)

- Agreement with the organisations GAYTEN and Gay Straight Alliance on analysing the representation of LGBT persons in school textbooks (Janković 2012: 147)
- Meeting on raising awareness of persons with disabilities with the Centre for Independent Living of PWDs Serbia and MDRI (Janković 2012: 147)
- Cooperation with the Association of the Blind in Serbia and the NGO “Iz kruga” regarding the improvement of banking and financial services for persons with disabilities (Janković 2012: 147-148)
- Project entitled “Preventing exploitation of children in South-East Europe”, implemented by Save the Children – Norway (Janković 2012: 150)
- “Third International Conference of Military Ombudsman Institutions”, co-organised by the national Protector of Citizens and the Geneva Centre for Democratic Control of Armed Forces with the support of the Ministry of Defence of the Republic of Serbia on 13-15 April 2011 (Janković 2012: 151)
- Roundtable on the “Fight against discrimination in Serbia”, co-organised by the national Protector of Citizens, the ECRI of the CoE and the Commissioner for the Protection of Equality on 16 November 2011 (Janković 2012: 151-152)

2. Provincial Ombudsman of Vojvodina

2004

- Cooperation with the Fund for an Open Society over the project “The ombudsman closer to citizens” promoting reforms to local governance and public administration (Teofilović 2005: 77)
- Two panels on minority rights, organised by the Vojvodina Centre for Human Rights (Teofilović 2005: 77)
- Roundtable entitled “Is it necessary to introduce an ombudsman for children’s rights?”, organised by the Children’s Cultural Centre on 10 June 2004 (Teofilović 2005: 77)
- Board on “Balkan women for peace – activists beyond borders”, organised by the Centre for Cultural Decontamination and Vojvođanka – Regional Women’s Initiative in Novi Sad on 06-08 August 2004 (Teofilović 2005: 77)

- Seminar on UN special procedures and affirmative action measures in international law, co-organised by the OSCE and the Belgrade Centre for Human Rights on 01-03 October 2004 (Teofilović 2005: 77)
- Meeting on “The official use of minority languages and scripts in the media”, organised by the Centre for Peace and Anti-War Action on 27 October 2004 (Teofilović 2005: 77)
- Seminars on “Domestic violence” (11-12 November 2004), “Sexual violence on women” (25-26 November 2004), “Child sexual abuse/incest” (04-05 November 2004), organised by the Incest Trauma Centre (Teofilović 2005: 78)

2005

- Seminar on independent monitoring for the promotion of children’s rights, co-organised by the Provincial Ombudsman of Vojvodina and the Childs Rights Centre on 17-22 January 2005 (Teofilović 2006: 167)
- Seminar on “The concept of conflict resolution”, organised by the Nansen Dialogue Centre on 26-28 January and 11-14 May 2005 (Teofilović 2006: 168, 171)
- Seminars on human rights, co-organised by the OSCE Mission in Serbia and the Belgrade Centre for Human Rights on 17-19 March and 07-08 April 2005 (Teofilović 2006: 168-169)
- Roundtable on “Equality of citizens in public debates”, co-organised by the Centre “Living Upright”, the Commission for Democracy of the American Embassy in Serbia, the Executive Council of the Province of Vojvodina, the Provincial Ombudsman of Vojvodina, the Centre for Independent Living of PWDs in Serbia and the NGO Women’s Studies and Research “Mileva Marić-Einstein” on 22 April 2005 (Teofilović 2006: 170)
- Roundtable on “The ombudsman institution – is it possible to establish a law that protects citizens’ interests?”, co-organised by the Centre for the Development of Serbia, the Pax Christi Holland and the Media Centre on 23 April 2005 (Teofilović 2006: 171)
- Roundtable on “Decentralisation and promotion of human and minority rights”, organised by the Centre for Regionalism on 24 June 2005 (Teofilović 2006: 172-173)

- Seminar on “The right to a fair trial. Human trafficking and organised crime – war crimes trials in the region of former Yugoslavia”, co-organised by the Belgrade Centre for Human Rights and the Centre for Human Rights of the University of Sarajevo on 15-17 September 2005 (Teofilović 2006: 173-174)
- Seminar entitled “Regional programme on human rights for Europe and Central Asia 2005”, organised by the Belgrade Centre for Human Rights on 27 September –01 October 2005 (Teofilović 2006: 174-175)
- Seminar on “Promotion of the Provincial Ombudsman”, co-organised by the European Movement in Serbia and the Provincial Ombudsman of Vojvodina on 09-10 November 2005 (Teofilović 2006: 175)
- Roundtable on “Local policies in multi-ethnic communities – current situation and perspectives”, co-organised by the Centre for Regionalism, the Provincial Assembly of Vojvodina and the Fund for an Open Society on 17 November 2005 (Teofilović 2006: 175-176)
- Roundtable on “Introduction to the Law on Legal Aid”, co-organised by the Centre for Advanced Legal Studies and the Provincial Ombudsman of Vojvodina on 29 December 2005 (Teofilović 2006: 177)

2006

- Seminar entitled “Training on mediation”, organised by the Nansen Dialogue Centre on 09-11 March 2006 (Teofilović 2007: 134-135)
- Roundtable on “The role of the ombudsman in multi-ethnic local communities”, co-organised by the Centre for Regionalism, the Fund for an Open Society and the municipality of Sombor (Teofilović 2007: 135)
- Conference entitled “Campaign for the promotion of ombudsman institutions in the multi-ethnic municipalities of Prijepolje, Priboj, Nova Varoš, Sjenica, Tutin and Novi Pazar”, organised by the Centre for Research in Politics ARGUMENT on 13-14 July 2006 (Teofilović 2007: 136)
- Roundtable on “Nationalism, xenophobia and hate speech: causes and consequences”, organised by the civic association Vojvođanka – Regional Women’s Initiative on 22 September 2006 (Teofilović 2007: 137-138)
- International conference on “Network of ombudsman institutions for children in South-East Europe”, organised by Save the Children – Norway on 19-20 October 2006 (Teofilović 2007: 140)

