

SPECIALISED OMBUDSPERSONS IN HUNGARY

BERNADETTE SOMODY

Department of Constitutional Law
Telephone number: (36-1) 411-6504
E-mail: somodyb@ajk.elte.hu

1. Types of ombudsman-institutions

Today the notion of ombudsman no longer refers only to parliamentary commissioners reviewing administrative authorities with general competence. Over the last four decades, ombudsman institutions have diversified. Various new types of ombudsman offices have become recognised and these are also adopted and studied by theoreticians.

In the earlier literature, one of the most popular definitions of the institution came from Donald C. Rowat, from 1968. According to this definition

“(1) The Ombudsman is an independent and non-partisan officer of the legislature, usually provided for in the constitution, who supervises the administration;

(2) he deals with specific complaints from the public against administrative injustice and maladministration; and

(3) he has the power to investigate, criticize and publicize, but not to reverse administrative action.”¹

This very brief and strict definition refers only to so-called classical or parliamentary ombudspersons. In 1968, Rowat thought that the ombudsman idea might become “its own worst enemy”. He emphasised that any kind of new complaint officer in any kind of organization was likely to be mistakenly dubbed an ombudsman in order to gain popular support for the activities of that office. That was the reason why he restricted the term ‘ombudsman’ to institutions which met the above mentioned combination of features.²

¹ Donald C. Rowat, ed., *The Ombudsman. Citizen's Defender*. London, 1968, George Allen & Unwin Ltd, p. xxiv.

² See *ibid.*

In modern literature, the diversification of the notion is considered as a fact. Let us look at an illustration of the transformation of the scholarly attitude towards the new types and categories of ombudsman institutions. In the 1970s and 1980s the papers on the institution expressly mentioned the fact that besides the classic ombudsman offices, there are more and more so-called ombudsman-like institutions all over the world. Ombudspersons function with general as well as with special competence, we hear of legislative and executive ombudsman offices, and the term 'ombudsman' is also adopted in the private sector.³ The list distinguished between classic (independent parliamentary) and so-called quasi-ombudspersons. The latter are also called executive ombudspersons whose offices share many of the features of their classic counterparts, but who are not fully independent. The list also mentions pseudo-ombudspersons, who are in some way involved in the handling of complaints but have only the most tangential similarities with traditional, classic ombudsman institutions.⁴

More recent authors have worked out far more detailed lists of different ombudsmen and ombudsman-like institutions. A study from 1995 uses the following categories: in the public sector there are classic general, specialist and executive ombudsman offices as well as what are called in-house complaint mechanisms; while in the private sector we can talk of corporate ombudspersons and non-governmental organisations.⁵ In 2000, Roy Gregory and Philip Giddings defined the following types: general purpose ombudsmen, speciality ombudsmen, ombudsmen at the international or supranational level, human rights ombudsmen, ombudsman-type units (quasi-ombudsmen, in-house complaint mechanisms) and finally private sector ombudsman offices.⁶ Linda C. Reif in her book published in 2004 took the broadest notion of ombudsman-institutions as her point of departure. As she wrote, the ombudsman mechanism in both the public and the private sector is designed to resolve disputes between a provider of goods or services and a recipient of those goods or services, or between a provider and its employee. She listed ten possible variants of the ombudsman's office: public sector legislative, executive and 'hybrid' (e.g.

³ Gerald E. Caiden et al., "The Institution of Ombudsman" in Gerald E. Caiden, ed., *International Handbook of the Ombudsman. Evolution and Present Function*. Westport, Connecticut; London, England, 1983, Greenwood Press, p. 13.

⁴ Larry B. Hill, "The Self-Perceptions of Ombudsman: A Comparative Survey" in Gerald E. Caiden, ed., op. cit., p. 44., 55.

⁵ Daniel Jacoby, "The Future of the Ombudsman" in Linda C. Reif, ed., *The International Ombudsman Anthology*. The Hague – London – Boston, 1999, Kluwer Law International, p. 15-17. Originally published in 1995.

