

Summary

Problems in Applying the Free Access to Information Act¹

By integration of the Charter of Fundamental Rights and Freedoms into the “constitutional order”², the Czech Republic declared the acknowledgment of the principles of democratic legal state. Wording of the Charter is in accordance with the most relevant international documents on human rights, therefore it also anchors the right to freedom of expression, closely related to the right to information as the significant means of controlling public administration by engaged public. The diction of article 17 (5) shows that the change in the conception of public affairs administration occurred when the discrete administration was abandoned for the administration publicity principle which ought to be implemented with maximum of openness and transparency. The right to information has found its statutory expression in the Act on Free Access to Information that was passed in the year of 1999. The passivity of the Czech Republic government in regulating the field of providing information forced a group of senators to draft the bill that was finally passed as the mentioned act. The fact that the text of the law did not originate in the government, which has an extensive legislative apparatus at its disposal, is one of the circumstances causing that the relatively brief enactment is incurring difficulties when applied. The objective of this thesis is to highlight the most acute places of the current legal regulation. The work is divided into 4 chapters that successively address the constitutional regulation of the right to information in the Charter of Fundamental Rights and Freedoms, the process of passing the Act on Free Access to Information, interpretation of its fundamental legal institutes and the most extensive part describes the most relevant of issues of the current legal regulation. These include especially the very definition of legal subjects, on which the duty is imposed to provide information either actively or passively - that means by request for providing information from public. The Czech courts have gradually adopted the extensive interpretation of the provisions in question, which also encompasses companies with significant state capital participation or territorial self-governing units. However, since the act

¹ Act No. 106/1999 Sb., on Free Access to Information

² The term [“ústavní pořádek” in Czech language] refers to the set of particular constitutional laws.

does not contain any sanction mechanisms, it is not possible to compel these subjects to carry out their information duty effectively. Another problem lies in the exceptions from the information duty - they are often construed in an extensive way, which limits the right to information. The substantial imperfection is also in the procedural aspect and linkage to the Administrative Procedure Code³. The final part of the work points out forthcoming changes in the legislation.

³ Act No. 500/2004 Sb., the Administrative Procedure Code