- Seminar on “Programme of capacity building in the field of children’s rights for partner organisations in South-East Europe”, organised by Save the Children – Norway on 12-16 November 2006 (Teofilović 2007: 141)
- Regional conference on “Affirmation of multiculturalism and tolerance and local policies in multi-ethnic communities”, co-organised by the Association of Multi-ethnic Cities of South-East Europe PHILIA, the Provincial Assembly of Vojvodina, the Executive Council of Vojvodina, the Fund for an Open Society, the Centre for Regionalism, the Swedish Helsinki Committee for Human Rights and NALAS on 17-18 November 2006 (Teofilović 2007: 142-143)
- Seminar on capacity building of a network of local ombudsman offices, co-organised by the European Movement in Serbia, the OSCE Mission in Serbia and the Legal Forum on 15 December 2006 (Teofilović 2007: 144-145)
- Project “The ombudsman as mediator”, co-organised by the Provincial Ombudsman of Vojvodina and the Nansen Dialogue Centre (Teofilović 2007: 146-149)

2007

- Roundtable on “Condition of minority rights in Serbia – legal non-justification and draft law on the protection of minority rights in Serbia”, organised by the Ethnicity Research Centre on 24 January 2007 (Teofilović 2008: 38)
- Memorandum of cooperation with the Ethnicity Research Centre on 30 January 2007 (Teofilović 2008: 38)
- Roundtable on “Election of members at the Council for Inter-Ethnic Relations”, organised by the Centre for the Development of Civil Society on 20 February 2007 (Teofilović 2008: 38)
- Seminar on “Implementation of minority rights in multi-ethnic communities”, organised by the Ethnicity Research Centre on 13 April 2007 (Teofilović 2008: 38)
- Seminar on “Condition of Women in the region of the Western Balkans – employment, economic development, domestic violence”, organised by the Regional Centre for Minorities on 14-15 May 2007 (Teofilović 2008: 67)
- Seminar on “Violence in the workplace”, co-organised by the Victimology Society of Serbia and the Institute for Criminological and Sociological Research on 05 July 2007 (Teofilović 2008: 67)

- Conference on “Roma women in Serbia: looking ahead”, co-organised by the Provincial Department of Labour, Employment and Gender Equality and the Open Society Institute – Budapest on 19 July 2007 (Teofilović 2008: 67)
- Seminar on research on reproductive health of women with disabilities, organised by the NGO “Iz kruga” on 24 July 2007 (Teofilović 2008: 67)
- Regional conference on women’s discrimination, organised by the Women’s Centre for Democracy on 15 December 2007 (Teofilović 2008: 68)
- Regional conference on “Institutional mechanisms for the protection from domestic violence and their application”, co-organised by the Montenegrin Protector of Human Rights and the Helpline for Women and Children Victims of Violence on 23-26 December 2007 (Teofilović 2008: 68)
- Board on “Violence on children”, organised by the Victimology Society of Serbia on 04 October 2007 (Teofilović 2008: 95)
- Roundtable on “Mental health of children”, co-organised by the Society for the Protection of Children and the Executive Council of the Province of Vojvodina on 08 November 2007 (Teofilović 2008: 95)

2008

- Project on “Legal, educational and financial aid for Roma returnees from the EU and displaced persons from Kosovo”, organised by the Roma Resource Centre EHO on 14 February 2008 (Teofilović 2009: 34)
- Seminar on “The role of Hungarian communities in Serbia”, organised by the Helsinki Committee for Human Rights in Serbia on 16 October 2008 (Teofilović 2009: 34)
- Seminar on “Gender-sensitive funding”, co-organised by UNIFEM and the Association of Employed Women PAŽ on 25-27 February 2008 (Teofilović 2009: 65)
- International conference “Safe community”, co-organised by the City Council of Bački Petrovac and the NGO Safe Community on 24 April 2008 (Teofilović 2009: 65)
- Regional conference on gender equality, co-organised by the National Assembly of Bulgaria and the Bulgarian Gender Research Foundation on 13-16 June 2008 (Teofilović 2009: 65)

- Meeting entitled “Why the law on gender equality is necessary”, organised by the Belgrade Fund for Political Excellence on 16 November 2008 (Teofilović 2009: 66)
- Public debate on the Anti-discrimination Law, co-organised by the Ministry of Labour, Employment and Social Policy and the Centre for Advanced Legal Studies on 18 November 2008 (Teofilović 2009: 66)
- Seminar on “Prevalence of domestic violence in the Autonomous Province of Vojvodina”, co-organised by the Provincial Department for Labour, Employment and Gender Equality and the NGO “Cradle of Bačka” on 25 November 2008 (Teofilović 2009: 66)
- Lecture on domestic violence to students of secondary education medical schools, co-organised by the Provincial Ombudsman of Vojvodina and the NGO “Safe Community” on 28 November 2008 (Teofilović 2009: 66)
- Presentation of the project “Indicators of discrimination”, co-organised by the Provincial Ombudsman of Vojvodina and the NGO Women’s Studies and Research “Mileva Marić-Einstein” on 16 December 2008 (Teofilović 2009: 66)
- Conference on “Inclusive local teams – how to achieve inclusive education”, organised by the Centre for Interactive Pedagogy on 22 April 2008 (Teofilović 2009: 94)
- Conference on “Mechanisms for the realisation and protection of children’s rights in the Republic of Serbia”, co-organised by the Child Rights Centre, the OSCE Mission in Serbia and the Catalanian Ombudsman (Teofilović 2009: 94)
- Roundtable on “Discrimination in Serbia”, organised by the Belgrade Centre for Human Rights on 08 February 2008 (Teofilović 2009: 154)
- Presentation of publications on human rights by the Belgrade Centre for Human Rights on 27 February 2008 (Teofilović 2009: 156)
- Promotion of the report “Implementation of the Convention on the Rights of the Child and child rights in Serbia –the perspective of children”, organised by the Child Rights Centre on 28 February 2008 (Teofilović 2009: 156)
- Seminar on “Gender roles and sexuality, discrimination and violence, legal framework”, co-organised by the Provincial Ombudsman of Vojvodina and Labris on 07 March 2008 (Teofilović 2009: 156)
- Seminar on “Prohibition of torture”, organised by the Belgrade Centre for Human Rights on 10-12 March 2008 (Teofilović 2009: 157)