⁶ Roy Gregory, Philip Giddings, "The Ombudsman Institution: Growth and Development" in Roy Gregory, Philip Giddings, eds., *Righting Wrongs. The Ombudsman in Six Continents*. Amsterdam, 2000, IOS Press, p. 8-10.

human rights) ombudspersons, specialist (legislative or executive) ombudspersons, executive organizational ombudspersons, institutions for an industry or service sector established by legislation or created by the industry or service sector itself, organizational ombudspersons in private sector institutions, workplace ombudspersons at international organizations and classic offices at the international or supranational level.⁷

To sum up, it may be stated that there are two main factors according to which ombudsman institutions are categorised. One of them is the most important structural feature: the independence of the office. Classic parliamentary ombudspersons are fully independent. In the case of executive or quasi ombudsman institutions some compromise is made concerning independence. It has to be added that the scale in terms of structural features of ombudspersons is longer, since besides the public sector offices there are complaint-handling mechanisms in the private sector as well.

The other main factor determining categorisation is the competence of the offices. There are ombudspersons with general jurisdiction over the whole administration and there are specialised offices. The latter types of ombudsman institutions, also called single-sector, single-purpose or speciality ombudspersons, supervise only one area of administration or are responsible for protecting the rights of only one group of citizens. This way the jurisdiction of a specialized ombudsperson may cover a separate administrative area such as the health service, the armed forces, the police or prisons, or may relate to the rights of a special group such as ethnic minorities, children or disabled people.⁸ We will return to these categories and the boundaries dividing them later, in connection with the Hungarian example.

Naturally, there are connections between the two above mentioned factors (independence and competence). On the one hand, ombudspersons with a general competence can only function as classic ombudsman institutions, particularly of the parliamentary type. They need to meet the criterion of being wholly independent of the administration they review. On the other hand, specialised offices established as executive institutions are accepted by scholarly literature.

Theoreticians' opinions about the factor of independence are different from those about competence. At first, executive ombudspersons were totally excluded from the meaning of the term 'ombudsman'. As we cited Rowat's statement from 1968: an institution can only be called an ombudsman institu-

⁷ Linda C Reif, *The Ombudsman, Good Governance and the International Human Rights System*. Leiden, Boston, 2004, Martinus Nijhoff Publishers, p. 26-28.

⁸ Cp. Roy Gregory, Philip Giddings, "The Ombudsman Institution: Growth and Development", p. 8-9.

tion if it fulfils the requirement of the ombudsperson being an independent officer of the legislature. More recent literature, parallel to working out more and more detailed categorizations, shows more and more acceptance towards quasi-ombudspersons and acknowledges some positive effects of the institutions of this type. We also cited Philip Giddings, who in 2000 wrote that there was no doubt that quasi-ombudsman institutions could make a significant contribution to the protection of citizens' rights. However, he also maintained some restrictions and drew our attention to the possible threats caused by the lack of independence.⁹

While there are restrictions relating to executive ombudsman-like institutions, specialised ombudspersons, at least those which are established by legislation and are thus wholly independent, can meet the classic criteria. However, the establishment and operation of offices with specialised competence do raise some questions. These questions constitute the subject of this paper, demonstrated through the example of the structure of the Hungarian ombudspersons' institutions.

2. General and specialised ombudspersons in Hungary

At present, in Hungary there are three parliamentary ombudspersons: one with general competence and two with specialist competence. There is no doubt that these institutions fulfil even the most restricted definition of a classic parliamentary ombudsman.

The general ombudsperson (Parliamentary Commissioner for Civil Rights) and the specialised ombudsperson responsible for minority rights (Parliamentary Commissioner for the Rights of National and Ethnic Minorities) are established by the Constitution. The Constitution also declares that the Parliament may elect special ombudspersons for the protection of individual constitutional rights.¹⁰ In harmony with the latter provision, the Parliament set up the Parliamentary Commissioner for Data Protection and Freedom of Information in the act on these constitutional rights.¹¹ Further regulations about parliamentary commissioners exist in the Ombudsman Act¹² passed by a qualified majority of MPs.

