

Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights (Ombudsman)

Tasks of the Parliamentary Commissioner for Civil Rights

1. § It shall be the duty of the Parliamentary Commissioner for Civil Rights (hereinafter 'Ombudsman') to investigate or to have investigated any improprieties of constitutional rights, he has become aware of, and to initiate general or particular measures for the redress thereof (paragraph (1) of Article 32/B of the Constitution.).

Election of the Ombudsman and of the Special Ombudsman

2. § (1) In order to ensure the protection of fundamental rights Parliament shall elect the ombudsman as commissioner responsible exclusively to Parliament.

(2) For the protection of certain fundamental rights Parliament may also elect by two thirds majority voting a special ombudsman defined by the law. The special ombudsman shall be entitled to take independent measures in his own professional field. The ombudsman shall not proceed in cases under the scope of authority of the special ombudsman.

(3) If the ombudsman is prevented, or his office is vacant, the ombudsman shall be deputized for by the special ombudsman appointed by the ombudsman, or in the lack of this or if the appointed ombudsman is prevented, by the oldest other special ombudsman.

(4) If the special ombudsman is prevented, or his office is vacant, his scope of authority shall be exercised by the ombudsman.

(5) Where this Act mentions ombudsman, by this – unless otherwise prescribed by a separate Act – the special ombudsman shall be understood as well.

3. § (1) Any Hungarian citizen graduated from the faculty of law of a university and disposing of voting rights may be elected as ombudsman, who meets the requirements prescribed in paragraphs (2) and (3).

(2) Parliament shall elect the ombudsman from those lawyers with outstanding theoretical knowledge or from lawyers having at least ten years professional practice who have considerable experience in the conduction, supervision or scientific theory of proceedings concerning fundamental rights.

(3) Anyone who during the four years preceding the proposal for election has been a Member of Parliament, President of the Republic, member of the Constitutional Court, member of the Government, secretary of state, professional secretary of state, member of the local government council, notary, public prosecutor, professional member of the Hungarian Army and the law enforcement bodies, or the employee of a party shall not be elected ombudsman.

4. § (1) The President of the Republic shall make a proposal for the person of the ombudsman within 3 months before the expiration of his predecessor's mandate, but not later than on the 45th day preceding the expiration of his mandate.

(2) If the mandate of the ombudsman terminated by reasons stipulated in points b)-f) of paragraph 1 Section 15, the President of the Republic shall make a proposal for the person of the ombudsman within thirty days.

(3) The person proposed shall be heard by the Parliamentary Committee competent relating to the sphere of tasks of the ombudsman.

(4) If Parliament does not elect the person proposed, the President of the Republic shall make a new proposal within not later than thirty days.

(5) Parliament elects the ombudsman for six years. The ombudsman may once be re-elected.

Conflict of Interests

5. § (1) The mandate of the ombudsman shall be incompatible with any other state, local government, social or political office or mandate.

(2) The ombudsman shall not engage in any other gainful employment, and he shall not accept any remuneration for his other activities – except for scientific, educational, artistic activities, activities falling under the protection of copyright, or proof-reader's and editor's activities.

(3) The ombudsman may not be senior official of a business association, member of the supervisory board thereof, furthermore, the member obliged to personal cooperation of a business association.

(4) Beyond the tasks resulting from his scope of authority, the ombudsman shall not pursue any political activity and shall not make any political declarations.

Declaration of Assets

5/A. § (1) The ombudsman shall make a declaration of assets within thirty days following his election then in every 3 years according to the relevant provisions of the Act on the legal status of MPs.

(2) §

Legal Status of the Ombudsman

7. § (1) The ombudsman enters into office at the expiration of the mandate of his predecessor, respectively by election if he has been elected following the termination of his predecessor's mandate.

(2) When entering his office, the ombudsman shall take an oath before Parliament.

8. § In the course of his proceedings, the ombudsman shall be independent; he shall take his measures exclusively on the basis of the Constitution and of the law.

9. § (1) The basic remuneration and grants of the ombudsman shall be the same as those of the ministers, while the measure of the senior official's supplementary remuneration shall be one and the half as much as the ministerial senior official's supplementary remuneration.

(2) The ombudsman shall be entitled to forty working days leave per calendar year.

10. § (1) As to the social insurance status of the ombudsman, the rules relevant for public servants shall be applied with the proviso that the Parliamentary Commissioners' Office is responsible for the obligations of the employer.