- Regional seminar on human rights for lawyers, organised by the Child Rights Centre on 10-14 March 2008 (Teofilović 2009: 157)
- International conference of safe communities in South-East Europe, co-organised by the municipality of Bački Petrovac, the Safe Community of Bački Petrovac and the National Centre for Injury Prevention and Safety Promotion on 23-24 April 2008 (Teofilović 2009: 158)
- Conference on “Gender equality on the agenda of national and local parliaments”, organised by the Bulgarian Gender Research Foundation on 13-15 June 2008 (Teofilović 2009: 160)
- Conference entitled “Performance of ombudsman institutions in fragile democracies”, co-organised by the parliamentary ombudsman of the Republic of Hungary and the International Centre for Democratic Transition in Budapest on 27 June 2008 (Teofilović 2009: 161)
- Panel on “The role of Hungarian communities in defining the status of Vojvodina”, organised by the Helsinki Committee for Human Rights in Serbia on 16 October 2008 (Teofilović 2009: 163)
- Seminar on “The loss of life and unlawful conduct. State obligations towards the European Convention on Human Rights in relation to law violations, investigation and prosecution”, organised by the Belgrade Centre for Human Rights, the OSCE Mission in Serbia, the AIRE Centre and the Judicial Training Centre on 24-25 October 2008 (Teofilović 2009: 164)
- International meeting on “Refugees, displaced persons and migrants in the region of former Yugoslavia”, co-organised by the Centre for History, Democracy and Reconciliation, the Balkan Trust for Democracy, the Institute for Historical Justice and Reconciliation and the Faculty for European Legal-Political Studies on 27-28 November 2008 (Teofilović 2009: 170)
- Opening ceremony of the Fourth Festival on Human Rights VIVISECT, organised by Vojvođanka – Regional Women’s Initiative on 08 December 2008 (Teofilović 2009: 170)

2009

- Roundtable on “Prohibition of discrimination and protection of minorities”, organised by the Belgrade Centre for Human Rights on 25 February 2009 (Janča 2010: 36)

- Presentation of the publication “The multi-ethnic identity of Vojvodina: challenges in Vojvodina 2007-08”, organised by the Helsinki Committee for Human Rights on 08 July 2009 (Janča 2010: 37)
- Presentation of the publication “Domestic violence and persons with disabilities”, organised by the NGO “Iz kruga – Vojvodina” on 19 March 2009 (Janča 2010: 57)
- Roundtable on “Gender equality – impediments and opportunities”, co-organised by the Friedrich Ebert Foundation and the Democratic Political Forum on 10 April 2009 (Janča 2010: 58)
- International conference on “Social policies in the light of global financial crisis”, co-organised by the Serbian government, the Ministry of Labour and Social Policies, the Centre for Regionalism and the Friedrich Ebert Foundation on 24-25 April 2009 (Janča 2010: 58)
- Roundtable on “The draft law on the prevention of domestic violence”, organised by the Centre for Peace and the Development of Democracy on 15 May 2009 (Janča 2010: 58)
- Book presentation entitled “Gender and language”, co-organised by the Provincial Ombudsman of Vojvodina, the NGO Women’s Studies and Research “Mileva Marić-Einstein” and the Friedrich Ebert Foundation on 16 June 2009 (Janča 2010: 58)
- Conference on “Women’s rights – a topic that cannot wait (30 years of the Convention on the Elimination of Discrimination against Women)”, co-organised by the Ministry for Human and Minority Rights and the Autonomous Women’s Centre on 18 December 2009 (Janča 2010: 60)
- First regional conference of safe communities in South-East Europe, co-organised by the National Centre for Injury Prevention and Safety Promotion and national and regional governments on 22-25 June 2009 (Janča 2010: 85)
- Project meeting on “Street children”, organised by Save the Children – Norway on 27 October 2009 (Janča 2010: 85)

2010

- Discussion on “Empowering women with disabilities through art”, organised by the NGO “Iz kruga” on 04 March 2010 (Muškinja Hajnrih 2011: 58)

- Seminar on “Position of women in society towards the question of security”, organised by the Centre for Civil-Military Relations on 21 May 2010 (Muškinja Hajnrih 2011: 59)
- Discussion on local plans of actions for Roma women, organised by an NGO network of Roma women on 01 October 2010 (Muškinja Hajnrih 2011: 59-60)
- Seminar on “The Provincial Ombudsman and gender equality”, organised by the National Council of the Ruthenian Minority on 13 November 2010 (Muškinja Hajnrih 2011: 60)
- Seminar on “The Protection of Citizens and LGBT rights”, organised by Labris on 01 December 2010 (Muškinja Hajnrih 2011: 60)

2011

- During 2011, the Provincial Ombudsman of Vojvodina and her deputies organised or participated in 116 meetings, seminars, workshops, roundtables etc. regarding minority and children’s rights, gender equality or general issues of human rights (no detailed information on the exact content of these events) (Muškinja Hajnrih 2012: 122)