⁹ Philip Giddings, "The Future of the Ombudsman" in Roy Gregory, Philip Giddings, eds., op. cit, p. 467.

¹⁰ Act No. XX. of 1949, 32/B §

¹¹ Act No. LXIII. of 1992

¹² Act No. LIX. of 1993. Relating to the specialised ombudspersons, some special provisions are in the Act on the Rights of National and Ethnic Minorities (Act No. LXXVII. of 1993) and significant differences are prescribed in Act No. LXIII. of 1992.

The ombudspersons are elected as commissioners responsible exclusively to the Parliament.¹³ The Ombudsman Act also declares that in the course of their proceedings, the ombudspersons shall be independent and shall take their measures exclusively on the basis of the Constitution and of the law.¹⁴ It may be stated that the ombudsman-institutions operate independently of the executive power they review. The independence of the ombudsman-institutions is guaranteed by the regulation of the election of ombudspersons and the termination of mandate as well as by the rules of incompatibilities, immunity and property declarations.

According to the Constitution, the Parliamentary Commissioner for Civil Rights is responsible for investigating or initiating the investigation of cases involving the infringement of constitutional rights which come to his/her attention and initiating general or specific measures for their remedy. (The category of constitutional rights means fundamental civil and political as well as economic, social and cultural rights and thus also includes human rights.) The task of the ombudsman for minority rights is regulated in a similar way but concerns infringements of the rights of national or ethnic minorities.¹⁵ The third ombudsperson is responsible for protecting two informational rights secured in the Constitution: data protection and the freedom of information. Anybody may apply to the general ombudsperson if in his/her judgment s/he suffered injury in consequence of the proceedings of any authority or body of public service, or its decision (measure) taken in the course of the proceedings and/or of the omission of the measure of the authority in connection with his/her constitutional rights, or if there exists a direct danger thereof.¹⁶ The same provision relates to the ombudsman for minority rights in connection with the rights of minorities secured in the Minority Act.¹⁷ Anyone may report to the data protection commissioner if s/he thinks his/her rights have been violated or that there is an imminent danger thereof, in connection with the processing of his/her personal data or with the exercise of his/her right to have access to data of public interest or data public on grounds of public interest.¹⁸ The ombudspersons may also act on their own initiative. As is typical of ombudsman institutions, Hungarian ombudspersons have strong investigating powers. However, their recommendations have no binding force.¹⁹

¹³ Act No. LIX. of 1993, 2. § (1)

¹⁴ Act No. LIX. of 1993, 8. §

¹⁵ Act No. XX. of 1949, 32/B § (1)-(2)

¹⁶ Act No. LIX. of 1993, 16. § (1)-(2)

¹⁷ Act No. LXXVII. of 1993, 20. § (2)-(3)

¹⁸ Act No. LXIII. of 1992, 27. § (1)

¹⁹ For the detailed and text-based justification of the fact that the Hungarian parliamentary commissioners absolutely meet the classical ombudsman-criteria see András Varga Zs., *Ombudsmanok Magyarországon* [Ombudspersons in Hungary]. Budapest, 2004, Rejtjel.

It is worth mentioning the two main differences between the regulation on ombudsman-institution for constitutional and minority rights and the data protection commissioner. These specialist offices aptly illustrate the fact that in the case of specialised ombudspersons, some features could be different from the general characteristics of ombudsman-institutions.²⁰ We mentioned above that the recommendations of ombudsman offices have no binding force. The authorities concerned are obliged only to inform the ombudsman whether or not they have accepted the recommendations, while the ombudsman at least annually reports to the Parliament as well as to the public on the reception of the recommendations. As an exemption, the Hungarian data protection commissioner is entitled to take measures with a legally binding force.²¹ However, the legislator failed to secure an effective enforcement mechanism, therefore we can practically consider this provision a *lex imperfecta*. The other speciality is the scope of the competence of the data protection ombudsman, since this ombudsman reviews not only the administrative authorities and organs performing public service, but is also entitled to supervise data controllers in the private sector, data processing by private companies and private individuals.