(2) The duration of the mandate of the ombudsman shall be regarded as time spent in employment and as service time counting towards pension.

Immunity

11. § (1) The ombudsman is entitled to the same immunity as the MPs.

(2) For proceedings relating to immunity procedural rules relating to the immunity of MPs shall be applied.

(3) In the case of the suspension of immunity the Parliament shall decide by a two thirds majority voting. The Speaker of the Parliament shall take the necessary measures in case of the violation of the immunity.

12-14. §

Termination of the Mandate of Ombudsman

15. § (1) The mandate of the ombudsman shall terminate by:

- a) the expiry of the term of mandate;
- b) death;

- c) resignation;
- d) the declaration of conflict of interest;
- e) exemption;
- f) removal from office.

(2) In the cases of points a) to c) of paragraph (1) the termination of the mandate of the ombudsman shall be established by the Speaker of Parliament. In the cases of points d) to f) of paragraph (1) Parliament shall decide in the issue of the termination of the mandate. The votes of two thirds of the Members of Parliament shall be necessary for pronouncing the termination of the mandate.

(3) Resignation shall be communicated in writing to the Speaker of Parliament. The mandate of the ombudsman terminates on the day signalled in his resignation. A statement of approval is not necessary for the validity of resignation.

(4) If the ombudsman does not terminate his conflict of interests within thirty days from his election or in the course of his activity a conflict of interests arises, the Parliament shall pronounce – upon the written motion of any Member of Parliament and after requesting the opinion of its committee responsible for conflict of interest affairs – the existence of conflict of interests by the votes of two thirds of its Members within thirty days of receipt of the motion. If in the course of the conflict of interests' procedure the ombudsman terminates the conflict of interests against him, the establishment of conflict of interests shall be ignored.

(5) The mandate may terminate by discharge if the ombudsman is not able to meet his duties resulting from his mandate for more than ninety days through no fault of his own. Discharge may be moved for by any Member of Parliament. In case of discharge the ombudsman shall be entitled to three months special remuneration.

(6) The mandate may terminate by removal from office if the ombudsman does not meet his duties resulting from his mandate for more than ninety days through his own fault, intentionally neglects his obligation for declaring his assets or intentionally presents false report concerning significant data or facts in his declaration of assets, or commits a criminal offence established in a final judgement. The removal from office may be moved for by the committee dealing with conflicts of interests' matters of Parliament after examination of the reasons giving rise to it.

(7)

Proceedings and Measures of the Ombudsman

16. § (1) Anybody may apply to the ombudsman if in his judgement the proceedings of any authority (paragraph (1) of Section 29) or organ performing a public service (hereinafter together 'authority') caused impropriety relating to the fundamental rights of the petitioner, provided that he has exhausted the available possibilities of administrative legal remedies – except for the judicial review of administrative decisions – or that no legal remedy is ensured for him.

(2) In order to terminate an impropriety relating to fundamental rights the ombudsman may act also ex officio in case of the existence of the conditions indicated in paragraph (1).

(3) Any petition submitted to the ombudsman shall be free of duty.

(4) If the person submitting the petition so requests, his identity shall not be revealed by the ombudsman. No one shall be placed in a detrimental situation by reason of his turning to the ombudsman.

17. § (1) With the exception contained in paragraph (2) the ombudsman shall examine the petition submitted to him. He shall select himself the measure deemed to be purposeful within the framework of this Act.

(2) If in the judgment of the ombudsman the impropriety included in the petition is of small importance, the ombudsman shall not be obliged to investigate the petition. He shall notify thereof the person having submitted the petition.

(3) The right of investigation of the ombudsman shall extend to proceedings instituted after the coming into force of Act XXXI of 1989.

(4) If a final administrative resolution has been passed in the matter, the ombudsman can be applied to with a petition within one year of the communication thereof.

(5) The ombudsman shall not proceed in cases where a court procedure has been launched for the review of the resolution, or a final court decision was taken.

18. § (1) In connection with the non-appealably terminated matters, the ombudsman shall be entitled to control any authority, and in the course thereof – unless otherwise prescribed by a separate Act – he may have access to the localities of the authority. In the interest of exercising his rights, the ombudsman may have access to the areas serving the operation of the Hungarian Army, of the services of national security, of the police and law enforcement organs in the way regulated by the minister having competence thereto. This regulation may not impede the control in effect.