3. Local Ombudsman of Belgrade

2010

- Roundtable entitled “Non-realisation of optional protocols to the Convention on the Rights of the Child”, organised by the Child Rights Centre on 26 January 2010 (Gaćeša 2011: 21)
- Conference on “Petitions and propositions”, co-organised by YUCOM and the Heinrich Böll Foundation on 08 December 2010 (Gaćeša 2011: 23)
- Seminar on “Prohibition of Roma discrimination and the legal issue of invisible persons”, organised by the Centre for Advanced Legal Studies on 14 December 2010 (Gaćeša 2011: 23)

2011

- Day of personal data protection, co-organised by the CoE and the EC and attended among others by representatives of the Fund for an Open Society and the national Protector of Citizens in January 2011 (Gaćeša 2012: 40)
- Seminar on “Prohibition of Women’s Discrimination”, co-organised by the Centre for Advanced Legal Studies and the AIRE Centre – London on 14 April 2011 (Gaćeša 2012: 41)

4. Local Ombudsman of Kragujevac

2006

- Seminar on “Capacity building of media and ombudsman offices towards rule of law in Serbia” by Democratic Transition Initiative on competences of ombudsman offices and the national office of the Serbian President, Banja Kanjiža, 26-28 January 2006 (Vuletić 2007: 16)
- “Capacity building of media and ombudsman offices towards rule of law in Serbia” organised by Democratic Transition Initiative, more precisely seminars on 1) citizens and access to information of public importance and 2) corruption in public administration, Palić, 23-25 February 2006 (Vuletić 2007: 16)

5. Local Ombudsman of Niš

2010

- Conference on project “Reporting on compliance with international obligations”, organised by the Child Rights Centre (Zdravković 2011: 24)
- Roundtable on “Children and accountable state”, co-organised by the Association for the Protection and Improvement of Children’s Mental Health and the Centre for Local Democracy LDA – Niš (Zdravković 2011: 24)
- Roundtable on “Participation of Roma in public administration”, co-organised by the Belgrade Centre for Human Rights and the Centre for Minority Rights (Zdravković 2011: 24)

- Panel on “Human wards against the white plague”, co-organised by the Civic Initiative “Mother Courage”, the Serbian Midwives Association, the Association “Document” and the Board for Human Rights – Niš (Zdravković 2011: 24)
- Meeting with local, regional and regional ombudsman offices on LGBT rights, organised by Labris (Zdravković 2011: 24)
- Roundtable “Recognition of women from marginalised groups in the budget of the city of Niš”, organised by the Association “Women’s Space” (Zdravković 2011: 24)
- Conference on “Petitions and propositions”, organised by YUCOM (Zdravković 2011: 24)
- Seminar on “Raising awareness regarding types and cases of discrimination, particularly vulnerable social groups, as well as possibilities of using ARS techniques for solving practical problems”, organised by the Network of the Committees for Human Rights in Serbia CHRIS (Zdravković 2011: 24)
- Roundtable on “Equality for all – removing barriers”, organised by the Network of the Committees for Human Rights in Serbia CHRIS (Zdravković 2011: 24)

2011

- Roundtable on “Position of Roma women in Niš, 2005-2010”, organised by the Association of Roma Women “Osvit” (Zdravković 2012: 23)
- Conference on “Reinforcing dialogue between civil society organisations and the EU”, organised by the Association for the Development of Children and Youth – Open Club (Zdravković 2012: 23)
- Meeting on “Accessibility of the educational system”, organised by a local team for the education improvement of Roma (Zdravković 2012: 24)
- Board entitled “Easier to law”, organised by the Centre for Independent Living of PWDs in Niš (Zdravković 2012: 24)
- Introducing the institution of local ombudsman to citizens as part of the “week of democracy”, organised by the Centre for Local Democracy – LDA (Zdravković 2012: 24)
- Roundtable on “Position improvement of victims of sexual and other gender-based abuses – help lines in minority languages”, organised by the Association of Roma Women “Osvit” (Zdravković 2012: 24)

6. Local Ombudsman of Subotica

2006

- Roundtable on Roma's right to information, organised by the Educational Roma Centre on 19 July 2006 (Marosiuk 2007: 6)
- Seminar on "Local ombudsmen in Serbia – capacity building and networking for democratic change", co-organised by the OSCE Mission in Serbia and USAID on 26-28 June 2006 (Marosiuk 2007: 6)
- Seminar on human rights and discrimination, co-organised by the European Council, the Standing Conference of Towns and Municipalities, Labris and the Women's Centre for Human Rights in October 2006 (Marosiuk 2007: 6)
- Seminar on ombudsman institutions and the media, organised by the European Movement in Serbia in November 2006 (Marosiuk 2007: 6)
- Meeting on discrimination, organised by the Women's Centre for Human Rights in Subotica (Marosiuk 2007: 6)

2010

- Project entitled "Reinforcement of local democracy in multiethnic communities", co-organised by USAID and the Ethnicity Research Centre (Marosiuk 2011: 16)

7. Local ombudsman of Vračar

2010

- Roundtable on "Engaging citizens in social and political life through the right to petition", co-organised by YUCOM and the Heinrich Böll Foundation with funds from the EU on 16 June 2010 (Runić 2011: 11)
- Visit of eleven Albanian students from Preševo and Bujanovac to the office of the local ombudsman, organised by the Youth Initiative for Human Rights on 26 August 2010 (Runić 2011: 12)
- Conference on "Petitions and propositions", co-organised by YUCOM and the Heinrich Böll Foundation on 08 December 2010 (Runić 2011: 13)

2011

- Board on “The establishment of ombudsman offices at local level” in Preševo, organised by the Youth Initiative for Human Rights on December 2011(Runić 2012: 8)