Before 2007, there existed one more parliamentary commissioner: the General Deputy of the Parliamentary Commissioner for Civil Rights established by the Ombudsman Act. This so-called deputy ombudsperson had the same competence and almost the same legal status as the Parliamentary Commissioner for Civil Rights. The Ombudsman Act defined a system of mutual substitution whereby the General Deputy was, in effect, in a deputizing position. However, apart from this provision, the General Deputy could be considered as a second general ombudsman. The General Deputy had the same legitimacy, he was also elected by and reported directly to the Parliament. The division of the workload depended only on the agreement of the two commissioners with general competence. Moreover, the position of the General Deputy was also criticised for the lack of a proper legal basis, since according to the Constitution the Parliament is entitled to elect special ombudspersons only for the protection of individual constitutional rights,²² not for constitutional rights in general.

In the summer of 2007, Parliament decided to cease the position of the General Deputy and declared the intention of establishing the institution of a new specialised ombudsman: the Commissioner for Future Generations.²³ The bill²⁴ on the latter ombudsperson is on the Parliamentary agenda at the present moment. The act on the Commissioner for Future Generations (Act No. CXLV. of 2007) entered into force on 1st December 2007. According to this bill, the new specialised ombudsperson would be responsible for protecting the right to a

²⁰ Cp. Linda C. Reif, op. cit, p. 34-35.

²¹ Act No. LXIII. of 1992, 25. § (4).

²² Act No. XX. of 1949, 32/B § (4)

²³ Act No. XXXVII. of 2007 and its justification.

²⁴ Bill No. T/4055.

healthy environment secured by the Hungarian Constitution. The competence of the ombudsman will cover both the public and the private sector, moreover, as the justification of the bill declares, the ombudsman will supervise predominantly the private sector.

3. The internal structure of the Hungarian ombudsman-system

As it was mentioned earlier, the history of ombudsperson-institutions, together with the specific example of Hungary, prove that there are special fields and groups of citizens which need specialised protection. We can formulate two questions: what factors justify specialisation and what structural solution serves the actual specialisation? As for the second question, the simplest method to provide some sort of specialised protection is to structure the office and the staff within the ombudsperson's office adequately and to establish teams or departments that are responsible for special issues. Indeed, the most elaborate solution is setting up an autonomous specialised ombudsperson institution as it happened in several countries of the world.

An intermediate solution between forming inside structures and establishing autonomous specialised commissioners could be to appoint deputy ombudspersons responsible for the above mentioned special issues. However, it is important to note a possible contradiction about the latter solution. A deputy can be more efficient than an inner structural unit or a head of department because the deputy can employ his or her personality, in the same way as chief ombudspersons do. In other words, the deputy can function as a *quasi* specialised ombudsperson. However, the deputy always has to retain this '*quasi*' status as he or she can be given instructions by the chief ombudsman. This situation may lead to a conflict between these instructions and the use of personality in public. It also means that the efficiency of this structure depends on the personal relationship between the chief and the deputy commissioner and the political culture of the country.

According to the Hungarian act on ombudsman institutions, the specialised ombudspersons have the right to take independent measures in their fields.²⁵ There are no hierarchical connections among the general and specialised ombudspersons. The ombudsman-institutions are independent of the administration they supervise, as well as of each other. There are only three legally prescribed connections among the separate ombudspersons. The system of mutual substitution among them was already mentioned. They have a common administrative bureau, and a further forced link is due to the budgetary system.

²⁵ Act No. LIX. of 1993, 2. § (2)

As far as independence from executive power and from other ombudsman-institutions is concerned, the budgetary process is considered as a weak point in law as well as in practice. Hungary's annual budget is approved by the Parliament in the form of an act. The bill on the budget is prepared and introduced by the Government. There is no special element in the process where the ombudspersons could influence the budgetary chapter relating to their own office. The budget of the Parliamentary Commissioners' Office strongly depends on the Government. On the one hand, that is the reason why the budgetary process may threaten the ombudspersons' independence of the executive power. On the other hand, the structure of the budget also endangers the mutual independence of ombudspersons. The relevant chapter of the state budget includes the costs of all three ombudspersons, but is controlled only by the general parliamentary commissioner. This structure may render the specialised ombudspersons' independence of the general commissioner vulnerable.