(2) The ombudsman may request data and information of any authority in connection with the proceedings conducted by him or in connection with the omission of proceedings, furthermore, he may inspect the documents, he may request the sending thereof, or if this is not possible, the preparation of copies thereof.

(3) The ombudsman may hear the official in charge of the matter investigated by him or any employee of the organ conducting the proceedings, and may request the conducting of an inquiry by the head of the organ concerned or the head of its supervisory organ or the head of the organ otherwise entitled to the conduction thereof by the law.

(4) In a matter investigated by him the ombudsman may request written explanation, declaration, information or opinion of any organ – also of organs not qualified as authorities according to this Act – or an employee thereof.

(5) State secrets and service secrets may not impede the ombudsman in the exercise of his rights regulated in this Section, but the provisions relating to secrecy shall be binding for him as well. The ombudsman shall be under the obligation of secrecy even after the termination of his mandate.

(6) In the course of exercising his rights regulated by this Section, the ombudsman shall manage the personal data connected with the inquiry and the application of which is necessary for the sake of the effective conduction of the inquiry. The ombudsman shall manage personal data only in the extent and for the period necessary for conducting his inquiry. The ombudsman is entitled to publish the conclusions of his inquiry.

(7) The ombudsman may exercise his right to access to documents of the Hungarian Army, the services of national security, the police, the investigative authority of the Hungarian Tax and Financial Control Administration Office, the Customs and Finance Guard and the investigative body of the Public Prosecutor's Office in accordance with the limitations laid down in this Act.

(8) For a question or notification also relating to the secret information gathering activities of the services of national security, the police, the investigative authority of the Hungarian Tax and Financial Control Administration Office, the Customs and Finance Guard and the investigative body of the Public Prosecutor's Office the ombudsman shall draft his response in a way that conclusions to the secret information gathering activities of the listed organs in individual cases could not be drawn from this.

(9) The Annex to the Act shall contain those documents of the Hungarian Army, the services of national security, the police, the investigative authority of the Hungarian Tax and Financial Control Administration Office, the Customs and Finance Guard and the investigative body of the Public Prosecutor's Office which the ombudsman may not inspect. If, however, the ombudsman deems necessary the examination of the documents enlisted in the Annex in order to completely disclose the matter, he may apply to the competent Minister, in the case of the services of national security to the director general heading the service or in the case of the investigative body of the Public Prosecutor's Office to the Chief Public Prosecutor for the examination thereof. The persons requested shall be obliged to conduct the inquiry desired by the ombudsman (or to have it conducted), and to notify the ombudsman of the result thereof within fifteen days.

(10) In the course of the hearing in accordance with paragraph (3) the person requested may refuse to answer or to make a declaration in accordance with paragraph (4) if

a) the person affected by the petition forming basis of the proceedings of the ombudsman is his relative or common-law spouse according to the Code of Civil Procedure;

b) in the course of answering or making the declaration he accuses himself or his relative or common-law spouse according to the Code of Civil Procedure of the perpetration of a criminal offence, in the question relating thereto.

(11) If on the basis of his powers declared in paragraphs (2)-(4) the ombudsman requests data (information, explanation, etc.), the requested organ shall be obliged to fulfil the request – unless otherwise prescribed by this Act – within the deadline established by the ombudsman, which deadline shall not be shorter than 15 days.

19. § (1) The ombudsman shall notify the petitioner of the results of the investigation conducted and of his eventual measures.

(2) The ombudsman shall reject evidently unfounded petitions, as well as petitions submitted repeatedly and containing no new fact or data on the merits, and he may reject petitions not submitted by the party entitled to do so, or anonymously submitted ones. The rejection shall be justified in all cases.

(3) The ombudsman shall transfer the petition relating to a matter not within his competence to the competent organ, with the simultaneous notification of the petitioner.

20. § (1) If the ombudsman comes, on the basis of the investigation completed, to the conclusion that an impropriety concerning fundamental rights exists, he may make a recommendation for remedy to the supervisory organ of the organ having brought about the impropriety – with the simultaneous information of the organ concerned. The supervisory organ shall notify the ombudsman within thirty days of receipt of the recommendation of his standpoint on the merits formed in connection with the recommendation and/or of the measures taken.

(2) If the supervisory organ did not agree with the contents of the recommendation, the ombudsman shall inform the supervisory organ within fifteen days of receipt of the communication relating thereto of the maintenance, amendment or withdrawal of the recommendation.