8. Local Ombudsman of Zrenjanin

2004

- Conference on standards for the protection of minority rights, co-organised by the Fund for an Open Society and the Belgrade Centre for Human Rights (Arsić 2005: 6)
- Regional seminar on human rights, co-organised by the Belgrade Centre for Human Rights, the Croatian and Montenegrin Helsinki Committee for Human Rights and the Centre for Human Rights of the University of Sarajevo (Arsić 2005: 6)

2005

- Seminar on conflict resolution, organised by the Nansen Dialogue Centre (Arsić 2006: 4)
- Seminar on domestic violence and protection of children, organised by Child Rights Centre (Arsić 2006: 4)
- Seminar on human rights for the employees of the Provincial Ombudsman of Vojvodina and the local ombudsman offices, organised by the Belgrade Centre for Human Rights (Arsić 2006: 4)

2006

- Seminar on domestic violence and establishment of monitoring and prevention mechanisms, co-organised by the Autonomous Women’s Centre and the Judges’ Association of Serbia on 24-25 May 2006 (Arsić 2007: 4)
- Board on “The Protector of Human Rights at local, regional and national levels”, organised by the Friedrich Ebert Foundation on 17 June 2006 (Arsić 2007: 4)
- Seminar on “Local ombudsmen in Serbia – capacity building and networking for democratic change”, co-organised by the OSCE Mission in Serbia and USAID on 26-28 June 2006(Arsić 2007: 4)

- Seminar on “Human rights and discrimination”, co-organised by Labris and the Swedish Helsinki Committee for Human Rights on 20 October 2006(Arsić 2007: 5)
- Seminar on the relations between ombudsman institutions and the public, co-organised by the European Movement in Serbia, the OSCE Mission in Serbia and the Legal Forum on 23 October 2006(Arsić 2007: 5)
- Regional conference on “Affirmation of multiculturalism and tolerance in local policies and multi-ethnic communities”, co-organised by the Executive Council of Vojvodina, the Parliament of Vojvodina, the Swedish Helsinki Committee for Human Rights, the Association of Multi-ethnic Cities in South-East Europe FILIA and the Fund for an Open Society on 17-18 November 2006 (Arsić 2008: 3)

2007

- Seminar on condition of persons with disabilities, organised by the Democratic Transition Initiative on 23-25 February 2007 (Arsić 2008: 3)
- Seminar on minority rights in Banat, organised by the Centre for the Development of Civil Society (Arsić 2008: 3)
- Roundtable on “Minority rights in the new Constitution of Serbia”, organised by the Cultural Centre of Zrenjanin on 12-13 May 2007 (Arsić 2008: 4)
- Workshop on accountability, transparency and good governance in local administration, co-organised by the Euroregional Centre for Democracy in Timișoara and the Centre for the Development of Civil Society in Zrenjanin on 22 June 2007(Arsić 2008: 4)
- Seminars on fundamental human and minority rights, work of the city council for international relations, public advocacy and lobbying, organised by the Civic Initiatives in September 2007 (Arsić 2008: 4)

2008

- Seminar on project “The ombudsman as mediator”, co-organised by the Provincial Ombudsman of Vojvodina and the Nansen Dialogue Centre on 14 February 2008 (Arsić 2009: 3)
- Seminar on “Gender role and sexuality, homophobia, hate speech and discrimination”, co-organised by the Provincial Ombudsman of Vojvodina and Labris on 07 March 2008 (Arsić 2009: 3)

- Conference on “Mechanisms for the realisation and protection of children’s rights in the Republic of Serbia”, co-organised by the Child Rights Centre, the OSCE Mission in Serbia and the Catalonian Ombudsman (Arsić 2009: 3)
- Seminar entitled “City council – towards good practice”, organised by Civic Initiatives on 25-27 January 2008 (Arsić 2009: 4)
- Seminar on “Forms of civic participation”, organised by the Centre for the Development of Civil Society between 31 January and 03 February 2008 (Arsić 2009: 5)
- Meeting on indicators for measuring discrimination at the local level, co-organised by the Helsinki Committee for Human Rights in Skopje and the Women’s Centre for Democracy and Human Rights in Subotica on 14 November 2008 (Arsić 2009: 5)

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2009

- Conference on “Prevention of torture in Serbia”, co-organised by the OSCE Mission in Serbia, the CoE and the national Protector of Citizens in March 2009 (Arsić 2010: 4)
- Conference on “Legal status of churches and religious communities and acquisition of legal personality”, organised by the national Protector of Citizens in April 2009 (Arsić 2010: 4)
- Conference on “Gender equality, code of conduct in the public sector and LGBT rights”, co-organised by the Provincial Ombudsman of Vojvodina and the national Protector of Citizens in November 2009 (Arsić 2010: 4)
- Conference on “Initiative for the establishment of REKOM”, co-organised by the Centre for Women’s Support, the Kikinda Club and the Zrenjanin Educational Centre in November 2009 (Arsić 2010: 4)
- Seminar on “Implementation of Anti-corruption measures”, organised by the European Movement in Serbia in December 2009 (Arsić 2010: 4)

2010

- Project entitled “Multiplication living in tolerance”, co-organised by the local administration and high schools in Zrenjanin and the Centre for Children and Youth “Maštalište” (Radlovački Grozdanov 2011: 26)

2011

- Project entitled “Training on accessibility to welfare system”, organised by the Centre for the Development of Civil Society (Radlovački Grozdanov 2012: 28-29)
- Project on “Contribution to social inclusion and fight against discrimination of marginalised population in Serbia”, organised by Praxis (Radlovački Grozdanov 2012: 30)

Appendix F: Media coverage of ombudsman institutions and overview of common activities

