

## **Duty to Publish Information (Abstract)**

I chose as my topic the obligation to publish official records, its legal grounds and connections with other areas. The analysis includes practical aspects and takes into account rapid changes in technology and the much slower development of administrative law institutes. In this frame I wanted to develop a procedural plan to make the public authority fulfill its duty to publish information, using legal means. I chose as my topic the duty to publish records, since I believe it to be the easiest, most economical and effective way to make public records available to the citizens. This is currently a hot political topic, since new legislation is being prepared in this area both in the Czech Republic and in the European Union, which is a response to the rapid technological progress. Nevertheless, the jurisprudence has devoted much less attention to the obligation to publish information than to disclosing the records upon a request to an individual. The thesis is divided to introduction, theoretical part, practical part and conclusion.

The theoretical part deals with both the general regulation and with selected special cases of disclosure in domestic, EU and international regulation. I analyze and structure the legal regulation of mandatory publishing of records under the Czech Freedom of Information Act and related acts. The analysis involves defining the subjects, the object and means of compliance as well as cases of failure to comply. I compare the general rules with selected special cases of publication of records in domestic legislation (publication in the legislative process, publication of financial statements and publication of environmental information), as well as institutes of EU legislation and selected institutes of Slovak and British regulation. In the analysis of EU institutes and foreign legislation, I focus mainly on the new concepts (open data, mandatory publication of contracts, publication scheme), whose adoption into Czech legislation is often discussed. The scope of the chapters in the theoretical part reflects the need to apply its results in the practical part: The chapter on existing law therefore includes in particular the existing institutes that could be used to enforce the publication duty; the chapters on the comparison are devoted to particular areas and jurisdictions, which are inspiring for the amendments to the Freedom of Information Act and provide the basic knowledge about different methods of regulation of transparency.

The practical part deals with three major topics. First, I ask to what extent the public authorities publish information pursuant to the Freedom of Information Act. I try to explain the different trends in the comparison between different kinds of public authorities, as well as in the comparison with the specific duty to publish financial statements. Second, I use the analysis of the theoretical part and I propose and evaluate different procedural ways to use existing legal means to achieve the publication

in reality, enforce legal obligations or at least achieve an official recommendation to publish the information. I try some of the procedural ways outlined and submit my own experiences of the various processes, in which my goal was to make the information publically available (publishing records of the public colleges, the President of the Czech Republic, the Czech Television, judicial authorities). Third, I formulate my own proposals for the changes that would improve the regulation of the duty to publish information, based on the international comparison and other theoretical knowledge, but also on the analysis of publishing in reality and my own practical experiences.

The conclusion summarizes the results of work: I designed a practical legal procedure to achieve publication of records, although to the contrary of my assumption, the procedural way is not unequivocal, with regard to previous decisions of the courts. I also quantitatively validated the assumption that certain kinds of public authorities do not fulfill the publication obligation at all, which should be considered a regulatory failure. I sketched its possible legislative solutions. The results of theoretical and practical parts are summarized in tables. The secondary result is that I determined the superior administrative authority of several public institutions, for the purposes of information disclosure, which appears to be different from the existing judicial decisions.

Keywords: Duty to publish records, transparency, superior administrative authority