(3) If the ombudsman amends the recommendation, it shall be regarded as a new recommendation from the point of view of the measures to be taken.

(4) In the case of a member of the Government, autonomous public administration body and Governmental office the ombudsman shall make a recommendation to the organ bringing about the impropriety.

21. § (1) If in accordance with the available data the organ bringing about the impropriety in connection with fundamental rights is able to terminate this impropriety within its own competence, the ombudsman may initiate the remedy of the impropriety with the head of the organ concerned. Such initiative may also be made directly (by telephone, verbally etc.); in such case the date, way and essence of the initiative shall be laid down on the document on file.

(2) The organ concerned shall inform the ombudsman within thirty days of receipt of the initiative of his standpoint on the merits of the initiative and of the measure taken.

(3) If the organ requested – with the exception of the organs indicated in paragraph (4) Section 20 – does not agree with the initiative, he shall present it together with its opinion to its supervisory organ within the deadline indicated in paragraph (2). The supervisory organ shall notify the ombudsman within thirty days of receipt of the presentation of its standpoint, and of the measure taken.

(4) Otherwise, the provisions of paragraphs (1) to (3) of Section 20 shall be governing mutatis mutandis for the further proceedings of the supervisory organ and of the ombudsman, with the proviso that the ombudsman shall notify the supervisory organ whether he maintains the initiative in an unchanged or amended form as a recommendation.

22. § The ombudsman may make a motion to the Constitutional Court for:

- a) the ex post facts examination of the unconstitutionality of a statutory instrument or any other legal means of government control;
- b) the examination of whether a statutory instrument or any other legal means of government control conflicts with an international agreement;
- c)
- d) the termination of unconstitutionality manifesting itself in an omission;
- e) the interpretation of the provisions of the Constitution.

23. § (1) In accordance with provisions laid down in a separate Act, the ombudsman may initiate with the competent public prosecutor the lodging of a public prosecutor's protest.

(2) The competent public prosecutor shall notify the ombudsman within sixty days of his standpoint concerning the lodging of the public prosecutor's protest, and of his eventual measures.

24. § If in the course of his proceedings the ombudsman perceives the well-founded suspicion of the perpetration of a contravention or of a disciplinary delict, he may initiate proceedings directed to the calling to account with the

competent organ, and in the case of the perception of a criminal offence he shall initiate the same. Unless otherwise prescribed by a separate Act, the organ requested shall notify the ombudsman within sixty days of his standpoint concerning the launching of the proceedings, and of the result of the proceedings within thirty days of the termination thereof.

25. § If according to the standpoint of the ombudsman an impropriety relating to fundamental rights is the result of the superfluous, not unambiguous provision of a statutory instrument or of some other legal means of government control, or that of the absence (insufficiency) of the legal regulation of the given issue, in order to avoid the impropriety in the future he may propose to the organ entitled to legislation or to the issue of some other legal means of government control the amendment, repeal or issue of a statutory instrument (some other legal means of government control). The organ requested shall notify the ombudsman of its standpoint, and/or of his eventual measures within sixty days.

26. § (1) If the organ requested by the ombudsman fails to form a standpoint on the merits and to take the measures corresponding to it, or if the ombudsman does not agree with the standpoint, with the measures taken, the ombudsman shall submit the case in the framework of his annual report to Parliament, and – with the exceptions laid down in paragraph (2) – he may request that the case be investigated by Parliament. If according to his assessment the impropriety is extraordinary grave or if it affects a larger group of natural persons, he may initiate that Parliament put the debate of the given issue on its agenda already before the annual report. Parliament shall decide in the matter of putting the issue on the agenda.

(2) In the case according to paragraph (1), if the ombudsman has taken the measure indicated in Section 22, or if in the case regulated in Section 25 he applied to Parliament, the ombudsman shall indicate his measures and the measures of the requested organ or the omission thereof in his annual report.

(3) In the case according to paragraph (1), if the impropriety emerged in connection with the operation of the Hungarian Army, of the services of national security or of the police, and its disclosure would affect state secrets or service secrets, the ombudsman shall submit the case together with his annual report, or – if the impropriety is extraordinary grave or it affects a larger group of natural persons, – prior to the annual report in a report classified as secret to the competent committee of Parliament. The committee shall decide in a closed session in the matter of putting the issue in the agenda.