1. National Protector of Citizens

2007

- Organisation of two press conferences on 30 July and 14 November 2007 (Janković 2008: 57)
- Participation of the office's head in the TV shows "Poligraf" on B92 (04 October 2007) and "Oko" on RTS (07 December 2007) (Janković 2008: 57)
- Three interviews with the office's head in Večernje Novosti (02 July 2007), Mađar So (11 October 2007) and Pres (02 December 2007) (Janković 2008: 58)

Table 26. Presence of the national Protector of Citizens in printed and electronic media by number of references (2007)

Presence on media	Electronic media	Printed media	Total number
Statements	1	38	39
News	11	2	13
Interviews	2	2	4
Articles	3	18	21
Comments	14	4	18
Press conferences	5	19	24
Public debates	2	4	6
Total	38	87	125

(Janković 2008: 58)

2008

- Publication/broadcast of 481 references to the office (general information, activities, reports etc.) in printed and 86 in electronic media (Janković 2009: 72)

- Organisation of three press conferences on 05 March, 24 April and 11 December 2008 (Janković 2009: 73)
- Publication of five interviews with and six commentaries by the office's head by the daily newspapers Politika, Kurir, Danas and Blic (Janković 2009: 73)

Table 27. Presence of the national Protector of Citizens in printed and electronic media by number of references (2008)

Printed media	Number of references	Electronic media	Number of references
Politika	53	RTS	31
Danas	88	B92	24
Večernje Novosti	36	Studio B	7
Glas	25	Avala	7
Blic	46	Enter	5
Pres	21	Fox	5
Kurir	20	Kosava	4
Dnevnik	29	Pink	3
Mađar So	17		
Pravda	24		

(Janković 2009: 73)

- Most widely covered topics in printed and electronic media: insufficient personnel and inadequate premises for the office, delay in appointing a deputy ombudsman, misuse of state vehicles by public authorities, censorship of the book “The jewel of Medina”, amendments to the Law on Personal Data Protection etc. (Janković 2009: 73)

2009

- Publication/broadcast of 879 references to the office (reports, releases, comments, statements etc.) in printed and 207 in electronic media (Janković 2010: 96)
Press conference on 23 January 2009 at the Belgrade Media Centre (Janković 2010: 96)
- Publication of eight interviews of the office's head by Blic, Danas, Građanski List, Mađar So, Politika, Vreme and NIN (Janković 2010: 96)
- Publication of numerous references on the activities of the national Protector of Citizens by the newspapers Blic (121), Politika (105) and Danas (96) as well as broadcast in electronic media, particularly RTS (80) and B92 (50). In addition, participation of the office's head and his deputies in 17 TV shows on B92 (8), RTS (4), Avala (3) and Kopernikus (2) (Janković 2010: 97)

2010

- Publication of 924 articles (statements, reports, comments or just references) in printed media, particularly Blic, Politika and Danas, and 280 references on television, mostly on RTS, B92 and Pink (Janković 2011: 104)
- Publication of ten interviews of the office's head by Politika (5), Blic (3) and Danas (2) (Janković 2011: 104)
- Release of 57 communiqués and 166 articles on the activities of the national Protector of Citizens through the office's website. This information has been largely used by printed and electronic media (Janković 2011: 104)

2011

- Publication of 726 references (statements, reports, comments or just references) in printed media, particularly Politika, Blic, Pravda and Danas, i.e. 20% lower than the previous year (Janković 2012: 152)
- Broadcast of 283 references to the national Protector of Citizens on television, particularly RTS, B92 and Pink (Janković 2012: 152)

2. Provincial Ombudsman of Vojvodina

2005

- Participation of the office's head or deputies in a Radio Novi Sad programme once a month, discussing issues of human rights and replying to citizens' questions (Teofilović 2006: 185-186)
- Release of 61 official statements to the media (Teofilović 2006: 186)
- Publication of 124 references to the office by printed media as well as broadcast of 66 references by electronic media (Teofilović 2006: 186-187)

2006

- Participation of the head of office or deputies in a Radio Novi Sad programme once a month, discussing issues of human rights and replying to citizens' questions as well as once a week from March to May 2006 in the TV show "Hronika Banovine" on TV Panonija (Teofilović 2007: 157)
- Release of 57 official statements to the media (Teofilović 2007: 159)
- Publication of 116 references to the office by printed media as well as broadcast of 186 references by electronic media (139 on television and 47 on radio) (Teofilović 2007: 159)

Table 28. Presence of the Provincial Ombudsman of Vojvodina in printed and electronic media by number of references (2006)

Printed media	References	TV stations	References	Radio stations	References
Blic	9	Apolo	14	021	4
Danas	9	B92	3	Ada	1
Dnevnik	27	TV Ada	1	B. Crkva	1
Glas Javnosti	6	Kanal 9	13	B. Palanka	1
Gradanski List	23	Most	2	Beograd 1	1
Hlas Ljudu	1	Mozaik	1	Kula	1
Hrvatska Riječ	2	Panonija	44	Odžaci	3
Kurir	1	Pink	3	Ruma	1
Libertatea	1	RTS1	3	Senta	1
Mađar So	22	RTV	40	St. Pazova	1
NIN	1	Santos	1	Zenit Odžaci	1
Novosti	5	Star	1	RNS in Hungarian	4
Palanačke Novine	1	Super	1	RNS in Ruthenian	1
Politika	5	Sveti Đorđe Indija	1	RNS in Slovakian	1
Ruske Slovo	1	TV 25 Odžaci	1	RNS in Serbian	24
Sremske Novine	1	TV Banat B. Crkva	2	Sremski Radio	1
Vreme	1	Others	8		
Total	116		139		47

(Teofilović 2006: 159-160)

2007

- Release of 47 official statements to the media (Teofilović 2008: 154)
- Publication/broadcast of 335 references to the office by printed and electronic media, namely 9,86% more than in 2006 (Teofilović 2008: 165)

