

Abstract and key-word list

The office of Ombudsman in the Czech Republic

This thesis addresses the subject of a public defender of rights (PDR) in Czech Republic. Although it has proven itself to be an indispensable institution that contributes to a rightful administration of public affairs, public's awareness about this organization and its activities is relatively inadequate which leaves many aspects of the institution's responsibilities open to misinterpretation. The aim of this thesis is twofold first to provide an overview of the organization's activities and responsibilities to the public, further to propose the necessary alteration to the current law in order to enhance the efficacy and productivity of the abovementioned institute. Moreover to gain a comprehensive view of the public defender of rights, it is vital to specify its position among our legislature and to address its eventual embodiment in the constitution.

This thesis comprises of 8 chapters, each of which deal with different aspects of the public's defender of rights position and work. The first chapter deals with the institution's founding, development and general definition of the public defender of rights institution. It is divided into three parts, the first of which contains a brief outline of the institution's establishment and development, the second part defines the concept of "the ombudsman" term, the last part completes the general characteristics of the aforementioned institution with the classification of its activities.

The second chapter consists of two parts and describes the establishment of the institution of public defender of rights in Czech republic. The first part aims to provide an overview of state authorities and offices, which in the former Czechoslovakia showed certain attributes similar to those of the office of a present day ombudsman, and to provide a summary of official and unofficial efforts to establish this institution in the pre-1989 period and further, until the formation of Czech Republic. The second part describes the lengthy process of embedding the institution into the legal system of Czech republic.

Chapter three focuses on different aspects of the public defender of rights institution as they are described in law no. 349/1999 Sb., on the public defender of

rights. Firstly the institution's scope of authority is defined, and then the method of appointment, tenure and deputy in office are described. The third part addresses the incompatibility of the public's defender of rights office with other offices and the demands on its independence, impartiality and absence of bias and methods to enforce the above. The following part is oriented at the activities of the public defender of rights and a more detailed analysis of the process of handling of the citizens' complaints about the courses of action of the administration is provided as well as an analysis of the means given by the law to the public defender of rights in order to address these complaints.

Part five contains a listing of special authorizations of the public defender of rights, especially the ability to issue, change or cancel certain laws or regulations.

Part six defines the relationship of the public defender of rights with the Chamber of Deputies and the last part describes the office of the ombudsman.

Chapter four is focused on broadening public defender of rights area of authority in the field of equality and protection against discrimination, which was established by ratification of the law no. 198/2009 Sb., about equal treatment, legal tools of protection against discrimination and about changes in certain laws (anti-discrimination law). The chapter is divided into four parts, first of which describes the subject of anti-discrimination laws , required adjustments and explains basic terms, the following part addresses various permissible forms of unequal treatment, positive measures and possibilities of the aggrieved parties to defend themselves. The last part explains why the public defender of rights specifically was appointed as the anti-discrimination authority.

Chapter five is dedicated to the matter of anchoring the institution of public defender of rights into the constitution. Part one sums up arguments in favor of its integration into the constitution, part two provides several suggestions of the contents of eventual constitutional embedding.

Chapter six offers a complex perspective on the institution of the public defender of rights by integrating it to the framework of state authorities and by defining its relationship with various components of the state power. In the first part it's relationship with the legislative power, in the second part to the executive power. Furthermore the connection with the government and its position among the administration will also be

discussed. The third part describes the relationship with judicial power, particularly the possibility of broadening the institution's competences in relation to the constitutional court. The last part introduces the conclusion that the public defender of rights as an institution cannot be subordinated to either of the basic state powers.

Chapter seven evaluates the activity of the public defender of rights in Czech Republic up until now and proposes changes in the legislation that could further increase its efficiency.

Chapter eight is dedicated to brief biographies of previous persons that have held this position, in Czech Republic instance the biography of the first Czech public defender of rights JUDr. Otakar Motejl, and his successor JUDr. Pavel Varvařovský. The final part of this thesis is dedicated to critical evaluation of this paper.

Key-words: the ombudsman, public defender of rights, defender