Annual Report of the Ombudsman

27. § (1) The ombudsman shall make an annual report to Parliament on the experiences of his activities – and within the framework thereof, on the situation of the legal protection of fundamental rights in connection with official proceedings, as well as on the reception of his initiatives, recommendations and on the result thereof. The report shall be submitted to Parliament by the end of the first quarter of the calendar year following the subject year.

(2) The report of the ombudsman shall be published in the Hungarian Official Gazette after the passing of the resolution on it by Parliament.

(3) The special ombudsman shall submit an independent report, which shall be governed by the rules of paragraphs (1) and (2).

Parliamentary Commissioner for Future Generations

27/A. § (1) In order to ensure the protection of the fundamental right to healthy environment Parliament shall elect the Parliamentary Commissioner for Future Generations as special ombudsman.

(2) Parliament shall elect the Parliamentary Commissioner for Future Generations from those persons meeting the conditions prescribed by Section 3, furthermore, disposing of outstanding theoretical knowledge or having at least ten years professional practice in the area of environmental protection and/or nature conservation law who has considerable experience in the conduction and supervision of proceedings affecting environmental protection and nature conservation or in the enforcement of the right to healthy environment.

27/B. § (1) The Parliamentary Commissioner for Future Generations shall follow with attention, estimate and control the emergence of the provisions of the law ensuring the sustainability and improvement of the situation of environment and nature (hereinafter together 'environment'). It shall be his duty to investigate or to have investigated any improprieties he has become aware of relating to these, and to initiate general or particular measures for the redress thereof.

(2) The Parliamentary Commissioner for Future Generations shall exercise, with the differences defined by this Act and proceeding in his sphere of tasks, the powers ensured for the ombudsman by this Act.

(3) The Parliamentary Commissioner for Future Generations

a) may call on the person or organization illegally endangering, polluting or damaging the environment (hereinafter together 'environment damaging') to terminate this activity,
b) may call on the competent authority to take measures relating to the protection of environment,
c) may issue general recommendations in his sphere of tasks or recommendations for certain organs, institutions, authorities or persons in individual cases,
d) may initiate the conduct of supervisory proceedings against administrative resolutions relating to the conditions of the environment, and the suspension of execution thereof, and may participate in the suit as intervening party during its judicial review,
e) shall express an opinion on the drafts of statutory instruments and other governmental motions connected with his tasks, and may make a proposal for legislation in his sphere of tasks,
f) may familiarize himself with and express an opinion on the long-term plans and concepts of local governments for development, area settlement or those otherwise directly affecting the life quality of future generations,
g) shall express an opinion on motions relating to the recognition of obligatory effect of international agreements with environmental protection or nature conservation subjects or affecting the common heritage and concerns of the mankind, shall contribute to the preparation of national reports drafted on the basis of these international agreements, furthermore, he shall follow with attention and estimate the emergence of these agreements under Hungarian jurisdiction,
h) shall participate in cases relating to his tasks in the elaboration of Hungarian standpoint represented in the institutions of the European Union operating with governmental participation,
i) may participate on obligatory public hearings held on the basis of the provisions of the law which are connected to his sphere of tasks.

(4) The addressee of the recommendation described in point c) paragraph (3) shall be obliged to respond in the merits within thirty days the recommendation issued for him.

(5) If the owner or manager of a property connected to the sub-sections of state finances do not validate the indemnification demand against the person or organization damaging the environment despite the invitation of the Parliamentary Commissioner for Future Generations within sixty days of the invitation, the Parliamentary Commissioner for Future Generations may validate the demand for indemnification for the benefit of the budget estimate defined in a separate Act.

(6) The Parliamentary Commissioner for Future Generations may inform the public – by indicating the character and measure of the activity damaging the environment and the place of activity damaging the environment and its effect area, also including business secret – on the launching of his proceedings and the issue and contents of his recommendation also including personal data.

27/C. § (1) The Parliamentary Commissioner for Future Generations may call on the person or organization damaging the environment to terminate the damaging activity – irrespective of the fact that it is the result of an action or an omission – and to restore the environmental status preceding the environmental damaging conduct.

(2) The person or organization damaging the environment shall notify the Parliamentary Commissioner for Future Generations within thirty days of receipt of the warning of the measures taken, or immediately but not later than within five days in case of such request of the Parliamentary Commissioner for Future Generations.