This criticism shows that the real independence of specialised ombudsman-institutions strongly depends also on the status and organisation of their office as well as on the budgetary mechanisms. Apparently, the previously mentioned solution makes the operation of the ombudsman system simpler and less expensive, but the price we pay for it is the intactness of inner independence.

4. Reasons for establishing specialised ombudsman institutions in Hungary

As it was mentioned above, there are different types of specialised ombudsman-institutions. They may supervise one particular area of administration (e.g. the health service, the police or prisons) or may be responsible for protecting the rights of a particular group of citizens (e.g. ethnic minorities, children). The first question is what category the Hungarian specialised ombudspersons belong to. In order to give a proper answer, it has to be noticed that the Hungarian ombudsman-system is divided along certain constitutional fundamental rights. As we cited from the Constitution, Parliament is entitled to elect new specialised ombudspersons for the protection of individual constitutional rights. The right to the protection of personal data, public access to data of public interest as well as the right to a healthy environment are guaranteed by the Constitution as a constitutional right.²⁶ Establishing the institution of the ombudsman for minority rights does not require the fulfilment of this constitutional basis, since it is expressly named and set up by the Constitution itself. The rights of national and ethnic minorities, however, are also regulated as constitutional

²⁶ Act No. XX. of 1949, 59., 61. and 18. §

rights.²⁷ To sum up, one can state that in Hungary the establishment of specialised ombudsman-institutions rests on a different basis: their competence covers certain constitutional rights. However, there is another way in which the special subjects of their competence may be explained. Since minority rights relate to a special group of citizens, their commissioner could be categorized as an ombudsman responsible for a separate group of complainants. Without considering environmental protection as an individual's constitutional right to a healthy environment, the Parliamentary Commissioner for Future Generations could be classified as a specialised ombudsman for a separate area of administration.

Enumerating the pros and cons, we have to mention the most important argument against establishing specialised ombudsman-institutions. This is the phenomenon of the so-called ombudsman-inflation. The growing number of ombudsman-institutions and the setting up of newer and newer specialised offices can lead to a situation where the unique and only strength of this sort of institution becomes lost. Short of the power to pass legally binding decisions, an ombudsperson can only rely on the power of publicity. In order to get general support, it is vital that the ombudsman should be well-known to and well respected by the public. The more there is of specialised ombudspersons, the less attention and, therefore, the less support they are likely to get.

Bearing in mind the threat of ombudsman-inflation, on the other hand, we can list the advantages of establishing specialised ombudsman-institutions. As the other side of the phenomenon of ombudsman-inflation, specialised ombudspersons can give increased attention to the actual field and people concerned. A specialised ombudsperson may have specialised expertise, different and especially broader competence and functions than a general ombudsman.²⁸

In one of the most significant Hungarian studies about ombudsman institutions, László Majtényi wrote about two sets of circumstances which make a specialised ombudsman indispensable. One of those is when the infringement of a constitutional right means a special danger to the citizens' freedom and, with civil society's 'reflexes' of self-defence being not yet strong enough, people remain unconscious of the infringement. Such a circumstance can justify the existence of an ombudsman for data protection. The other factor is more concrete – this is environmental protection itself. According to Majtényi, the crisis in this field is so grave that it is crucial to have a mediator (an ombudsman).²⁹ It can be stated that in these fields the establishment of the ombudsman-institu-

²⁷ Act No. XX. of 1949, 68. §

²⁸ Cp. Linda C. Reif, *op. cit.*, p. 35.