Table 29. Presence of the Provincial Ombudsman of Vojvodina in printed and electronic media by number of references (2007)

Printed media	References	TV stations	References	Radio stations	References
Basler Zeitung	1	Apolo	2	013, Pančevo	1
Blic	11	B92	4	021	4
Blic Magazin	1	Kanal 9	15	216, Zrenjanin	1
Večernje Novosti	1	Mozaik	1	25, Odžaci	1
Wochenzeitung	1	MTV, Hungary	1	5, Bačka Topola	1
Vreme	2	Panonija	50	B. Palanka	1
Danas	23	Pink	2	Beograd 1	2
Dnevnik	34	RTS1	8	Beograd 202	1
Glas Srpske	1	RTS2	1	B. Topola	1
Glas Javnosti	5	RTV2 in Hungarian	1	Međunarodni Radio Srbija	1
Građanski List	28	RTV2 in Romani	1	Odžaci	2
Hlas Ljudu	1	RTV2 in Slovakian	1	Panda, Kanjiža	1
Hrvatska Riječ	1	RTV1 in Serbian	51	Pančevo	1
Kurir	1	Studio B	1	Prijepolje	1
Mađar So	31	Super TV	5	RNS in Hungarian	3
Pančevac	2	TV Delta	1	RNS in	12

				Serbian	
Politika	4	TV Pančevo	1	Slobodna Evropa	1
Pravda	2	TV Santos	1		
Pres	2	TV Subotica	1		
	152		148		35

(Teofilović 2008: 165)

2008

- Release of 59 official statements to the media (Teofilović 2009: 182)
- Publication of 168 references to the office by printed media as well as broadcast of 172 references by electronic media (133 on television and 39 on radio) (Teofilović 2009: 187)

2009

- Release of 56 official statements to the media (Janča 2010: 164)
- Publication of 159 references to the office by printed media as well as broadcast of 171 references by electronic media (123 on television and 48 on radio) (Janča 2010: 169)

2010

- Release of 131 official statements to the media (Muškinja Hajnrih 2011: 139)
- Publication of 326 references to the office by printed media as well as broadcast of 235 references by electronic media (135 on television, 49 on radio and 51 online) (Muškinja Hajnrih 2011: 141)

2011

- Release of 135 official statements to the media (Muškinja Hajnrih 2012: 122)
- Publication of 418 references to the office by printed media as well as broadcast of 412 references by electronic media (263 on television and radio and 149 online) (Muškinja Hajnrih 2012: 142)

Table 30. Presence of the Provincial Ombudsman of Vojvodina in printed and electronic media by number of references (2011)

Name	References	Name	References	Name	References
RTV Vojvodina	87	Radio BG	4	Personal Magazin	1
Dnevnik	79	Glas Javnosti	4	Panon RTV	1
Blic	53	Privredni Pregled	4	Novi Glas Komune	1
Mađar So	43	Radio IN	4	NDNV Vojvodine	1
Pres	35	EM-Portal	3	Mladost	1
Danas	32	Ekonomi	3	E-Novine	1
Radio 021	29	Frankfurtske Vesti	3	Autoblog	1
Večernje Novosti	24	Narodne Novine	3	Apatinske Novine	1
Kanal 9	22	RTV Delta	3	Vreme	1
Novosadski a TV	22	Pančevac	3	Sombor.rs	1
Pravda	22	RTV Pančevo	2	Pink	1
Politika	18	TANJUG	2	Poslovi	1
Kurir	18	Vesti-Online	2	Pešćanik	1
Nacionalni Gradanski	15	Somborske Novine	2	NS Reporter	1
Panonija	14	S Media	2	Novi Magazin	1
Yueco TV	13	Kopernikus	2	Naše Novine	1
Radio Novi Sad	13	Beta Pres	2	MPS	1
Vajdašag Ma	12	Alo	2	Most	1
B92	10	Ruske Slovo	2	M-Novine	1
RTS	10	Hrvatska Riječ	2	List Zrenjanin	1
24 Sata	8	Biznis Novine	1	Kitekinto	1

Prva TV	6	Vojvođanski Magazin	1	Kikindske Novine	1
Mondo	6	UNS	1	Hlas Ljudu	1
Beta	5	TV Santos	1	E-Kapija	1
TV Citi	4	Total Kar	1	Autonomija-Info	1

(Muškinja Hajnrih 2012: 136-137)

1. Local Ombudsman of Belgrade

2010

- Roundtable on “Violence in schools – current condition, prevention and solutions”, organised by the local Ombudsman of Belgrade and attended by journalists from Danas, Kurir, Pres, International Radio Srbija, Radio C and Studio B on 07 July 2010 (Gaćeša 2011: 15)
- Publication of office’s opinion on people paying rent in Belgrade by Blic (Gaćeša 2011: 15)
- Participation of the office’s head in the TV show “Beogradska hronika” discussing public housing in Belgrade (Gaćeša 2011: 15)

2. Local Ombudsman of Kragujevac

2007

- Contribution to the project “The ombudsman and media in the public eye”, implemented by the Independent Association of Journalists in Serbia and supported by the Swedish Helsinki Committee for Human Rights, the Norwegian People’s Aid and the Ministry of Culture and Media in January 2007 (Vuletić 2008: 43)
- Organisation of seven press conferences (Vuletić 2008: 47)

Table 31. Presence of the local Ombudsman of Kragujevac in printed and electronic media by number of references (2007)

Printed media	Number of references	Electronic media	Number of references
Blic	12	RTK	50
Večernje Novosti	5	Regionalna Televizija K9	72
Danas	2	Televizija IN	38
Pres	3	RTS	2
Svetlost	5		

(Vuletić 2008: 47)

2008

Table 32. Presence of the local Ombudsman of Kragujevac in printed and electronic media by number of references (2008)

