

Abstract

The aim of this diploma paper is to analyse and define the nature of secret exercise of public authority and to assess this phenomena in respect of the fundamental principles of the democratic rule of law. Any secrecy in exercising public authority is in fact a clear contradiction to a natural concept of the human rights and fundamental freedoms. Therefore the republic, as a public institution, should not have too many secrets to hide away from the people if its own principles are not to be completely disgraced.

Secrecy in exercising public authority is a specific feature often related to the areas such as securing the sovereignty and territorial integrity of the Czech Republic, protecting its democratic foundations, protection of the lives and health of the population as well as the right to own the property. This is in full accordance with the constitutional duty of the state. Limited access to the information has a unique and 84 inevitable role in these areas and it is clearly mentioned in the Charter of Fundamental Rights and Freedoms, the European Convention of Human Rights and Freedoms and the International Covenant on Civil and Political Rights.

The question of choice between the security and the liberty has been recently heavily discussed by the people as a natural follow up to the political statements. But some practices of some governments such as detention, confinement and interrogation of the suspects go in some cases beyond the limits generally regarded as the binding standard for the protection of the fundamental human rights and freedoms. This trend may, in some circumstances, significantly affect the future of the legal development of the view on the proportionality between the fundamental human rights and freedoms versus the public interests. The issue of secrecy in exercising public authority is therefore highly urgent and unfortunately has not been studied to all details on academic soil. Hence the ambition of this diploma paper is to contribute to the theoretical elaboration in the area. Secrecy in exercising public authority may, in a specific situation, lead to the imbalance in state powers and, as it often has been the case, in favour of the executive power. More secrecy and less control clearly stimulate the rise of the risk of abusing the power sooner or later. If the aim of the power-sharing is reduction of the risk of any state power being abused, the secrecy itself may even help to create the climate of no-power-sharing at all. In such a climate the responsibilities vanish fast and such a state of the matters inevitably leads to violations of the human rights and fundamental freedoms, as the diploma paper clearly and convincingly demonstrates.