(3) The Parliamentary Commissioner for Future Generations – if he considers the measures taken or information given as not satisfactory – may ask the court to forbid the person or organization damaging the environment the damaging conduct, oblige them to take the measures necessary for preventing the damages and to restore the environmental status preceding the environmental damaging conduct.

27/D. § (1) The Parliamentary Commissioner for Future Generations may initiate the competent authority to take measures to impede and forbid the activity damaging the environment, to prevent damages and to restore the environmental status preceding the environmental damaging conduct.

(2) The authority shall immediately notify the Parliamentary Commissioner for Future Generations on the measures taken.

(3) If it is necessary the Parliamentary Commissioner for Future Generations may address the supervisory organ of the requested authority.

27/E. § Before issuing the final resolution the Parliamentary Commissioner for Future Generations may initiate the suspension of execution with the organ taking the resolution if it ordered the execution of the not-final resolution without respect to appeal, but according to the Parliamentary Commissioner for Future Generations the resolution is illegal and its execution would cause an irreparable damage in the environmental situation.

27/F. § (1) If the administrative resolution was not reviewed by the court the Parliamentary Commissioner for Future Generations may initiate supervisory proceedings with the supervisory body of the organ passing the resolution against final and enforceable authority resolutions which are violating the law and the execution of which violates or endangers the sustainability of the condition of the environment and threatens with environmental damages of significant extent. In this case the supervisory proceedings against the resolution shall be carried out.

(2) In the course of the supervisory proceedings the supervisory body shall decide within thirty days of the submission, while the corporative supervisory body shall decide on its next sitting and notify the Parliamentary Commissioner for Future Generations on its resolution within eight days of the date the resolution has been passed.

(3) If the supervisory organ does not agree with the initiative defined in paragraph (1) or does not conduct it within the given deadline, according to the rules of judicial review of administrative resolutions the Parliamentary Commissioner for Future Generations may initiate the judicial review of the resolution within thirty days of the delivery of the resolution on it, or the expiration of the deadline defined in paragraph (2).

(4) In the initiative defined in paragraph (1) the Parliamentary Commissioner for Future Generations may also initiate the suspension of the execution of the resolution within thirty days he has become aware of, but not later than within 180 days of issuing the final resolution.

(5) If the organ concerned does not have any supervisory body in the concerned sphere of activity, the Parliamentary Commissioner for Future Generations may initiate the judicial review of the resolution within thirty days he has become aware of, according to the rules relating to the judicial review of administrative resolutions. The Parliamentary Commissioner for Future Generations may also initiate the suspension of the execution of the resolution in its initiative within 180 days of issuing the final resolution.

27/G. § (1) The Parliamentary Commissioner for Future Generations shall be notified on obligatory public hearings held on the basis of the provisions of the law which are connected to his sphere of tasks and the minutes prepared on the public hearing shall be sent to him on his request.

(2) The Parliamentary Commissioner for Future Generations may initiate that the municipality local government, the environmental protection authority, the nature conservation authority or other administrative organ hold public hearings in cases within the sphere of tasks of the Parliamentary Commissioner for Future Generations. If the public hearing is held, paragraph (1) shall be applied to it.

27/H. § (1) In the course of fulfilling his tasks the Parliamentary Commissioner for Future Generations may request information from anyone in cases which may affect the condition and use of the environment.

(2) In the course of his proceedings and in the interest of its conduction the Parliamentary Commissioner for Future Generations may inspect the documents in connection with the proceedings conducted, request the preparation of copies thereof and he may know personal data, other data, circumstances, facts and proceedings. If the document also contains data not connected with the subject of the proceedings and the separation of data is not possible without violating their proof nature, the Parliamentary Commissioner for Future Generations may know all data appearing in the document, he shall investigate, however, data not connected to the subject of the proceedings only to the extent necessary to make certain that the data is not related to the subject of the proceedings.

(3) In the course of his proceedings and in the interest of its conduction the Parliamentary Commissioner for Future Generations shall have access to any localities and real estates where activities threatening with irreversible environmental damaging are going on if getting acquainted with the data, circumstances or facts necessary for conducting the proceedings could not be ensured otherwise.

(4) Private secrets, business secrets, state secrets, service secrets or other secrets defined by a separate Act may not impede the Parliamentary Commissioner for Future Generations in exercising his powers regulated in paragraphs (1)-(3), but the provisions relating to secrecy shall be binding for him as well unless otherwise prescribed by a separate Act.