Name	Type of media	Number of references
Televizija IN	Electronic	120
Radio-Televizija Kragujevac	Electronic	120
Televizija K9	Electronic	120
RTS – Kragujevac	Electronic	-
RTS – morning programme	Electronic	2
Radio Beograd	Electronic	15
Radio Kragujevac	Electronic	92
Other radio stations in Kragujevac	Electronic	30
BETA	News agency	30

FONET	News agency	25
TANJUG	News agency	8
Blic	Printed	78
Danas	Printed	1
Večernje Novosti	Printed	5
Glas	Printed	1
Pres	Printed	3
Kurir	Printed	1
Svetlost	Printed	29
Total number of references		680

(Vuletić 2009: 27)

- Organisation of three press conferences (Vuletić 2009: 28)
- Appearance of the office's head every Tuesday on Radio Kragujevac and the last Tuesday of each month on TV station K9, and discussion with citizens (Vuletić 2009: 29)

2009

Table 33. Presence of the local Ombudsman of Kragujevac in printed and electronic media by number of references (2009)

Name	Type of media	Number of references
Blic	Printed	12
Večernje Novosti	Printed	1
Pres	Printed	5
Danas	Printed	0

Kragujevačke Novine	Printed	15
Nedeljnik Svetlost	Printed	8
RTS	Electronic	2
B92	Electronic	1
Televizija Kragujevac	Electronic	28
Televizija K9	Electronic	13
Televizija IN	Electronic	20
Radio Kragujevac	Electronic	28
Web portal “Šumadija Pres”	Electronic	0
Website of Kragujevac	Electronic	25
Web portal “Tekla reka”	Electronic	25
FONET	News agency	10
BETA	News agency	25
TANJUG	News agency	5
Total number of references		223

(Vuletić 2010: 25-26, 29-30)

Table 34. Number of references to the local Ombudsman of Kragujevac for the period March 2009 - March 2010 according to type of media

Type of media	Number of references
Television	142
Press	41
Web	50
Agencies	40
Total	273

(Vuletić 2010: 27)

2010

- Organisation of three press conferences (Vuletić 2011: 27)

Table 35. Presence of the local Ombudsman of Kragujevac in printed and electronic media by number of references (2010)

Name	Type of media	Number of references
Blic	Printed	2
Večernje Novosti	Printed	0
Pres	Printed	3
Danas	Printed	0
Glas	Printed	0
RTS – Kragujevac	Electronic	2
RTS – morning programme	Electronic	1
Radio - Televizija Kragujevac	Electronic	80
Televizija K9	Electronic	80
Televizija IN	Electronic	80
Radio Kragujevac	Electronic	80
Radio Beograd	Electronic	3
Other radio stations in Kragujevac	Electronic	23
FONET	News agency	8
BETA	News agency	15
TANJUG	News agency	4
Total number of references		381

(Vuletić 2011: 29)

Table 36. Number of references to the local ombudsman office for the period March 2010 – March 2011 according to type of media

Type of media	Percentage of references
Television	50 %
Press	38 %
Web	12 %

(Vuletić 2011: 29)

2011

Publication of two interviews with the office's head in Kragujevačke Novine (Vuletić 2012: 19) but no additional information on the precise number of media references to the office as in the previous annual reports

3. Local Ombudsman of Niš

2010

- Numerous appearances on local TV stations (NTV – 13, TV5 – 2, Belami – 2, Zona – 1, Kopernikus – 1) and publication of articles covering the activities of the office in Narodne Novine – Niš (5) and Večernje Novosti (2). In addition, regular participation in the NTV show “U hodu” (Zdravković 2011: 23)

2011

- Numerous appearances on local TV stations (NTV – 15, TV5 – 4, Belami – 3, Zona – 3, Kopernikus – 3) and publication of articles covering the activities of the office in Narodne Novine – Niš (5) and Večernje Novosti (1) (Zdravković 2012: 23)

4. Local Ombudsman of Subotica

2006

- Appearance of the office's head on the local TV station Yueco Televizija and seven interviews with the following national and local newspapers: Politika, Danas, Večernje Novosti, Blic, Subotičke Novine, Dnevnik Subotičke, Novosadski Dnevnik (Marosiuk 2007: 7)

2007

- Appearance of the office's head on the local TV stations Yueco Televizija, Kanal 23, City TV and Panon Televizija and 15 interviews with the following national and local newspapers: Politika, Danas, Večernje Novosti, Blic, Subotičke Novine, Dnevnik Subotičke, Novosadski Dnevnik (Marosiuk 2008: 8)

5. Local Ombudsman of Voždovac

2010

- Article entitled "Ombudsman, your personal and free of charge guardian" in the local newspaper Voždovačke Novine (October-November 2010)(Gojković 2011: 8)

6. Local Ombudsman of Vračar

2010

- Interview published in Politika (15.01.2010), entitled "Silence of administration – care of four ombudsmen" (Runić 2011: 11)

7. Local Ombudsman of Zrenjanin

2004

- Article on the role and jurisdiction of the office in the local newspaper Zrenjanin (Arsić 2005: 6)

2007

- Participation in press conferences for the projects “The role of the ombudsman in local multi-ethnic communities”, “Councils for international relations – reinforcing capacities in the face of new challenges” and “The ombudsman institutions at national, regional and local levels”. In addition, organisation of press conference for local media in Zrenjanin on 11 September 2007 (Arsić 2008: 4)

2008

- Participation of the office’s head in TV shows in Subotica, Sremska Mitrovica and Kikinda (no additional information) and organisation of press conferences for local media in March, June and September 2008 (Arsić 2009: 4)

2009

- Participation of the office’s head in discussion on Radio Zrenjanin and TV shows in Kikinda, Novi Sad and Kragujevac (no additional information) and organisation of press conference for local media in June 2009(Arsić 2010: 4)

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