²⁹ László Majtényi, *Ombudsmann. Állampolgári jogok biztosa* [Ombudsman. Commissioner for Citizens' Rights]. Budapest, 1992, Közgazdasági és Jogi Könyvkiadó, p. 109-110. The book was published in 1992, even before enacting the Commissioner for Data Protection.

tion came about (and is still taking place today) as a result of the special attention required by vulnerability. After the transition to democracy, the level of citizens' awareness about their privacy rights increased significantly³⁰ and the practice of the data protection commissioner must have had a crucial role in this change.

Partly in connection with the ombudsman for data protection and for environmental protection, a further forcing factor has to be mentioned. This consideration also has to be born in mind in connection with a different type of specialised ombudsman-institution which is also quite common: ombudspersons acting against discrimination. The traditional function of ombudsperson institutions is to control administrative authorities and to protect citizens' rights against authorities. Ombudspersons with general competence are never entitled to investigate private individuals. However, there are special fields where jurisdiction concerning private individuals is acceptable or, moreover, expressly useful. In Hungary the specialised data protection ombudsman is entitled to receive and investigate complaints against data controllers in the private sector, including private individuals. As we mentioned before, the competence of the commissioner for environmental protection will also extend to the private sector as well. Fighting against discrimination is also a competence which cannot be exercised really efficiently without the possibility of investigating certain entities in the private sector (e.g. employers, restaurants, stores). It is crucial that the boundaries between general and previously mentioned special competences are respected and the ombudsperson should not use his or her wider special jurisdiction in order to solve problems of other nature. This requirement is easier to fulfil in a structure consisting of a general office and specialised offices for data protection, environmental protection and anti-discrimination.

Similarly to data protection, infringement upon the human rights of minorities was a serious problem in Central and Eastern Europe after the transition to a democratic state in 1989-1990. According to some explanations, the political intention behind the establishment of the Hungarian ombudsman institution for minority rights was to secure some sort of parliamentary representation. It can fairly be stated that an ombudsman-institution is not the suitable means to this end.³¹ However, the vulnerability and sensitivity of these rights justifies the establishment of this specialised office. We may also add that as the ombudsman for minority rights functions as a special anti-discrimination institution, it would be also justifiable for it to have competence relating to the private sector.

³⁰ László Majtényi, *Információs szabadságok. Adatvédelem és a közérdekű adatok nyilvánossága* [Informational rights. Data protection and freedom of information]. Budapest, 2006, CompLex, p. 57-61.

³¹ László Majtényi, *Ombudsmann. Állampolgári jogok biztosa*, p. 91-92.

It may be useful if at this point we take a look at the Hungarian regulation of the protection of children's rights by ombudsman-institutions. The Act on Child Protection expressly assigns the protection of children's rights to the general ombudsman: the protection of children's constitutional rights is assisted by the particular means of the Parliamentary Commissioner for Civil Rights; in the course thereof, the commissioner shall investigate abuses reported which affect children's constitutional rights and take general or individual measures to remedy these.³² This task is carried out by the ombudsman in accordance with the provisions of the Constitution and the Ombudsman Act. Since the Act on Child Protection makes the protection of children's rights a specially indicated high-priority task of the Parliamentary Commissioner for Civil Rights, practically s/he is also to perform the duties of a specialised ombudsman for children's rights.

With a view to the special situation of children and their weaker capacity to enforce their rights, the general means available to an ombudsman are not sufficient for efficiently protecting these rights. Ombudspersons should protect children's rights by a system of means specially adjusted to the nature of the rights concerned. On top of the ombudsman institution operating as a complaint-handling mechanism, children's rights also require proactive protection through channels such as providing information and consultancy, activities intended to increase legal awareness and to shape the opinions of the public, monitoring inspections as well as comprehensive inspections and inspections initiated *ex officio*, as well as arrangements to secure co-operation.³³ The use of specialist means is also typical of the ombudsperson for environmental protection³⁴ which shows that this is also a relevant factor when considering the establishment of a specialised ombudsman institution.