(5) In the course of data management affecting state secrets or service secrets the Parliamentary Commissioner for Future Generations shall exercise his powers only personally or through his colleagues underwent national security control initiated by him.

(6) If the co-operation necessary for exercising the powers of the Parliamentary Commissioner for Future Generations laid down in paragraphs (1)-(3) is refused by those applied for information, persons disposing of documents and the owner or user of the real estate, they shall be obliged to this co-operation by the Municipal Court of Budapest for the initiative of the Parliamentary Commissioner for Future Generations. The Municipal Court of Budapest shall decide in out-of-court proceedings – together with holding personal hearings if necessary – within eight days of the receipt of the petition. This resolution of the court shall not be appealed.

The Office of the Parliamentary Commissioner

28. § (1) The tasks of administration and preparation relating to the tasks of the ombudsman and the special ombudsman shall be performed by the Office of the Parliamentary Commissioner.

(2) The organizational and operational rules of the Office of the Parliamentary Commissioner shall be established by the ombudsman in agreement with the special ombudsmen.

(3) The operational costs of the ombudsman and of his office organization, as well as the number of employees thereof shall be determined in a separate chapter of the state budget.

(4) The head of the office – in agreement with the special ombudsmen – and the own employees shall be appointed and dismissed by the ombudsman. The employees of the special ombudsman shall be appointed and dismissed by the special ombudsman.

(5) The basic remuneration and grants of the head of the office shall be the same as those of the professional state secretary and the ombudsman exercises the employer's rights over the head of the office.

(6) The ombudsman may transfer in writing the right to issue an official copy in case of documents not containing any measures to a public servant of the office disposing of executive assignments.

Closing provisions

29. § (1) For the purposes of this Act – with the exception of those listed in paragraph (2) – an authority shall be:

- a) an organ fulfilling a task of public administration;
- b) any other organ acting in its scope of authority of public administration;
- c) the Hungarian Army;
- d) a law enforcement organ;
- e)
- f) an investigating authority also including the investigative body of the Public Prosecutor's Office;
- g) a local government and a minority local government;
- h) a public corporation;
- i) a notary public;
- j) a county court bailiff or an autonomous bailiff.

(2) For the purposes of this Act an authority shall not be:

- a) the Parliament;
- b) the President of the Republic;
- c) the Constitutional Court;
- d) the State Audit Office;
- e) the court;

f) the Public Prosecutor's Office, except for the investigative body of the Public Prosecutor's Office

(3) This Act shall come into force on the day of its promulgation.

(4) For the purposes of this Act an impropriety relating to fundamental rights is: the violation of a fundamental right or the direct danger thereof, irrespective of the fact that it is the result of an action or an omission.

(5)

(6) A separate Act may lay down rules departing from this Act for the special ombudsman.

Annex to Act LIX of 1993

I. In the course of his investigation affecting the Hungarian Army, the ombudsman may not inspect:

1. Any document relating to an invention of outstanding importance from the viewpoint of national defence, serving the defence of the Republic of Hungary, to such product, defence project as well as to the development of the defence capacity, from which one can become aware of their essence.

2. The documents containing the battle order excerpt of the Hungarian Army (hereinafter 'HA') including the level of corps, as well as the summarized data concerning the establishment, maintenance and dislocation of military material supplies.

3. Documents containing plans relating to the application of HA in the period of extraordinary state or emergency.

4. Documents relating to the protected command system of the state and military high leadership.

5. Documents concerning fighting value, alarming and sale system of HA, as well as the summarized documents on readiness to mobilize and on the total capability for mobilisation for war, furthermore, the summarized plans of readiness for war of the military territories, and military organizations at the same or of higher level, and the connected documents relating to the whole organization.

6. The summarized plan of the organization of communication of the Ministry governed by the Minister responsible for national defence and of HA, the cipher and other documentation of the special information protection means introduced or employed.

7. The detailed budget, calculation, and development material of HA.

8. Such plans and cooperation agreements concluded with the ministries of defence and with the armies of other countries, as well as those data of military engineering, which were mutually declared state secrets by the parties.

9. Documents containing summarized data relating to the means and operation of strategic intelligence, as well as to HA counter intelligence.

II. In the course of his proceedings concerning the services of national security, the ombudsman may not inspect:

1. The documents containing the organizational and operational rules of the services of national security.

2. The security documents connected to the objects and staff of the services of national security.

3. The personnel registers and other personnel materials of the services of national security, except when this is requested in writing by the person concerned.