On the other hand, in the case of the children's rights ombudsman in Hungary, it has to be considered that the Constitution allows for specialising the ombudsman-system along certain constitutional rights. Although the Hungarian Constitution secures what it calls 'the rights of children' in a separate article,³⁵ in fact the catalogue of the rights of the child contains no more than general human rights in a form adjusted to the special situation of children. It is important to notice that conflicts of competence may arise from the organizational division of the task of protecting the same constitutional rights, merely with a view to the age of the subject thereof.

³² Act No. XXXI. of 1997, 11. § (2)

³³ See *Hungarian Civil Youth Annual Report 2005*. New Youth Review, 2006 winter, p. 79-81.

³⁴ Bill No. T/4055. László Majtényi, *op. cit.*, p. 110.

³⁵ 67. §

Against the threats of ombudsman-inflation, one can state that there are factors which can make the specialisation acceptable and also necessary. However, because of ombudsman-inflation, increasing the number of the ombudsman-institutions is only justifiable in cases when it can really make the protection of rights more efficient. This efficiency, however, depends on the coherent regulation of the structure, the competence and the applicable means in the system of ombudsman-institutions.

SUMMARY

Specialized Ombudspersons in Hungary

BERNADETTE SOMODY

The essay opens by considering the transformation of the notion of ombudsperson in recent decades. Today the notion of ombudsperson no longer refers only to parliamentary commissioners reviewing administrative authorities with general competence but also officials with special powers, officials attached to the government and posts unattached to public administration at all. The paper describes the way the specialist literature evaluates and gradually recognizes the newly established ombudspersons' institutions. The study also focuses on ombudspersons with a specialized competence. Some of them are responsible for a specific field of public administration and specific groups of complainants.

The author illustrates the problems such institutions face by presenting the case of Hungarian specialized parliamentary commissioners. Thus the paper gives a detailed discussion to the system of parliamentary ombudspersons in Hungary, the changes that occurred in their respective fields during 2007 and those developments that are forecast for the near future, as well as the relations between the several ombudspersons. It would be unwise irresponsibly to inflate the number of ombudspersons but, as evidenced by the Hungarian experiences, there are several considerations that justify the creation of an appropriate number of specialized ombudspersons' positions.

RESÜMEE

Fachombudsleute in Ungarn

BERNADETTE SOMODY

Ausgangspunkt des Artikels ist die in den letzten Jahrzehnten beobachtbare Veränderung des Ombudsmann-Begriffs. In unseren Tagen verweist der Begriff des Ombudsmanns nicht mehr nur auf Parlamentskommissare, die über eine allgemeine Zuständigkeit in der Überwachung der öffentlichen Gewalt verfügen, sondern auch auf Ämter mit einer speziellen Zuständigkeit, bzw. auch solche, die nicht an eine Regierungskraft oder eine öffentliche Gewalt gebunden sind. Der Artikel stellt vor, wie die Fachliteratur die Kommissarinstitutionen mit immer wechselhafterem Typus bewertet und schrittweise akzeptiert. Danach beschäftigt er sich von den Faktoren, die die Ombudsmann-Typologisierung bestimmen, detaillierter mit der Spezialisierung der Zuständigkeiten, mit den sogenannten spezialisierten Kommissaren, die für ein bestimmtes Verwaltungsgebiet oder für eine Gruppe von Klägern verantwortlich sind. Die Fragen, die infolge der Schaffung solcher Institutionen aufgeworfen werden, führt sie am Beispiel der Parlamentskommissare vor.

Als Grundlage des Obigen stellt die Studie in einem gesonderten Punkt das System der Parlamentskommissare in Ungarn vor, dessen Veränderung aus dem Jahre 2007, bzw. auf die Zukunft projizierten Veränderungen, sowie das Beziehungssystem zwischen den einzelnen Ombudsleuten. Das Hauptargument gegen die Erhöhung der Zahl der Fachkommissare ist die so genannte Ombudsmann-Inflation. Auch das detaillierter analysierte ungarische Beispiel beweist jedoch, dass mehrere Faktoren die Schaffung der spezialisierten Organe begründen können. Zum Abschluss untersucht die Studie diese Faktoren.