4. Registers serving the identification of private persons cooperating with the services of national security.

5. Documents containing the technical data of the operation of means and methods applied by the services of national security for secret information gathering, or documents making possible the identification of the persons applying them.

6. Documents connected with the number, location, operation of means of computer technique, and the applied softwares.

7. Documents concerning the ciphering activities, the specialized direction and official supervision thereof.

8. Documents concerning the security document protection and technological control.

9. Documents that have come about in the course of the security protection and clearing of persons filling extremely important and confidential position or office, or nominated for such office, except when this is requested in writing by the person concerned.

10. All documents the becoming aware of which would make possible the identification of a provider of information.

11. The international agreements of the services of national security.

12. All documents the becoming aware of which would infringe an obligation undertaken in respect of the foreign partner services by the services of national security.

III. In the course of his investigation affecting the police, the ombudsman may not inspect:

1. Documents of co-operation concluded with international organizations and police organs of other states, and joint measures and data and information originating from co-operation and provided by a police organ if the contracting party request the protection of these data as state secrets or service secrets.

2. Qualified documents and agreements relating to the international relations of the police containing concrete commitments relating to the detection of international organized crime (including drugs-commerce, money laundering and acts of terrorism) and the prevention of these actions.

3. Data relating to the co-operation of services of national security with the police, and data relating to and deriving from these data listed by points of section II of the Annex to this Act.

4. Guarding security plans of police objects and objects and persons protected by the police, relating documentations of defence equipments, guards and watches.

5. The personnel materials of the person concerned in the case, except when this is requested in writing by the person concerned.

6. Documents serving the identification of private persons cooperating in secret with the police, except when the legal violation affected the co-operating person and investigation is requested by this person.

7. Documents containing the technical data of the operation of means and methods applied by the police for secret information gathering, or documents making possible the identification of the persons applying them.

8. Data, devices, documentations and documents concerning the ciphering activities of the police, and aggregated data concerning frequency register for governmental purposes.

9. Personal data of witnesses if the closed management thereof was ordered on the grounds of the Act on Criminal Procedure.

IV.

V.

VI. In the course of his investigation affecting the Customs and Finance Guard (hereinafter 'CFG'), the ombudsman may not inspect:

1. Documents of co-operation concluded with international organizations and customs organs of other states, and joint measures and data and information originating from co-operation and provided by an organ of the CFG if the contracting party request the protection of these data as state secrets or service secrets.

2. Qualified documents and agreements relating to the international relations of the CFG containing concrete commitments relating to the detection of international organized crime (including drugs-commerce, money laundering and acts of terrorism) and the prevention of these actions.

3. Data relating to the co-operation of services of national security with the CFG, and data relating to and deriving from these data listed by points of section II of the Annex to this Act.

4. Guarding security plans of objects and persons protected by the CFG, relating documentations of defence equipments, guards and watches.

5. Data, devices, documentations and documents concerning the ciphering activities of the CFG, and aggregated data concerning frequency register for governmental purposes.

6. The personnel materials of the person concerned in the case, except when this is requested in writing by the person concerned.

7. Documents serving the identification of private persons cooperating in secret with the CFG, except when the legal violation affected the co-operating person and investigation is requested by this person.

8. Documents containing the technical data of the operation of means and methods applied by the CFG for secret information gathering, or documents making possible the identification of the persons applying them.

9. Documents containing aggregated data concerning the devices and operation of the detection proceedings of the customs authority.

10. Data of methods applied by the CFG concerning the protection of excise seals and tax seals, and data relating to the traffic of internationally controlled products and technologies, control plans, surveillances, the orders of warrants and military cases.

VII. In the course of his investigation affecting the Public Prosecutor's Office, the ombudsman may not inspect:

1. Personal data of witnesses if the closed management thereof was ordered on the grounds of the Act on Criminal Procedure.

2. Data originating from the secret information gathering activities of the investigative body of the Public Prosecutor's Office.

3. Data relating to the co-operation of the investigative body of the Public Prosecutor's Office with the organs performing secret information gathering activities, and data relating to and deriving from these data listed as such by points of section II-VI of the Annex to this Act in connection with organs performing secret information gathering activities.

4. The personnel materials of the person concerned in the case, except when this is requested in writing by the person concerned.

5. Documents serving the identification of private persons cooperating in secret with the police, except when the legal violation affected the co-operating person and investigation is requested by this person.